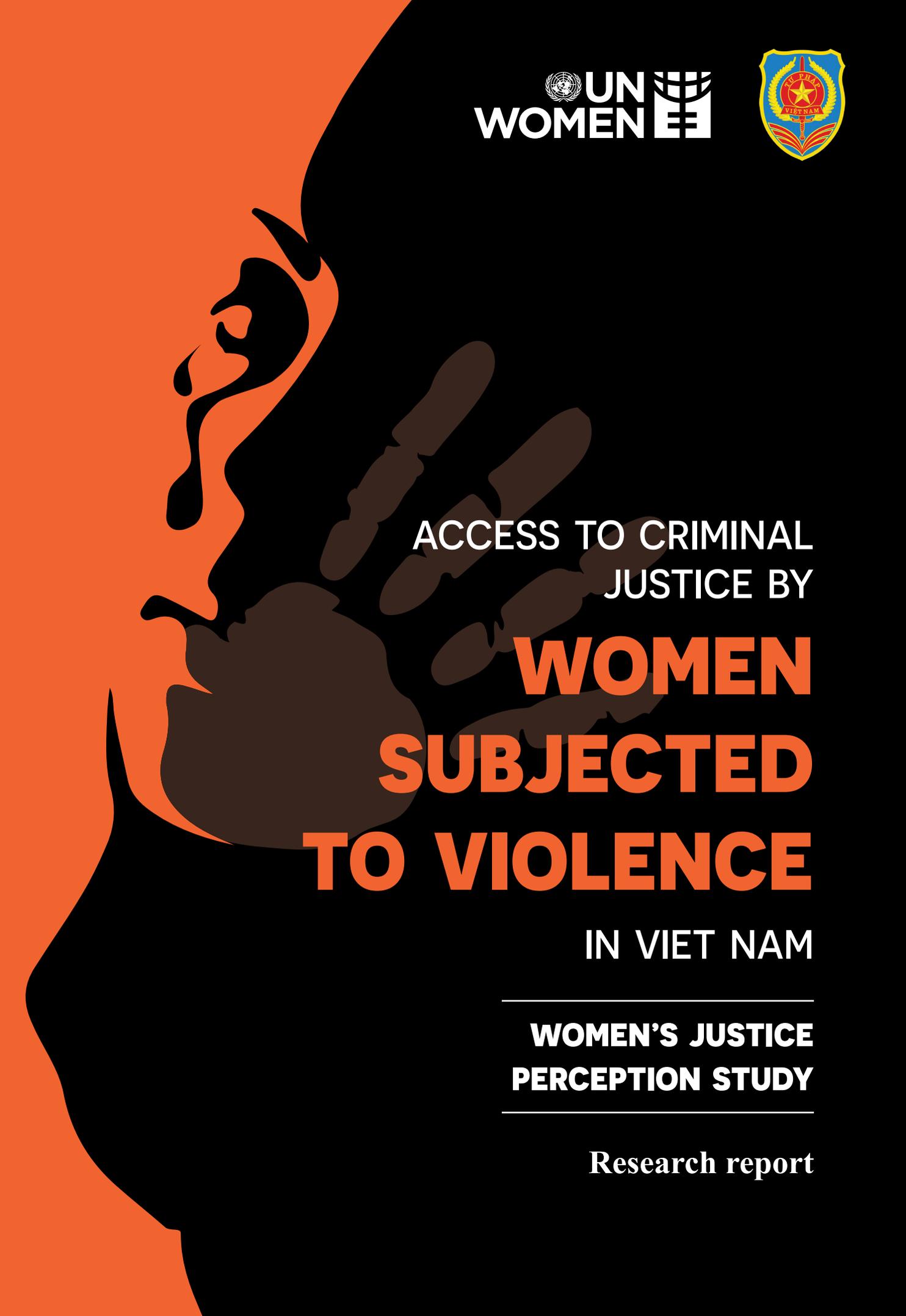




UN
WOMEN



ACCESS TO CRIMINAL
JUSTICE BY
**WOMEN
SUBJECTED
TO VIOLENCE**

IN VIET NAM

**WOMEN'S JUSTICE
PERCEPTION STUDY**

Research report

UN Women is the UN organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their needs worldwide. UN Women supports Member States in setting global standards for achieving gender equality, and works with governments and civil society to design the laws, policies, programmes and services required to implement these standards. UN Women stands behind women's equal participation in all aspects of life, focusing on the following five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN systems works in advancing gender equality.

**ACCESS TO CRIMINAL JUSTICE BY WOMEN SUBJECTED TO VIOLENCE IN VIET NAM
WOMEN'S JUSTICE PERCEPTION STUDY
RESEARCH REPORT
04/2017**

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**ACCESS TO CRIMINAL JUSTICE
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Research report

FOREWORD

In Viet Nam, violence continues to constrain the rights of women – affecting one in three women* and impacting all aspects of their private and public lives.

The government of Viet Nam has been active in conducting evidence-informed policy and legal reforms to combat violence against women. Improvements were made to the recently reformed Penal Code, Criminal Procedure Code and Law on Legal Aid. Yet, despite these achievements, a historic deficit in the punishment and moral sanctioning of such crimes remains.

The obligation of States to exercise “due diligence” to prevent, investigate and prosecute cases of violence against women is well-established under international law. Nevertheless, implementation of legal commitments has been far too slow. Too often the very infrastructure of justice – the police, the courts and the judiciary – fails to provide women facing violence with adequate protection, reparation and justice. In order to understand and ultimately close this gap between policy and practice, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) has supported the Ministry of Justice in undertaking a women’s justice perception survey in Viet Nam.

This study provides new insights into how women perceive the justice system in Viet Nam and how the victims are treated. When the very actors tasked with facilitating access to criminal justice instead “counsel” and pressure victims to settle cases out of court, or treat them without regard for their dignity or privacy, it should come as no surprise that many women eventually give up on a system which is often unresponsive to their needs. When the criminal justice system fails to fulfill women’s human rights, this contributes to perpetuating cultures of reconciliation, cultures of invisibility, and cultures of impunity. This impunity – an exemption from punishment and accountability – fuels violence against women, reducing the impact of advocacy and hard-fought policy achievements.

* Viet Nam General Statistics Office (2010) Results from the National Study on Domestic Violence against Women in Viet Nam: “Keeping silent is dying”

However, we know what needs to be done. State actors in the administration of justice responsible for addressing reports of violations should be well-trained and understand the full scope of their obligations. We must ensure that victims and survivors receive all the support services that they are entitled to and that they have access to protection, reparation and justice. And most of all, we must all challenge and transform the harmful norms and cultural values that allow such violence to continue. To that end, it is especially encouraging that this report will inform the development of new guidelines for the provision of the Penal Code and the Criminal Procedure Code to ensure better effectiveness in the access to justice of women subjected to violence.

Every woman who experiences violence has the right to count on a criminal justice system that is free from gender stereotyping and discrimination, treats her with respect, maintains her dignity and effectively delivers impartial and unbiased justice that is free from outdated norms and misconceptions about the nature and roles of women and men. Ensuring well-functioning justice systems is not only a prerequisite for ensuring gender equality and women's empowerment, but is essential for the rule of law and for sustaining just, peaceful and prosperous societies for all.

Elisa Fernandez

Head of Office, UN Women Viet Nam



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UN Women would like to extend special thanks to Ms. Eileen Skinnider, the international consultant who acted as research team leader and was lead author of this report. With extensive knowledge on international legal frameworks as well as Vietnamese criminal laws, Ms. Skinnider actively supported the national team in order to deliver this quality report in a short time.

Particular thanks go to the national research team, Dr. Le Thi Thuc (Ho Chi Minh National Academy of Politics) and her team, Ms. Le Thi Van Anh (Ministry of Justice), Mr. Tran Van Dung (Ministry of Justice), Mr. Nguyen Van Tung (Supreme People's Procuracy) and Mr. Nguyen Xuan Ha (Supreme People's Procuracy), without whom the study would not have been possible in Viet Nam. It was this team who enabled this study on the ground and who provided invaluable inputs throughout the drafting of this report.

UN Women would also like to thank all the women from Hanoi and Lang Son who participated in the survey, group discussions and interviews to share their valuable insights and personal experiences to inform of the study.

Within UN Women, the study was coordinated by Nguyen Thi Thuy and Leika Aruga under the overall guidance of Shoko Ishikawa. Technical input at UN Women HQ was provided by Ms. Beatrice Duncan.

ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CCTV	Closed Circuit Television
FDGs	Focus Group Discussions
HEUNI	The European Institute for Crime Prevention and Control, affiliated with the United Nations
IDIs	Individual In-depth Interviews
MDGs	Millennium Development Goals
SDG	Sustainable Development Goals
SMS	Short Message Service
UN	United Nations
UNFPA	United Nations Population Fund
UNODC	United Nations Office on Drugs and Crime
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
VAW	Violence against women
VWU	Viet Nam Women's Union

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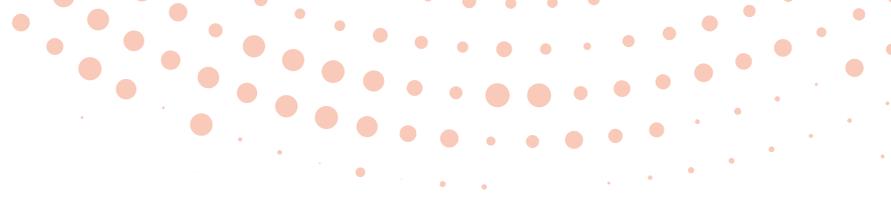
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INTRODUCTION

The government of Viet Nam is committed to ensuring a woman's right to life with dignity, including the right to live free from violence and the fear of violence and advancing her access to justice when such rights are violated. The recent amendments of the Penal Code and the Criminal Procedure Code have improved the protection of women from gender-based violence and penalizing perpetrators of such violence. Furthermore, an ongoing review of the Legal Aid Law is analyzing the law from a gender perspective to increase women's access to justice. In recent years, UN Women has been partnering with the Ministry of Justice to jointly conduct studies on women's access to justice with a particular focus on cases of violence against women. These studies reveal that Vietnamese women who experience violence continue to face many impediments to criminal justice, from gaps in the legal and policy framework to enforcement challenges.

In this context, the Ministry of Justice and UN Women agreed to conduct a women's justice perception study. This research sought to understand how women perceive their accessibility to justice, their level of knowledge of their rights and the criminal justice system, what barriers they face and what initiatives from their viewpoint could enhance their access to criminal justice when faced with gender based violence. It explores victims' satisfaction and confidence in the criminal justice system as well as identifying any mismatch between women's perception and practice of justice service providers. The study findings will contribute to the development of guidelines for justice providers, legal practitioners and other relevant stakeholders to ensure better enforcement of the relevant provisions under the amended Penal Code and Criminal Procedure Code in line with international standards to improve access to justice by women subjected to violence in Viet Nam; and training materials to be used by the Ministry of Justice to raise awareness of the guidelines and develop capacity of criminal justice providers to ensure gender responsive criminal justice for women subjected to violence.



METHODOLOGY

The study adopted a blended approach using quantitative and qualitative methodologies delivered in two selected sites in Viet Nam, Hanoi and Lang Son, over a short time period from 20 January to 31 March 2017. The study had three distinct components: (i) a quantitative structured perception survey to gain perspective from women in general; (ii) in-depth interviews with victims to gain insights from users of the justice system and (iii) focus group discussions with frontline criminal justice practitioners and first responders to the justice system to gain insight from the providers of justice.

The perception survey entailed two hundred and five (205) adult women respondents filling in a written structured questionnaire covering questions on knowledge of rights and level of awareness of available policing and justice services; perceptions of and confidence levels in existing policing and justice services; and women's suggestions for justice

guidelines to enhance their access to justice. The in-depth interviews entailed individual interviews with twenty-two (22) victims who had experienced accessing the justice system. Focus group discussions were also conducted in each site, to gain additional context from fifty-three (53) front line practitioners to support a better understanding of the challenges for women accessing justice and ideas as to enhance their access in cases of violence against women. Discussion groups included: the police; prosecutors; judges; and legal aid and Women's Union representatives who provided legal and other assistance to victims of violence (e.g. health, shelter, counselling).

KEY STUDY FINDINGS

The study sought to find out perceptions of what gender-based violence constitutes crimes, how accessible criminal justice is for women who experience gender-based violence and women's level of knowledge of their rights and how the criminal justice system works as well as their confidence levels in the criminal justice

institution and actors. The perceptions are taken from three different angles – the first is from women in general, the second is from women who have been victims of violence who have experience in using the justice system and the third is from justice practitioners who have experienced in providing justice to such victims.

Perceptions on what forms of violence against women constitute crimes

Women in general, victims in particular and justice providers had similar perceptions as to which forms of violence against women were clearly seen as criminal offences: rape, human trafficking, forced prostitution and serious physical domestic violence. These were accurate perceptions of the crimes contained in the 2015 Penal Code. There was less certainty as to when certain forms of violence would meet the criminal threshold (Article 134¹ and 185² in particular). This was especially seen in the case of domestic violence which can include various forms - physical, psychological, sexual

and economic violence and repetitive behaviour - and can be subjected to different sanctioning regimes – grassroots reconciliation, administrative punishment and criminal punishment, with stricter sanctions being imposed for repetitive behaviour. There was also less agreement as to whether sexual harassment and sexual assault were crimes, although high percentage of women in general thought that they were. These perceptions conflict with the 2015 Penal Code, as sexual assault in cases of adult women or sexual harassment are currently not criminalized.

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1. Article 134 of the 2015 Penal Code “intentionally inflicting injury on or causing harm to the health of others” specifies the physical forms that constitute crimes which is cases having the infirmity rate of 11% or above; or under 11% but fall under one of the specified circumstances. There appeared to be a number of uncertainties from the perspective of the victims, such as the timing of assessing the infirmity rates, and if assessed at less than 11% how the fact of experiencing and reporting previous violence which resulted in either reconciliation or administrative punishment was a factor in meeting the criminal threshold.
 2. Article 185 of the 2015 Penal Code “maltreatment or torture against grandparents, parents, spouses, children, grandchildren or one's own fosters” which is not often enforced.

Implications for the guidelines:

There needs to be clear guidance as to when the thresholds for criminal behavior, administrative behaviour or behaviour that warrants grassroots reconciliation are met. These guidelines need to be disseminated to the public

to raise awareness of their rights and how they should be treated by justice providers. The guidelines should also include accountability measures to hold justice providers accountable in applying the appropriate legal regimes in each case.

The impact of perceptions on justice seeking and justice providing behaviour

These perceptions regarding what forms of violence against women constitute crimes under the Vietnamese Penal Code can impact the justice seeking behaviours of women who experience gender-based violence, how women in the general community support or do not support victims of violence in seeking justice, and how justice practitioners provide justice. With domestic violence, the uncertainty of when it is a crime is reflected in the uncertainty of where to report such incidents. More survey respondents said they would report violence to head of the residential cluster or Women's Union than the police. A majority of victims of domestic violence interviewed raised the concern of unclear reporting procedures, some being told they had to report the violence to four agencies for the same incident: head of residential

cluster, People's Committee, Women's Union and the police. The victims also expressed different reasons for reporting domestic violence. Some wanted to restore justice in their relationship (i.e. reconciliation to stop the husbands behaviour and stay in the relationship); others want to stop the violence and feel safe; and others wanted justice, to have the husband held accountable for his violent behaviour, whether this was through administrative sanctions or criminal punishment.

Implication for the guidelines:

The guidelines should emphasize that all justice responses need to be victim-centred and prioritize police's duty to stop the violence and protect the women, irrespective of whether she files a formal denunciation. The guidelines should limit the number of people

a victim must deal with and minimize re-telling of her story. The guidelines need to address the institutional barriers that contribute to the lack of reporting to police

for those forms of violence that are clearly seen as crimes (e.g. rape and forcible sexual intercourse) but are not being reported to the police.

Understanding the right to access justice

A significant majority of women surveyed noted that they are well informed of their rights and that the state has the obligation to protect their right to access justice. This is compared to approximately half of those victims interviewed who reported that they had not been aware of their rights at the time of violence; however, some of them had subsequently learned about their rights once coming to Peace House. This is in contrast to the views of the criminal justice providers who thought that most victims did not know their rights and some even expressed the opinion that women are mostly responsible in protecting their own rights. Both the victims and justice providers suggested

that there needed to be much more propaganda done by the Women's Union and local authorities. The study highlighted the importance of reliable services such as Peace House and shelters that inform women of their rights as victims of violence, in addition to providing social and legal support.

Implication for the guidelines: The guidelines should emphasize the duty on the justice providers to protect women's rights and clearly address the tendency of justice providers to shift the blame on victims for not using the system rather than examine inherent challenges within the justice system.

Level of knowledge of the criminal justice system

Most women have the knowledge of where to go to report the violence, which is in contrast to the justice providers' opinions that most women have little understanding about the services being provided by police. The study found that there are numerous other factors that contribute to why they do not report to the police. The barriers women face include societal and cultural barriers as well as legal and institutional barriers.

While societal and cultural barriers (e.g. stigma, pressure by family, the concern that if they report this means divorce, or the negative impact on children's future jobs) require changing attitude and requires holistic multi-sectoral approaches, the legal and institutional barriers (lack of privacy, protection concerns, complicated procedures, etc.) should be addressed immediately by the criminal justice system.

Implication for the guidelines: The guidelines need to reflect a shift from placing the blame on the women victims for not reporting and cooperating with the justice system to how to enhance a gender-responsive justice system that is trusted by the users. The guidelines need to make reporting

easier for women and cover issues of privacy; protection; priority response; clear and simple reporting procedures for the women; and clear responsibility on the first point of police contact to ensure the appropriate police authority receives the report and acts on it.

Perceptions of the overall criminal justice system

A significant proportion of survey respondents had very positive perceptions regarding the criminal justice system in Viet Nam, with a significant number believing that the criminal justice system serves everyone, rather than only the rich and was representative of all Vietnamese. At least half of the survey respondents strongly agreed that the criminal justice system was fair, helpful and approachable. Less strongly agreed it was accessible, works well, is efficient and is understandable. Their positive perceptions becomes slightly lower when asked specific questions about whether the criminal justice system

is fair and equal for women who experience domestic violence or sexual violence. Those survey respondents who had experienced violence and those who reported or tried to report violence. This positive perception by women in general about how the criminal justice system handles cases involving violence against women is in sharp contrast with the opinions of the victims who had experience with the justice system. The majority of the victims interviewed expressed dissatisfaction with their experience of the criminal justice system and a lack of trust in the system.

Perception of barriers women face when accessing justice

From the survey, the top five most significant barriers for women were: Privacy concerns; limited awareness of rights; protection concerns; shame and embarrassment; and pressure by family. The victims interviewed experienced similar barriers with privacy and protection concerns being mentioned

often. Justice providers' perception of barriers primarily rested on the victims themselves who they saw as accepting their fate; fear of retaliation by the abuser if they reported; as well as the low awareness by the women themselves as to what violence is and a low understanding of the law.

Implication for guidelines:
understanding these barriers can inform the type of guidelines that might be useful, such as measures to protect women's privacy when reporting and ensuring confidentiality; as well as guidelines to enhance her

protection. Appreciating the difference between societal and cultural barriers and legal and institutional barriers and what can be practically addressed by the justice providing institutions to ensure a gender-responsive justice system.

Confidence levels in the various stages of the criminal justice system and in the criminal justice providers

A significant proportion of survey respondents had a great deal of confidence in the criminal justice providers (the police, prosecutors, judges and legal aid providers) as well as at the various stages of the criminal justice system, from initial reporting to the police, investigation and prosecution and the criminal trial. This contrasted with the experience of the victims who told of a number of challenges they had when dealing the police. Less spoke of the challenges with the prosecutors, courts and legal aid providers as only four of them met a prosecutor and only three went to criminal court. Furthermore, there appears to be a "disconnect" between justice providers and women in general regarding the levels of confidence and satisfaction in the justice system as compared to those who have actually used the system.

The victims' interviews revealed that: the onus of reporting to all the relevant authorities, including police, head of

residential cluster and Women's Union rests on the victim; the safety concerns of the victims were not identified by the ward or commune police nor were any protection measures provided at the time of reporting; privacy in reporting was not always guaranteed; they felt the violence was often minimized and they were treated with disrespect and blamed for the violence; the response (reconciliation; administrative punishment) did not stop the violence; and the administrative sanctions negatively impacted them.

Implications for guidelines:
There needs to be clear guidelines for all of these first responders in what to do with a report, as well as clear guidelines shifting the onus from the victim to the local authorities, particularly the police when receiving reports to ensure that the proper police jurisdiction as well as support providers, such as the Women's Union are informed.

The guidelines should focus on how to improve conditions when victims report – ensuring privacy, comfortable, sensitive officers to take victim's report, trained in understanding gender-based violence.

There needs to be clear guideline regarding protection and the need to provide for a wide range of protection measures in violence against women cases even if the victim does not proceed with a formal criminal case. This includes clear guidelines regarding how to conduct a risk assessment,

develop safety plans, apply for court protection orders and seek effective conditions (e.g. no consumption of alcohol) as well as clear guidelines on enforcing protection orders.

The guidelines should ensure that holding perpetrators of violence accountable should not negatively impact the victim (e.g. review how fines in administrative punishment might negatively impact the victims). Consider other options to hold abuser accountable, such as rehabilitation programmes and probation with community service.

Suggestions for the criminal justice institutions

The study specifically asked women in general, victims in particular and criminal justice providers to rank or list initiatives they believed could enhance access to justice for women victims of violence. The report provides suggestions for the different criminal justice practitioners: police, prosecutors, judges and legal aid providers. Some of the more commonly identified initiatives included: dealing with justice providers that are specially trained in understanding violence against women; being made to feel comfortable, safe and secure and treated with dignity and respect; being believed and listened to; being able to speak to a female justice

provider; having her protection needs addressed; ensuring privacy (whether this is from having friendly private space in police stations, being able to report at another location like a One Stop Crisis Centre, or closed trials or publication bans); prioritizing her case; and being given information on the progress of her case and the criminal justice system; being provided legal (through legal aid) and non-legal support (such as through an available support person or being referred to other social services) and other measures to reduce secondary victimization (minimize the need to repeat her story, not having to face the accused in court, etc.).

INTRODUCTION

Violence against women has been described as perhaps the most widespread and socially tolerated human rights violation globally.³ Vietnamese women are affected by different forms of violence, including violence by intimate partners and family members, sexual violence, human trafficking, forced prostitution, and early and forced marriage.⁴ This highly complex phenomenon, rooted in gender-based discrimination and historically based unequal relations between men and women, is reflected in high levels of cases of violence going unreported and unprosecuted as well as in a high percentage of victims whose needs for assistance, protection and redress are neither recognized nor met.⁵

The government of Viet Nam, as a State Party to the Convention on the Elimination of All Forms of Discrimination against Women, is committed to ensuring a woman's right to life with dignity, including the right to live free from violence and the fear of violence and advancing her access to justice when such rights are violated.⁶ Viet Nam's international commitment to exercise due diligence to establish effective measures to prevent, investigate and prosecute cases of violence against women has been reflected in recent legal and policy work to address broader issues of gender equality, domestic violence and sexual

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3. United Nations Population Fund, United Nations Development Fund for Women and Office of the Special Adviser on Gender Issues and Advancement of Women (2005) *Combating Gender-Based Violence: A Key to Achieving the MDGs*.
 4. Gardsbane, D., Vu, H.S., Taylor, K., Chanthavysouk, K. (2010) *Gender-based Violence: Issue Paper*. Ha Noi: United Nations Viet Nam.
 5. Viet Nam General Statistics Office (2010) *Results from the National Study on Domestic Violence against Women in Viet Nam: "Keeping silent is dying"* UNODC, HEUNI, Research Centre for Gender and Development (2010) *Research on the Quality of Criminal Justice Services available to Victims of Domestic Violence in Viet Nam*; and the unpublished research findings from the joint regional study on policing and prosecuting in India, Thailand and Viet Nam.
 6. Viet Nam ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1982.



harassment in the workplace⁷ and in the recent amendments of the Penal Code, the Criminal Procedure Code and the Legal Aid Law. Over the past five years, the Ministry of Justice with the assistance of UN Women has undertaken various researches to support evidence-based legal reform and policy development to provide for a gender responsive legal and policy framework to respond to violence against women in Viet Nam.

Recognizing that Vietnamese women who experience violence continue to face many impediments to criminal justice, from gaps in the legal and policy framework to enforcement challenges, the Criminal and Administrative Law Department of the Ministry of Justice, with the support of UN Women, plans to develop guidelines for justice providers, legal practitioners and other relevant stakeholders to ensure better enforcement of the relevant provisions under the amended Penal

Code and Criminal Procedure Code in line with international standards to improve access to justice by women subjected to violence. To provide for guidelines that are evidence-informed, a women's justice perception study has been conducted. This research aims to understand how women perceive their accessibility to justice, their level of knowledge of their rights and the criminal justice system, what barriers they face and what initiatives from their viewpoint could enhance their access to criminal justice when faced with gender based violence. It explores victims' satisfaction and confidence in the criminal justice system as well as identifying any mismatch between women's perception and practice of justice service providers.

7. This has included the enactment of the 2006 Law on Gender Equality; the 2007 Law on Domestic Violence Prevention and Control; the 2011 Law on Human Trafficking Prevention and Combat; and the 2012 Labour Code.



PART I

CONTEXT AND BACKGROUND

1. BACKGROUND AND OBJECTIVES OF THE STUDY

1.1. SETTING THIS RESEARCH INTO THE CONTEXT OF THE BROADER PROJECT

This research study is the first stage of a project of the Criminal and Administrative Law Department of the Ministry of Justice and UN Women, and involving the Ho Chi Minh National Academy of Politics Institute of Sociology, the Supreme People's Court and the Supreme People's Procuracy.

The overall goal of this project is to contribute to ending violence against women through strengthening Vietnamese justice agencies' obligation of due diligence to establish effective measures to prevent, investigate and prosecute cases of violence against women by enhancing its capacity and ownership to formulate gender responsive laws, policies and strategies.

The first phase of the project is to conduct a women's justice perception survey to gain a better understanding of how women perceive their rights, their accessibility to justice and satisfaction in accessing justice services. This research will later contribute to the development of: guidelines for justice providers, legal practitioners and other relevant stakeholders to ensure better enforcement of the relevant provisions under the amended Penal Code and Criminal Procedure Code to improve access to justice by women subjected to violence in Viet Nam; and training materials to be used by the Ministry of Justice to raise awareness of the guidelines and develop capacity of criminal justice providers to ensure gender responsive criminal justice for women subjected to violence.

1.2. THE SPECIFIC OBJECTIVE OF THE RESEARCH

This study seeks to gain a better understanding of access to justice for women, particularly adult women who experience gender-based violence.

Specifically this research aims to:

- Understand how women perceive their accessibility to justice; their

level of knowledge of their rights and how the criminal justice system works; what barriers they face in accessing justice; and what initiatives from their point of view could enhance their access to criminal justice when faced with gender based violence.

- Examine victims' satisfaction and confidence in the criminal justice system.
- Identify any mismatch between women's perception and practice of justice service providers.

1.3. SCOPE

Given that this research is to be outcome focused - namely to inform the development of guidelines for justice service providers to ensure better enforcement of the criminal laws to improve access to justice by women subjected to violence – the study primarily focuses on the formal criminal justice system. However, it

is recognized that in Viet Nam that various forms of violence are also handled by grassroots reconciliation and administrative violation regimes, depending on the nature and severity of the form of violence as well as in reality the main justice option for women experiencing domestic violence appears to be through divorce proceedings.

2. REALITIES FOR WOMEN EXPERIENCING GENDER-BASED VIOLENCE IN VIET NAM

There are a number of previous studies on violence against women in Viet Nam which provide insight into the realities

for women who are subjected to violence and their experiences with the criminal justice system.

2.1. HIGH PREVALENCE RATES OF VIOLENCE AGAINST WOMEN IN VIET NAM

While the extent and nature of all forms of violence against women in Viet Nam is not fully known, an assessment on women and the criminal justice system found that violence against women continues to be under-reported and under-researched.⁸ The 2010 study on

domestic violence, the National Study on domestic violence against women in Viet Nam, has for the first time provided an indication of the prevalence nationwide.⁹ This study found that: nearly one-third of ever-married women reported experiencing physical violence

8. UNODC and UN Women “Assessment of the Situation of Women in the Criminal Justice System in Viet Nam: In support of the Government’s Efforts towards Effective Gender Equality in the Criminal Justice System” (Hanoi: July 2013).

9. Viet Nam General Statistics Office (2010) Results from the National Study on Domestic Violence against Women in Viet Nam: “Keeping silent is dying.”

in their life; as much as ten percent experiencing sexual violence; and over fifty percent experiencing lifetime emotional abuse. In comparing partner and non-partner violence, women are three times more likely to have experienced violence by partners rather than by someone else.

Other smaller scale studies and data indicate an extremely serious problem in Viet Nam.¹⁰ These studies reveal that violence against women occurs at all

levels - in the family, in the community, perpetuated or condoned by the state and crossing borders. It includes physical, sexual, psychological and economic violence, from domestic violence, rape and sexual assault, sexual harassment, trafficking, forced and early marriages and other forms. For instance, in a survey conducted in Hanoi and Ho Chi Minh City, 87% of women and girl respondents confirmed that they have experienced some sort of sexual harassment in public places.¹¹

2.2. PROBLEMS IN THE CRIMINAL JUSTICE RESPONSE TO GENDER-BASED VIOLENCE

There continues to be problems in the criminal justice response to violence against women where victims face challenges in being protected and having perpetrators held accountable. In Viet Nam, research indicates that high levels of cases of VAW go unreported and unprosecuted, as well as high percentages of victims whose needs for assistance, protection and redress are neither recognized nor met.¹²

The regional study on the criminal justice sector response to sexual violence¹³ revealed that for Vietnamese adult women who reported cases of rape, more than half dropped out in the investigating stage. It further showed that most sexual violence against women is committed by men who are known to them as partners, family members, coworkers, neighbours or acquaintances. This makes it both risky and emotionally difficult for the victims

10. For a review of these studies, see *From Domestic Violence to Gender-Based Violence: Connecting the Dots in Viet Nam* (2014: UNFPA), available at: http://vietnam.unfpa.org/sites/default/files/pub-pdf/UN%20Discussion%20Paper_ENG.pdf.

11. ActionAid International Viet Nam “Policy Brief” “Safe Cities for Women and Girls: Can Dreams Come True?” (ActionAid, Irish Aid, Safe Cities for Women).

12. General Statistics Office (2010) Results from the National Study on Domestic Violence against Women in Viet Nam. See also UNODC, HEUNI, Research Centre for Gender and Development (2010) Research on the Quality of Criminal Justice Services available to Victims of Domestic Violence in Viet Nam; and the unpublished research findings from the joint regional study on policing and prosecuting in India, Thailand and Viet Nam.

13. UN Women, UNODC and UNDP, *The Trial of Rape: Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam*, 2017.

to pursue justice. The study also revealed numerous barriers women face when reporting sexual violence, including negative gender stereotyping that creates and sustains myths of what is considered “real” rape and “real victims.” This influences attitudes and expectations as to how a “proper victim” should behave which affects the assessment of a victim’s credibility and shapes the criminal justice responses to cases involving violence against women. The study found that criminal justice providers emphasized whether the victim was credible, based on her character, appearance, behaviour and work more so than on the credibility of the reported incident. Sex workers who tried to report rape to police were often disbelieved.

UNODC’s research on domestic violence illustrates a justice system which is discouraging for women, where only forty-three percent of disclosed cases came to the attention of the police; sixty-one percent of reported cases were diverted to reconciliation; only twelve percent of reported cases to police resulted in criminal charge; and only one percent of reported cases led to conviction.¹⁴ Evidence shows that

many victims do not report to the police or others because of feelings of shame, embarrassment or fear.¹⁵ This study indicated tolerant attitudes by law enforcement officers remain prevalent despite the domestic violence law being introduced in 2007, including the belief that domestic violence is a private matter, keeping the family together is a priority and the belief that women cannot refuse their husbands’ sexual demands. The UNODC research showed that many victims were not satisfied with the results of the police work (47%) and thought that the measures taken by the police were not strict enough (54%). Dissatisfaction was mainly related to the police not investigating the case (24%) or not pressing charges against the perpetrator (24%). This study also found that not many survivors of domestic violence apply to legal aid, and in fact, 77% of cases were not brought to the attention of legal aid providers.¹⁶

The study on access to justice in Viet Nam’s plural legal system for domestic violence survivors shows a majority of victims of gender based violence do not have access to legal aid providers and that many victims are pressured into mediation or grassroots reconciliation

14. UNODC, HEUNI, Research Centre for Gender and Development (2010) Research on the Quality of Criminal Justice Services available to Victims of Domestic Violence in Viet Nam.

15. According to the UNODC research, the most common reason for not reporting was that victims preferred to deal with the problem themselves or within the family. They did not want anyone to know or belittle the incident as not being serious.

16. UNODC, Research on Law Enforcement Practices and Legal Support to Female Victims of Domestic Violence in Viet Nam, 2011.

and settlement outside the criminal justice system without receiving any legal advice.¹⁷ Furthermore, this study found that survivors more commonly

sought remedies from the informal and semi-formal legal systems, where state funded legal aid is not provided.¹⁸

3. PROTECTING WOMEN'S HUMAN RIGHTS – THE DOMESTIC AND INTERNATIONAL LEGAL AND POLICY FRAMEWORK

3.1. VIET NAM'S INTERNATIONAL OBLIGATIONS

Viet Nam is strongly committed to effectively prevent, respond and eradicate violence against women. As a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and to other human rights and criminal justice treaties¹⁹, Viet Nam confirms that Vietnamese women have the right to life with dignity including the right to live free of violence and free from the fear of violence. CEDAW, along with a number of United Nations declarations and resolutions on responding to violence against women²⁰ establishes an international obligation agreed to by all UN Member

States to exercise due diligence to establish effective measures to prevent, investigate and prosecute cases of violence against women. This obligation includes responding effectively to each case of violence, as well as addressing the structural causes and consequences of the violence. This obligation calls on States, in part, to develop and maintain comprehensive legal and policy frameworks and provide gender-responsive justice systems and policing services. The CEDAW Committee in its concluding observations on Viet Nam raised concerns over the high prevalence of violence against women, under-

17. UN Women and Ho Chi Minh National Academy of Politics “Study Report: Access to Justice in the Plural Legal System in Viet Nam: A Case Study of Women Domestic Violence Survivors. Ha Noi. 2015.

18. UN Women and Ho Chi Minh National Academy of Politics “Study Report: Access to Justice in the Plural Legal System in Viet Nam: A Case Study of Women Domestic Violence Survivors. Ha Noi. 2015.

19. Such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

20. Main examples include: the 1993 Declaration on Elimination of Violence against Women, the 1995 Beijing Declaration and Platform for Action, the 2010 Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, the 2013 Commission on the Status of Women 57th Session Agreed Conclusions; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice System.

reporting of cases and inadequate conviction of perpetrators, and called for actions to ensure that all reported cases are effectively investigated and perpetrators are prosecuted and adequately punished.²¹ The CEDAW Committee has also further elaborated on what is required by States to ensure effective access to justice for women, including women subjected to violence.²²

This research is informed by the international legal and policy framework.

1. It relies on the broad definition of “violence against women” as contained in the United Nations Declaration on Elimination of Violence against Women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”²³
2. It is based on the understanding of “essential justice and policing services” from the United Nations interagency Essential Services Package for Women and Girls Subject to Violence which covers all victim and survivor’s interactions with the police and justice system from reporting or initial contact to ensuring appropriate remedies and can be grouped in terms of the broad stages of the criminal justice system, from the initial contact, investigation to pre-trial, trial and post-trial stages.²⁴ In addition, certain justice services are to be available throughout the entire justice system: protection; support; communication; and justice sector coordination.
3. It refers to the articulation of women’s access to justice contained in the CEDAW Committee’s General Recommendation No. 33 on women’s access to justice²⁵ requiring six interrelated and essential components that are necessary to ensure access to justice irrespective of the types of legal systems or legal traditions. These are: Justiciability; availability; accessibility; good quality; provision of remedies; and accountability.

21. CEDAW Committee Concluding Observations on the combined seventh and eighth periodic reports of Viet Nam, CEDAW/C/VNM/CO-7-8, 29 July 2015.

22. CEDAW Committee General Recommendation No. 33 on women’s access to justice.

23. UN Declaration on Elimination of Violence against Women, GA/RES/ 48/104.

24. UN interagency Essential Services Package for Women and Girls Subject to Violence, Module 3 “Justice and Policing”, see <http://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>.

25. CEDAW/C/GC/33, 23 July 2015.

4. It is informed by recognized good practices in enhancing the criminal justice response to violence against women as set out in the UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.²⁶

TABLE 1: KEY INTERNATIONAL HUMAN RIGHTS AND LEGAL INSTRUMENTS

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), CEDAW General Recommendations No 19 and No 33
- Beijing Declaration and Platform for Action
- UN Declaration on the Elimination of Violence against Women
- Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN
- UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice
- Commission on the Status of Women 57th Session Agreed Conclusions
- 2030 Agenda for Sustainable Development and the inclusion of Sustainable Development Goal (SDG) 5, Target 5.2, to eliminate all forms of violence against women in public and private spheres

26. General Assembly resolution 65/228, annex.

3.2. VIET NAM'S LEGAL AND POLICY FRAMEWORK ON ACCESS TO JUSTICE FOR WOMEN VICTIMS OF VIOLENCE

The government of Viet Nam has in place a legal framework that prohibits some, but not all, forms of violence against women, sets out duties of the state and state agents to prevent some forms of violence and support its victims. Under the criminal law of Vietnam, no specific offense is stipulated dealing with violence against women. Acts infringing upon life, health, honor and dignity such as intentionally causing injury, cruel treatment, torture, oppression, maltreatment or humiliating, degrading treatment against women in both general and family settings may be dealt with referring to either of the offenses prescribed under the 2015 Penal Code on a case-by-case basis.

Prohibition does not always mean criminalization and criminalization is not always gender responsive. In Viet Nam, violations of gender-based violence vary in not only how they are defined in the various laws, but how they will be punished depends on which legal domain applies: disciplinary, administratively or criminal laws. It should be noted that while the 2013 Constitution²⁷ prohibits gender discrimination and the 2006 Law on Gender Equality²⁸ prohibits gender discrimination and gender-based violence, the term “gender-based violence” is not defined in the law nor

have regulations been formulated to provide further explanation.

Viet Nam has recently amended its Penal Code and Criminal Procedure Code in 2015. The 2015 Penal Code is the only substantive legal source establishing criminal offences and punishment. It establishes a number of general criminal offences that can be applied to most forms of violence against women. This includes: rape; forced sex; murder; intentionally inflicting injury; ill-treating or persecuting family member; humiliating other persons; trafficking in women; forced prostitution; early and forced marriage; and infringement upon women’s right to equality. Laws such as the 2006 Law on Gender Equality, the 2007 Law on Domestic Violence Prevention and Control, the 2011 Law on Human Trafficking Prevention and Combat, the 2012 Labour Code and the 2014 Law on Marriage and Family set up the kinds of prohibited acts and competent agencies responsible for the management of activities related to prevention and combating violations rather than handling and punishing offences.²⁹

The legal sources for handling and sanctioning cases relating to violations of these laws are Decrees on administrative or disciplinary violations as well as guided by the 2012 Law on Handling Administrative Violations.

27. Article 26 provides that any form of gender discrimination is strictly prohibited.

28. Article 10 strictly prohibits gender discrimination in all forms and gender based violence.

29. The 2016 Law on Child Protection, Care and Education also prohibits certain acts of violence against children. (article 6).

TABLE 2: VIET NAM'S PRACTICE OF EVIDENCE-BASED LAW REFORM AND POLICY DEVELOPMENT TO RESPOND TO VIOLENCE AGAINST WOMEN

STUDIES THAT SUPPORTED THE PENAL CODE AND CRIMINAL PROCEDURE CODE REFORMS:

Studies that supported the Penal Code and Criminal Procedure Code reforms:

- The Trial of Rape: Understanding the Criminal Justice Sector Response to Sexual Violence in Thailand and Viet Nam, available at: <http://asiapacific.unwomen.org/en/digital-library/publications/2017/09/the-trial-of-rape>
- Access to Justice in the Plural Legal System in Viet Nam for Women Domestic Violence Survivors, available at <http://asiapacific.unwomen.org/en/digital-library/publications/2015/06/access-to-justice-in-the-plural-legal-system-inviet-nam>
- Addressing international obligations to respond effectively to violence against women in the review of the Vietnamese Penal Code and Criminal Procedure Code: Issues and Recommendations for Consideration for Legislative Reform (available from UN Women Viet Nam office)
- Assessment of the Situation of Women in the Criminal Justice System in Viet Nam, available at http://www.un.org.vn/en/publications/doc_details/411-assessment-of-the-situation-of-women-in-the-criminal-justicesystem-in-viet-nam.html
- Research on Law Enforcement Practices and Legal Support to Female Victims of Domestic Violence in Viet Nam, available at http://www.unodc.org/documents/southeastasiaandpacific/2011/09/domesticviolence/Research_English_version_final.pdf

Studies that support the review of the Legal Aid Law

- Desk Review: Analyzing the gaps between national and international legislation related to women's access to legal aid (available from UN Women Viet Nam office)
- National Legal Aid Agency social survey on the differential impact of legal aid law and policy on men and women (available from UN Women Viet Nam office)

THE 2015 PENAL CODE

1. Violent offences infringing upon the life, health, honor and dignity of the person

Violent acts that infringe upon a person's life, health, honor and dignity are not gender specific, but rather such violence should be considered violence regardless of whether it is committed by a spouse, an acquaintance or a stranger. While there are a number of such acts that are covered under the Penal Code, including murder (article 123), forced suicide (article 130), intentionally inflicting injury or causing harm to the health of others (article 134), maltreatment against others (article 140) or humiliating others (article 155), and maltreatment or torture of family members (article 185) to list just a few, for the purposes of this research report, the focus is on the main offences that would apply to intimate partner violence.

- Physical violence: Under Article 134 (intentionally inflicting injury) an incident of physical violence would generally be perceived as criminal if the incident met the threshold of seriousness. The threshold for intentionally inflicting injury offence is 11% or higher; or under 11% but fall under one of the specified circumstances, and 31% or higher for intentionally inflicting injury on or causing harm to the health of others on extreme provocation offences, etc. Moreover, criminal prosecution against such acts

will only be initiated when a written request for prosecution is submitted by the victim.

- Psychological violence, including economic violence: Under Article 155, certain mental abuses are stipulated as criminal but prosecution can only be initiated against acts which materially damage honor and dignity of others to the extent of the humiliation of others.
- Sexual violence: the offences of rape (article 141) and forcible sexual intercourse (article 143) apply irrespective of the nature of the relationship between the victim and perpetrator.
- Repeated nature of domestic violence: Article 185 deals with those who maltreats or commits physical violence against family members, including spouses. However criminal prosecution will only be initiated under either presence of mental, physical sufferings as a result of frequent tortures, abuses or recidivism although the offender was previously subjected to administrative sanctions for the same act.

2. Sexual violence

The Penal Code provides that sexual violence against adult women (the

subject of this study) is dealt with under two offences, namely rape and forced sex. The 2015 Penal Code has improved the previous offences by adding “other sexual contacts” as a constituent element of rape and forced sex crimes in addition to “sexual intercourse.” This expanded the range of prohibited acts to include vaginal, anal and oral penetration of a sexual nature of the body of another person with any bodily part or object.

- Rape: Under Article 141, rape is defined as an act by anyone who uses violence, threatens to use violence or takes advantage of the victim’s inability to self-defend or resorts to other tricks in order to have sexual intercourse or other sexual contact with the victim against the victim’s will.
- Forced sex: Under Article 143, forced sex is construed as any act by any person who use tricks such as violence, threat of use of violence or fraud, promise, intimidation, etc. to coerce their dependents or otherwise desperate persons to unwillingly have sexual intercourse or other sexual contacts absolutely against the will of the victim.

CRIMINAL PROCEDURE CODE

The 2015 Criminal Procedure Code does not contain any specific provisions on access to justice for women victims of violence but the spirit of access to justice is reflected in the provisions on

3. Human trafficking

The Penal Code contains two offences of human trafficking: Articles 150 (human trafficking offences) and Article 151 (trafficking in persons under the age of 16). Details of these offences have been revised under the 2015 Penal Code to satisfy the requirements of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.

4. Offences related to prostitution

Under the Penal Code, certain acts related to prostitution are considered crimes, including harbouring prostitution (Article 327), procurement of prostitution (Article 328) and solicitation of prostitution with persons aged under 18 (Article 329). Prostitution or solicitation of prostitution on the basis of mutual consent among adults aged 18 or older is not criminalized. Persons using violence or threatening to use violence or other tricks to coerce others to solicit others for the purpose of prostitution (forced prostitution) will be considered accomplices in rape or forcible sexual intercourse crimes.

respect for the rights of the victim during the procedural stages of a case as well as how the procedure-conducting bodies deal with the case to ensure due process.

1. Fundamental rights of victims in the procedural process

Like other victims of crime, women victims of violence are entitled to certain fundamental rights as set out in the Criminal Procedure Code:

- To be informed of, clarified on their rights and obligations
- To present evidence, documents, objects and claims
- To express their judgments on the relevant evidence, documents and objects and requests examination and assessment from persons with procedure-conducting power
- To be informed of the investigation and settlement results
- To request change of procedure conducting persons, etc.
- To propose penalties, compensation for damage and loss and measures to secure such compensation
- To participate in court sessions, present their opinions, request the chairing judge to question the accused and other people present at the court, present their arguments at the court to protect their lawful rights and interests, and have access to the court minutes
- To request the procedure-conducting bodies to protect their

own life, health, honor, dignity, properties and other lawful rights and interests and their family members if confronted with threat.

2. Protection measures

A new chapter on protection of informants, witnesses, victims and other participants of the procedural process has been inserted under the 2015 Criminal Procedure Code. Victims have the right to be informed of their right to protection, how to request protection, compensation for damage, restoration of honor and respect for their lawful rights and interests during the protection period.

The protection measures under Article 486 include:

- Deploying forces, professional measures, using weapons, supporting tools and other instrument as caution, security measures
- Restricted traveling interactions
- Keeping the relevant information confidential
- Moving, maintaining confidentiality of living and working places, changing traceability, personal background, identification features
- Deterring, cautioning, defusing abusive acts, preventing and responding to abusive acts

While the Code does not include any provision requiring the offender to stay away from places where the victim of violence is present, the Code stipulates one basis to impose

temporary custody against the offender when he “uses threats, exerts control over, seek revenge against witnesses or victims and their family members” (Article 119).

OTHER RELEVANT LEGAL REGULATIONS

1. Law on Domestic Violence Prevention and Control

The Law on Domestic Violence Prevention and Control prohibits nine acts of domestic violence covering physical, sexual, psychological and economic violence. It is Decree 167/2013³⁰ that defines in detail the acts that are required to be administratively sanctioned and the level of punishment. For conduct that does not meet the criminal law threshold, the Law on Domestic Violence Prevention and Control and Decree 167 establishes administrative violations for a number of acts in the domestic sphere: corporal beating, ill-treating, torturing or other purposeful acts causing injuries to one’s health and life; insulting or other intended acts meant to offend one’s human pride, honor and dignity; isolating, shunning or creating constant psychological pressure on other family members, causing serious consequences and conducting unlawful acts to turn other family members out of their domicile; forcing to overwork or to contribute more earing than they can afford,

controlling other family member’s income to make them financially dependent.

Article 12 of the Law clearly stipulates that no reconciliation of conflicts and disputes among family members in the following cases: (1) incidents of a criminal nature, unless the victim requests for an exemption from criminal proceedings; and (2) violations of administrative laws subject to civil fines.

2. The Law on Human Trafficking Prevention and Combat

This Law expands the list of prohibited trafficking acts from the Penal Code offences and specifies the agencies that are to be responsible for receiving and verifying victims of trafficking and which are required to provide victim support.

3. The Legal Aid Law

Legal aid is available for women victims of violence if they qualify under the current criteria of being poor, people with meritorious services

30. In 2013, the government replaced Decree 110/2009 with Decree 167/2013.

to the revolution, the disabled or of ethnic minorities residing in areas with particularly difficult socio-economic conditions. This Law is currently under

review and some groups are lobbying for broadening of legal aid beneficiaries to include victims of gender-based violence.³¹

4. METHODOLOGY

4.1. RESEARCH METHODOLOGY

Duration of the research

This research was undertaken in a very short time frame, starting from **January 20, 2017** with the final research report done by **March 31, 2017**. This tight timeframe influenced the design of the research methodology, the research tools and protocol as well as in the implementation by the research team.

Research team

The research has been carried out by a small national research team with guidance by international consultant.

Selected sites

Two sites were selected to conduct the research: (1) Hanoi and (2) Lang Son. These sites were chosen to reflect diversity in urban and rural locations. However, while women were surveyed in four rural districts in Lang Son province, most women survey respondents noted coming from urban locations likely because they lived in the main town of those districts. The Ministry of Justice informed the research team that despite this, the survey respondents from Lang Son reflect a rural perspective.

BOX 1: THE RESEARCH TEAM

The international consultant

Ms. Eileen Skinnider

National research team

Mr. Tran Van Dung (Ministry of Justice)

Ms. Le Thi Van Anh (Ministry of Justice)

Mr. Nguyen Van Tung (Supreme People's Court)

Mr. Nguyen Xuan Ha (Supreme People's Procuracy)

Dr. Le Thi Thuc – Ho Chi Minh National Academy of Politics and her team

31. The revised Legal Aid Law was approved by the National Assembly in June 2017, but victims of gender-based violence are not recognized as beneficiaries.

Blended research methodology

The methodology chosen blended quantitative and qualitative research approaches to gain perspectives from women in general, from the users of the justice system (adult female victims of violence) and from the providers of justice (police, prosecutors, judges, legal aid and women union officials who provide legal assistance).

The **quantitative methodology** involved a structured survey questionnaire for women in general, targeting a sample that was to be representative of the female population in each community. Originally designed to be conducted as a one-to-one structured interviews using the survey tool to avoid any misunderstanding of the questionnaire, but given the short time, this was implemented as a written survey where the research team would gather 20-25 women at a time, explain the survey and be on hand to answer any questions while the women would fill it in on their own.

The **qualitative methodology** consisted of in-depth interviews with victims who have experienced accessing the justice system as well as focus group discussions with different groups of criminal justice providers and first responders. The plan was to conduct thirty **in-depth interviews** of adult women victims in each site, however in Lang Son, while fifteen victims had been identified only

seven were interviewed in the end. Given the importance of guaranteeing confidentiality and ensuring sensitivity, the interviews were done by the academic research team members rather than government justice officer. **Focus group discussions** were also conducted in each site, to gain additional context from front line practitioners to support a better understanding of the challenges for women accessing justice and ideas as to enhance their access in response to violence against women cases. Discussion groups included: the police; prosecutors; judges; and legal aid and Women's Union representatives who provided legal assistance to victims of violence as well as other support such as medication, shelter, psychological support, etc. The criteria to identify participants included choosing individuals who had experience in handling cases involving violence against women. They did not have to be only female. However, it appears that the vast majority of those participants in the focus group discussions were female (88.7% were female). The plan was to have separate focus group discussions with different frontline criminal justice providers (police; prosecutors; judges; and legal aid, including Women's Union officials who provide legal assistance), with five to seven people involved in each group. However, in Hanoi, this was difficult to organize. For instance in Hanoi only one prosecutor and only one judge were interviewed.

TABLE 3: RESEARCH HIGHLIGHTS

	Quantitative methodology	Qualitative methodology	
	(1) Women justice perception survey	(2) In-depth individual interviews with victims (IDIs)	(3) Focus Group Discussions with justice providers (FGDs)
Participants	<p>100 women from Hanoi</p> <p>105 women from Lang Son</p> <p>Total: 205 survey respondents</p>	<p>15 victims from Hanoi</p> <p>7 victims from Lang Son</p> <p>Total: 22 IDIs with women victims</p>	<p>11 police</p> <p>9 prosecutors</p> <p>10 judges</p> <p>11 Legal aid providers</p> <p>12 Viet Nam Women’s Union officers</p> <p>Total: 53 justice providers</p>
Identification of participants	Women were called to come to do the survey by local justice department and women’s union	Victims identified through Peace House, others through legal aid centres, women’s union, or through other victims	Justice practitioners were called to attend by the local justice department
Sampling	Convenient sample as opposed to random sample	Convenient sample as opposed to random sample	Convenient sample as opposed to random sample

	Quantitative methodology	Qualitative methodology	
	(1) Women justice perception survey	(2) In-depth individual interviews with victims (IDIs)	(3) Focus Group Discussions with justice providers (FGDs)
Tool (see annex)	<p><i>Structured questionnaire:</i></p> <p>Part I: Tracking key demographic profile</p> <p>Part II: Knowledge of rights and level of awareness of available policing and justice services</p> <p>Part III: Perceptions of and confidence levels in existing policing and justice services</p> <p>Part IV: Women's suggestions for justice guidelines to enhance their access to justice</p>	<p><i>Semi-structured guide covering:</i></p> <ul style="list-style-type: none"> - Opinions as to what is violence against women and crimes - Victim's rights - Experience and level of knowledge of reporting and the police; the procuracy; legal aid; and courts and judges; - Satisfaction and confidence in the criminal justice system - Suggestions for the guidelines to enhance their access to justice 	<p><i>Semi-structured guide covering:</i></p> <ul style="list-style-type: none"> - Their opinions regarding their duty towards victims of violence - Their own perceptions of how the community and victims perceive their provision of justice services - How their justice agency is organized to deal with violence against women - Any guidelines they would recommend to assist them in handling these case
Conducted	<p><i>Hanoi:</i> 19 February 2017</p> <p><i>Lang Son:</i> 23-24 February 2017</p>	<p><i>Hanoi:</i> 12 February 2017</p> <p><i>Lang Son:</i> 23-24 February 2017</p>	<p><i>Hanoi:</i> 25 February 2017</p> <p><i>Lang Son:</i> 23-24 February 2017</p>

	Quantitative methodology	Qualitative methodology	
	(1) Women justice perception survey	(2) In-depth individual interviews with victims (IDIs)	(3) Focus Group Discussions with justice providers (FGDs)
Profile of the respondents	<ul style="list-style-type: none"> - Education: majority were well educated with 66% had reached college, university or higher -Urban: 93% noted living in urban locations - Married: 69% - Controlled their own income: 86% had their own source of income and 93% controlled all of it - Age: ranged from 22 to 78 years old, with over half being in the age range of 28 to 47 years old - Ethnicity: 62% were Kinh and 38% reported being "other"³² 	<ul style="list-style-type: none"> - 17 victims of domestic violence - 5 victims of human trafficking 	<ul style="list-style-type: none"> - Police – 11 (3 males; 8 females) - Prosecutors – 9 (all female) - Judges – 10 (3 men, 7 women) - Legal aid – 11 (all females) - Viet Nam Women’s Union officers – 12 (all females)

32. The vast majority of the non-Kinh respondents were from Lang Son where only 27% reported being Kinh.

4.2. RESEARCH LIMITATIONS

There were a number of challenges and limitations in carrying out the planned methodology and this has impacted on the data quality.

Issues around random sampling

In both Hanoi and Lang Son, there were challenges in identifying a random representative sample from the female population and this resulted in what would be call a “*convenient sample*” as opposed to a “*random sample*.” This has resulted in a sample of highly educated women who reported being from urban centres rather than from rural centers. It is noted that there appears to be different perceptions of what is meant by “*urban*” depending on where the women were taking the survey (e.g. a number of respondents in Lang Son reported being from urban areas when they lived in the main town of a rural area. Therefore we have concerns as to whether this can be seen as a representative sample of the female population in each community.

Over-representation of women from within the “system’ in the perception survey

A misunderstanding in Lang Son resulted in calling mainly female justice providers for the Focus Group Discussions and who were then asked to fill in the perception survey. This has resulted in a significant number of women who are seen to be from

“*within*” the justice system providing their perceptions on how they view the justice system. In Lang Son, 29 out of 105 fell under the category of criminal justice provider (police, prosecutor, judge or legal aid officer) and 35 out of 105 were women’s union officers or government officers who might be considered by the victims as being within the “system” who receive first reports of violence. Note that while the Women’s Union officers who receive reports might not consider themselves to be within the system as they have to refer the reports to other agencies responsible in handling these cases, from the victim’s perspective as seen in a number of interviews, the Women’s Union could be considered part of the system. This totaled 64 out of the 105 survey respondents (or 61%). In Hanoi, this amounted to 13 responses out of 100 (or 13%). This has raised a serious concern of biasness in the quantitative data as 74% of responses are from women who could be seen to work within the system from the victim’s point of view.

Lack of time to pilot research tools and correct bias concerns

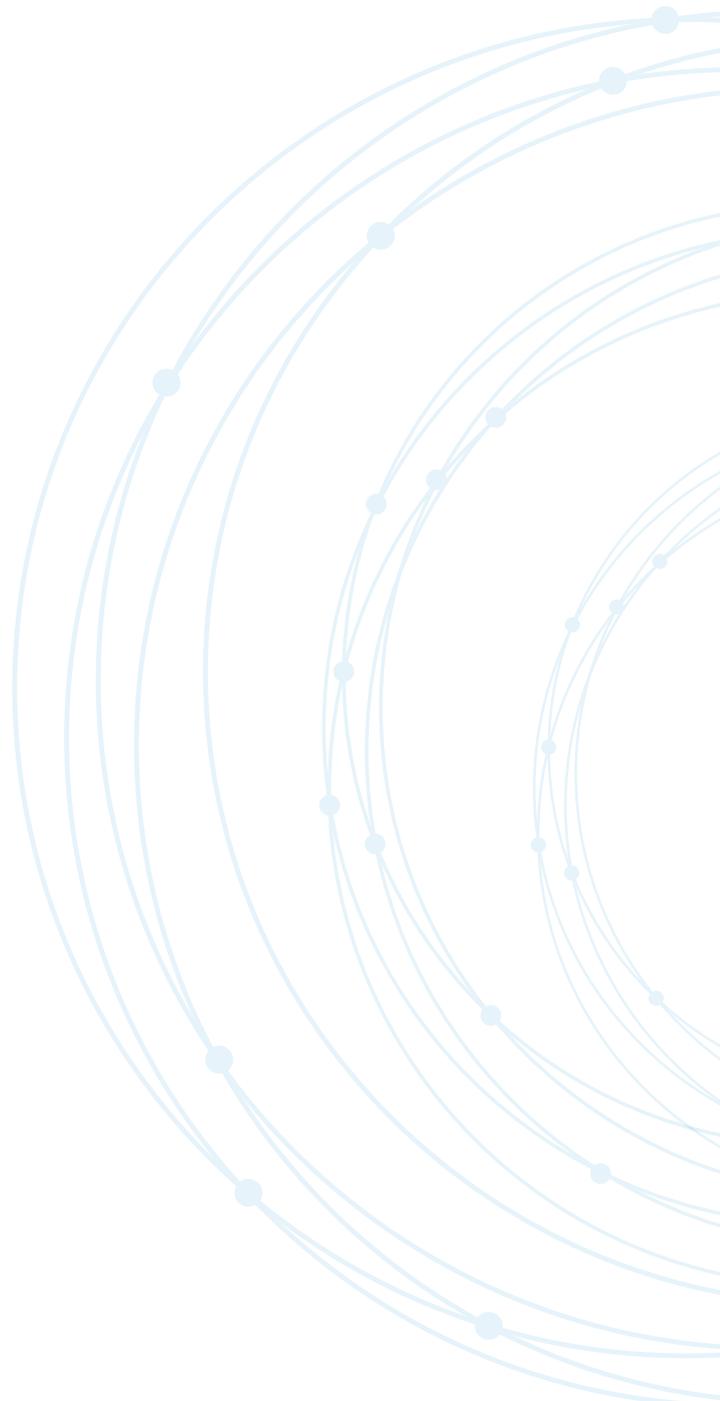
Given the short timeframe, we were not able to pilot the tools or methodology to ensure proper understanding regarding the selection of participants and whether the questions as framed would be clear in the translated tools. Certain questions which required

the respondent to move to another section if they answered “no” were not always followed. Furthermore, when the concerns regarding the data were discovered, the short timeframe did not allow the national research team to conduct a further data set to replace the current ones.

Challenges to finding victims who have experience in the criminal justice system

Most of the victims of domestic violence interviewed that mentioned being involved at the court stage were involved in family court regarding divorce proceedings but not criminal court as victims of violence, despite the fact that their perception of the violence they reported experiencing was serious and often revealed a long pattern of repetitive violence, leaving them with little option but to seek divorce.

However, despite these challenges and limitations to the data, the research team has used sub-classifying of the survey data according to (1) locations; (2) those respondents that self-identified as victims; and (3) those respondents who reported or tried to report the violence to authorities. Such analysis has provided some insight into the mismatch of perceptions from women who have tried to use the system with women who have not and with women who work within the system.





PART II

STUDY FINDINGS: WOMEN'S PERCEPTIONS OF CRIMINAL JUSTICE IN VIET NAM

The second part of the report focuses on perceptions of what gender-based violence constitutes crimes, how accessible criminal justice is for women who experience gender-based violence and women's level of knowledge of their rights and how the criminal justice system works. The perceptions are taken from three different angles – the first is from women in general, the second is from women who have been victims of violence who have experience in using the justice system and the third is from justice practitioners who have experience in providing justice to such victims. The first section in this part presents the study's findings on perceptions around what gender-based violence constitutes crimes and justice seeking behaviours as well as justice providing behaviours. It also looks at the study's findings as to the level of understanding that women have with respect to their right to access justice and their levels of knowledge of policing and justice services available in their communities. The second section presents perceptions on women's confidence in and satisfaction in the criminal justice system and identifies similarities and differences in these perceptions by women in general, those women who have used the justice system and from justice providers.

While the survey sought perceptions from the general adult women population in each community, two subgroups of respondents were

identified through the questionnaire: (1) users of the justice system (those who reported or tried to report an incident of violence); and (2) potential users of the justice system (those who self-identified as experiencing one or more form of gender-based violence). Overall, nearly thirty percent of survey respondents (29%) reported experiencing some form of violence in their lifetime. Hanoi respondents identified as victims of violence twice as often as the respondents in Lang Son (40% of all respondents in Hanoi reported being victims as compared to 19% in Lang Son). All of the respondents from Lang Son who reported experiencing violence noted experiencing different forms of domestic violence, whereas the respondents from Hanoi also noted experiencing other forms such as rape, human trafficking, early and forced marriages. Of those respondents that identified as victims, over half noted that they reported or tried to report an incident of violence (43 respondents out of 60). When analyzing the data per each site location, in Hanoi a significant number of those respondents who identify as victims reported or tried to report to the authorities (70%) as compared to only 14% in Lang Son.

The survey did not specifically screen for those female respondents who were also justice providers or first responders, however sub-classifying the quantitative data according to location might provide some insight as to differences in opinions. In Lang Son,

29 out of 105 survey respondents fell under the category of justice provider (police, prosecutor, judge, legal aid officer) and 35 out of 105 survey respondents were affiliated with the Women's Union who are often the first

point of contact for a victim's report of violence, for a total of 64 out of the 105 survey respondents (or 61%) as compared to 13 responses out of 100 (or 13%) from Hanoi.

HIGHLIGHTS OF THE STUDY

The main findings from this study are as follows:

Perceptions on what forms of violence against women constitute crimes

Women in general, victims in particular and justice providers had similar perceptions as to which forms of violence against women were clearly seen as criminal offences: rape, human trafficking, forced prostitution and serious physical domestic violence. These were accurate perceptions of the crimes contained in the 2015 Penal Code. There was less certainty as to when certain forms of violence would meet the criminal threshold (Article 134³³ and 185³⁴ in particular). This was especially seen in the case of domestic violence which can include various forms - physical, psychological, sexual and economic violence and repetitive

behaviour - and can be subjected to different sanctioning regimes – grassroots reconciliation, administrative punishment and criminal punishment, with stricter sanctions being imposed for repetitive behaviour. There was also less agreement as to whether sexual harassment and sexual assault were crimes, although high percentage of women in general thought that they were. These perceptions conflict with the 2015 Penal Code, as sexual assault in cases of adult women or sexual harassment are currently not criminalized.

Implications for the guidelines:

There needs to be clear guidance as to when the thresholds for criminal behavior, administrative behaviour or behaviour that warrants grassroots reconciliation are met. These guidelines need

33. Article 134 of the 2015 Penal Code "intentionally inflicting injury on or causing harm to the health of others" specifies the physical forms that constitute crimes which is cases having the infirmity rate of 11% or above; or under 11% but fall under one of the specified circumstances. There appeared to be a number of uncertainties from the perspective of the victims, such as the timing of assessing the infirmity rates, and if assessed at less than 11% how the fact of experiencing and reporting previous violence which resulted in either reconciliation or administrative punishment was a factor in meeting the criminal threshold.

34. Article 185 of the 2015 Penal Code "maltreatment or torture against grandparents, parents, spouses, children, grandchildren or one's own fosters" which is not often enforced.

to be disseminated to the public to raise awareness of their rights and how they should be treated by justice providers. The guidelines should also include accountability measures to hold justice providers accountable in applying the appropriate legal regimes in each case.

The impact of perceptions on justice seeking and justice providing behaviour

These perceptions regarding what forms of violence against women constitute crimes under the Vietnamese Penal Code can impact the justice seeking behaviours of women who experience gender-based violence, how women in the general community support or do not support victims of violence in seeking justice, and how justice practitioners provide justice. With domestic violence, the uncertainty of when it is a crime is reflected in the uncertainty of where to report such incidents. More survey respondents said they would report violence to head of the residential cluster or Women's Union than the police. A majority of victims of domestic violence interviewed raised the concern of unclear reporting procedures, some being told they had to report the violence to four agencies for the same incident: head of residential cluster, People's Committee, Women's Union and the

police. The victims also expressed different reasons for reporting domestic violence. Some wanted to restore justice in their relationship (i.e. reconciliation to stop the husbands behaviour and stay in the relationship); others want to stop the violence and feel safe; and others wanted justice, to have the husband held accountable for his violent behaviour, whether this was through administrative sanctions or criminal punishment.

Implication for the guidelines:

The guidelines should emphasize that all justice responses need to be victim-centred and prioritize police's duty to stop the violence and protect the women, irrespective of whether she files a formal denunciation. The guidelines should limit the number of people a victim must deal with and minimize re-telling of her story. The guidelines need to address the institutional barriers that contribute to the lack of reporting to police for those forms of violence that are clearly seen as crimes (e.g. rape and forcible sexual intercourse) but are not being reported to the police.

Understanding the right to access justice

A significant majority of women surveyed noted that they are well informed of their rights and that the state has the obligation to protect

their right to access justice. This is compared to approximately half of those victims interviewed who reported that they had not been aware of their rights at the time of violence; however, some of them had subsequently learned about their rights once coming to Peace House. This is in contrast to the views of the criminal justice providers who thought that most victims did not know their rights and some even expressed the opinion that women are mostly responsible in protecting their own rights. Both the victims and justice providers suggested that there needed to be much more propaganda done by the Women's Union and local authorities. The study highlighted the importance of reliable services such as Peace House and shelters that inform women of their rights as victims of violence, in addition to providing social and legal support.

Implication for the guidelines:

The guidelines should emphasize the duty on the justice providers to protect women's rights and clearly address the tendency of justice providers to shift the blame on victims for not using the system rather than examine inherent challenges within the justice system.

Level of knowledge of the criminal justice system

Most women have the knowledge of where to go to report the violence,

which is in contrast to the justice providers' opinions that most women have little understanding about the services being provided by police. The study found that there are numerous other factors that contribute to why they do not report to the police. The barriers women face include societal and cultural barriers as well as legal and institutional barriers. While societal and cultural barriers (e.g. stigma, pressure by family, the concern that if they report this means divorce, or the negative impact on children's future jobs) require changing attitude and requires holistic multi-sectoral approaches, the legal and institutional barriers (lack of privacy, protection concerns, complicated procedures, etc.) should be addressed immediately by the criminal justice system.

Implication for the guidelines:

The guidelines need to reflect a shift from placing the blame on the women victims for not reporting and cooperating with the justice system to how to enhance a gender-responsive justice system that is trusted by the users. The guidelines need to make reporting easier for women and cover issues of privacy; protection; priority response; clear and simple reporting procedures for the women; and clear responsibility on the first point of police contact to ensure the appropriate police authority receives the report and acts on it.

Perceptions of the overall criminal justice system

A significant proportion of survey respondents had very positive perceptions regarding the criminal justice system in Viet Nam, with a significant number believing that the criminal justice system serves everyone, rather than only the rich and was representative of all Vietnamese. At least half of the survey respondents strongly agreed that the criminal justice system was fair, helpful and approachable. Less strongly agreed it was accessible, works well, is efficient and is understandable. Their positive perceptions becomes slightly lower when asked specific questions about whether the criminal justice system is fair and equal for women who experience domestic violence or sexual violence. Those survey respondents who had experienced violence and those who reported or tried to report violence tended to be less favourable to the criminal justice system. This positive perception by women in general about how the criminal justice system handles cases involving violence against women is in sharp contrast with the opinions of the victims who had experience with the justice system. The majority of the victims interviewed expressed dissatisfaction with their experience of the criminal justice system and a lack of trust in the system.³⁵

Perception of barriers women face when accessing justice

From the survey, the top five most significant barriers for women were: privacy concerns; limited awareness of rights; protection concerns; shame and embarrassment; and pressure by family. The victims interviewed experienced similar barriers with privacy and protection concerns being mentioned often. Justice providers' perception of barriers primarily rested on the victims themselves who they saw as accepting their fate; fear of retaliation by the abuser if they reported; as well as the low awareness by the women themselves as to what violence is and a low understanding of the law.

Implication for guidelines:
understanding these barriers can inform the type of guidelines that might be useful, such as measures to protect women's privacy when reporting and ensuring confidentiality; as well as guidelines to enhance her protection. Appreciating the difference between societal and cultural barriers and legal and institutional barriers and what can be practically addressed by the justice providing institutions to ensure a gender-responsive justice system.

35. Seventeen out of twenty victim statements reviewed expressed dissatisfaction and another victim was dissatisfied with the reporting and investigation experience but expressed relief after her husband was convicted and sentenced.

Confidence levels in the various stages of the criminal justice system and in the criminal justice providers

A significant proportion of survey respondents had a great deal of confidence in the criminal justice providers (the police, prosecutors, judges and legal aid providers) as well as at the various stages of the criminal justice system, from initial reporting to the police, investigation and prosecution and the criminal trial. This contrasted with the experience of the victims who told of a number of challenges they had when dealing the police. Less spoke of the challenges with the prosecutors, courts and legal aid providers as only four of them met a prosecutor and only three went to criminal court. Furthermore, there appears to be a “disconnect” between justice providers and women in general regarding the levels of confidence and satisfaction in the justice system as compared to those who have actually used the system.

The victims’ interviews revealed that: the onus of reporting to all the relevant authorities, including police, head of residential cluster and Women’s Union rests on the victim; the safety concerns of the victims were not identified by the ward or commune police nor were any protection measures provided at the time of reporting; privacy in reporting

was not always guaranteed; they felt the violence was often minimized and they were treated with disrespect and blamed for the violence; the response (reconciliation; administrative punishment) did not stop the violence; and the administrative sanctions negatively impacted them.

Implications for guidelines:

There needs to be clear guidelines for all of these first responders in what to do with a report, as well as clear guidelines shifting the onus from the victim to the local authorities, particularly the police when receiving reports to ensure that the proper police jurisdiction as well as support providers, such as the Women’s Union are informed.

The guidelines should focus on how to improve conditions when victims report – ensuring privacy, comfortable, sensitive officers to take victim’s report, trained in understanding gender-based violence.

There needs to be clear guideline regarding protection and the need to provide for a wide range of protection measures in violence against women cases even if the victim does not proceed with a formal criminal case. This includes clear guidelines regarding how

to conduct a risk assessment, develop safety plans, apply for court protection orders and seek effective conditions (e.g. no consumption of alcohol) as well as clear guidelines on enforcing protection orders.

The guidelines should ensure that holding perpetrators of violence accountable should not negatively impact the victim (e.g. review how fines in administrative punishment might negatively impact the victims). Consider other options to hold abuser accountable, such as rehabilitation programmes and probation with community service.

Suggestions for the criminal justice institutions

The study specifically asked women in general, victims in particular and criminal justice providers to rank or list initiatives they believed could enhance access to justice for women victims of violence. The report provides suggestions for the different criminal justice practitioners: police, prosecutors, judges and legal aid providers. Some of the more commonly identified initiatives included: dealing with justice providers that are specially trained in understanding violence against women; being made to feel comfortable, safe and secure and treated with dignity and respect; being believed and listened to; being able to speak to a female justice provider; having her protection needs addressed; ensuring privacy (whether this is from having friendly private space in police stations, being able to report at another location like a One Stop Crisis Centre, or closed trials or publication bans); prioritizing her case; and being given information on the progress of her case and the criminal justice system; being provided legal (through legal aid) and non-legal support (such as through an available support person or being referred to other social services) and other measures to reduce secondary victimization (minimize the need to repeat her story, not having to face the accused in court, etc.).

SECTION 1: UNDERSTANDING THE RIGHTS TO ACCESS JUSTICE AND THE LEVEL OF AWARENESS OF AVAILABILITY AND FUNCTIONING OF POLICING AND JUSTICE SERVICES

1. PERCEPTIONS ON WHAT FORMS OF VIOLENCE AGAINST WOMEN CONSTITUTE CRIMES

Perceptions regarding what forms of violence against women constitute crimes under the Vietnamese Penal Code can impact the justice seeking behaviours of women who experience gender-based violence. It also can impact how women in the general community support or do not support victims of violence in seeking justice. Justice providers also expressed various opinions regarding what forms of violence against women would constitute crimes. This has an impact on their justice providing behaviour which has consequences on women's perceptions as to what are indeed crimes that they can expect a just recourse. If women and justice providers do not consider certain forms of violence a crime, this influences how they view the accessibility of criminal justice and their understanding of their right to access justice.

1.1. WHAT FORMS OF VIOLENCE AGAINST WOMEN CONSTITUTE CRIMES?

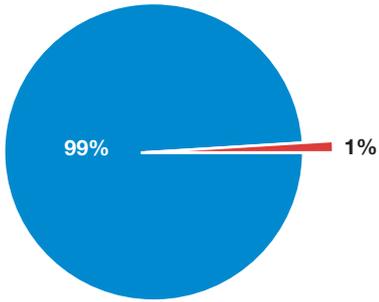
Women in general, victims in particular and justice providers expressed some similar opinions as well as certain different ones regarding how they perceive different forms of violence against women in terms of criminal behaviour. The survey asked women's opinion as to whether certain forms of violence were considered "a crime", "wrong, but not a crime", "something that just happens" or "don't know." A few of the victims interviewed said that they had no previous knowledge about what was violence or what would amount to crimes until going to Peace House.

"Previously, I did not know anything about violence; even though I used to suffer from violence. I just have known since I came to "Peace House.""

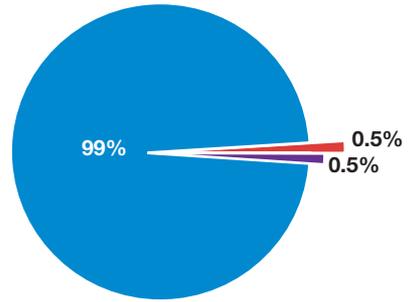
Female victim of domestic violence.

Diagram 1: Respondents' opinions on the following forms of violence if they happened to adult women in Viet Nam

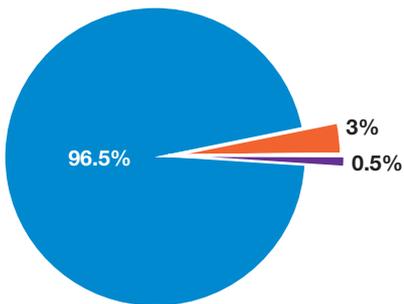
■ A crime
 ■ Wrong, but not a crime
 ■ Something that just happens
 ■ Don't know



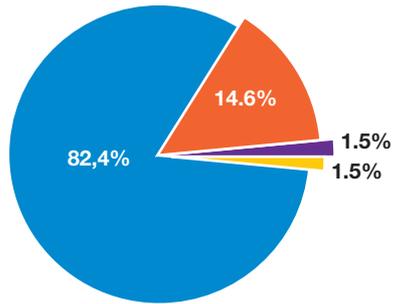
1. Rape



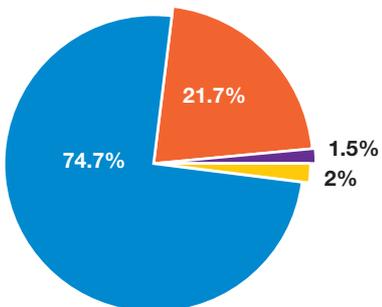
13. Human trafficking



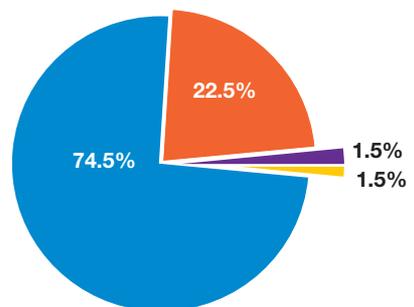
16. Force prostitution



11. Sexual violence caused by family members other than intimate partner

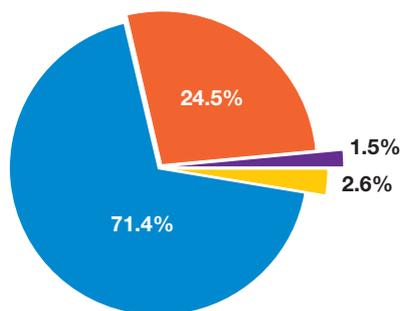


5. Physical violence caused by intimate partner

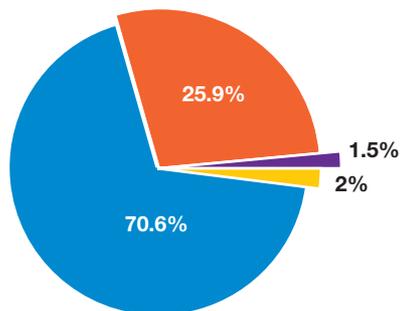


9. Physical violence caused by family members other than intimate partner

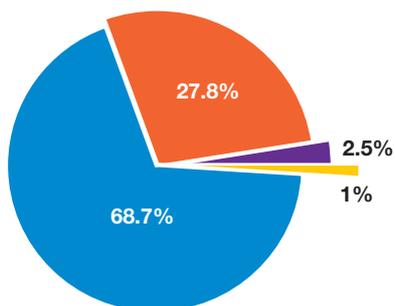
■ A crime
 ■ Wrong, but not a crime
 ■ Something that just happens
 ■ Don't know



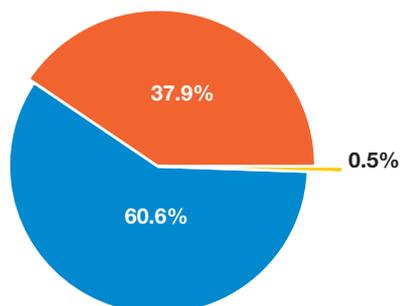
7. Sexual violence caused by intimate partner



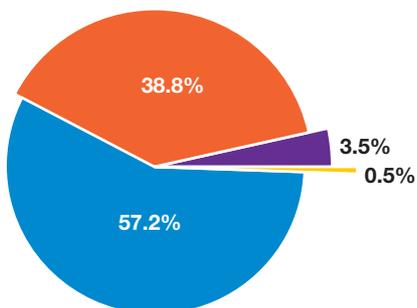
4. Sexual harassment



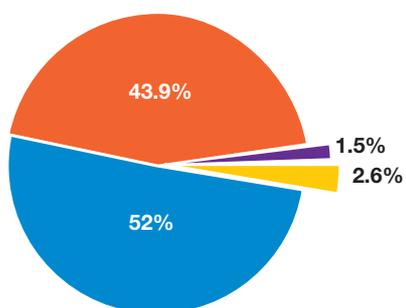
3. Sexual assault (unwanted sexual touching)



2. Attempted rape

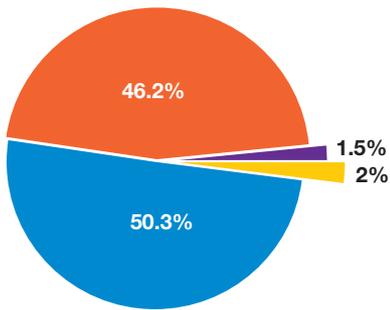


14. Forced marriage

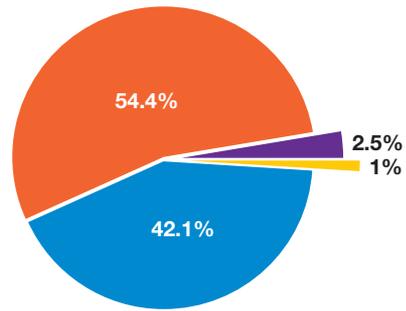


6. Psychological violence caused by intimate partner

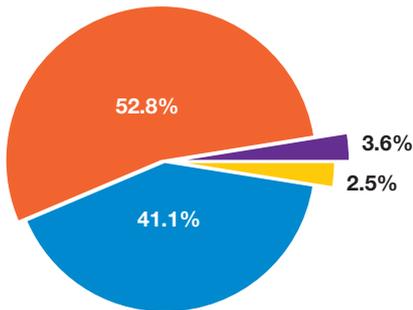
■ A crime
 ■ Wrong, but not a crime
 ■ Something that just happens
 ■ Don't know



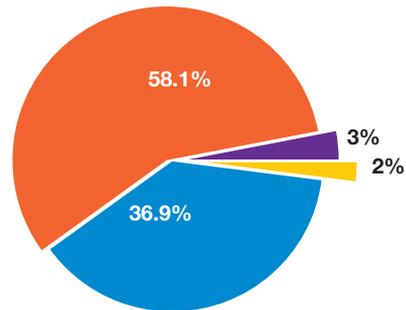
8. Economic violence caused by intimate partner



15. Early marriage



10. Psychological violence caused by family members other than intimate partner



12. Economic violence caused by family members other than intimate partner

Sexual violence

There was consistent agreement among women in general, victims and justice providers that rape is a crime. Ninety-nine percent of the survey respondents believed rape was a crime and 96.5% considered forced prostitution a crime. This is an accurate perception of the Penal Code, wherein rape and forcible sexual intercourse are Penal Code offences and persons using violence or threatening to use violence or other tricks to coerce others to solicit

others for the purpose of prostitution (forced prostitution) will be considered accomplices in rape or forcible sexual intercourse crimes, according to the Ministry of Justice team members.

There was less agreement, although still a majority of survey respondents who believed sexual harassment was a crime at 70.6%, sexual assault was a crime at 68.7%; and attempted rape was a crime at 60%. Of the victims interviewed, a few mentioned that they did not consider sexual harassment a

violation of the law. These perceptions conflict with what are crimes according to the Penal Code. While the Penal Code criminalizes “preparations” and “attempts” and therefore covers attempted rape, the Penal Code does not criminalize sexual assault in cases of adult women, meaning unwanted sexual touching that does not meet the threshold of rape or forcible sexual intercourse nor does it cover sexual harassment. Sexual harassment in the workplace is a violation of the Labour Code not the Penal Code.

Statutory rape cases. A few of the criminal justice providers raised the situation of where the parents report the rape of their daughter but in the justice providers’ opinion these were cases of “love” and “consensual sex” and should not be treated as a crime.

“The family did not know that was a rape or not, for example, they love each other and have a baby. When parents know and report to police, the man knows that he violated the law and explain that they love each other and he did not know the girl was adolescent.”

Group of prosecutors.

The Penal Code criminalizes sex between anyone with a girl under the age of 13 as they are deemed to be legally incapable of consenting to sex, and criminalizes sex between an adult

male with any girl under the age of 16 years old. The views of criminal justice providers who believe these should not be crimes reflects a lack of appreciation by the justice providers as to how youth can be exploited by adults or that rape can occur in intimate relationships. Similar beliefs were expressed by Vietnamese police and prosecutors in the regional study on the criminal justice sector response to sexual violence.³⁶

Human trafficking

There was consistent agreement that human trafficking is a crime. Ninety-nine percent of the survey respondents believed human trafficking was a crime. Five of the victims interviewed experienced human trafficking and they all believed it was a crime and felt it was treated as a crime by the criminal justice providers. This is consistent with the views of the criminal justice providers:

“There are many forms of violence but in terms of human trafficking we deal with them all as criminal cases.”

Group of police officers.

Early and forced marriage

A majority of survey respondents believed that forced marriage was a crime (at 57.2%) while less than half

36. UN Women, UNODC and UNDP, The Trial of Rape: Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam, 2017.

believed that early marriage was a crime (at 42.3%) but rather viewed it as something wrong but not a crime (at 54.3%). One group of criminal justice providers thought that forced marriage was not serious enough to be a criminal offence; however, this is in conflict with the fact that forced marriage is a Penal Code offence. Regarding early marriages, the 2015 Penal Code removed the crime of entering into an early marriage but still penalizes the act of organizing an early marriage.

Domestic violence

The study findings with respect to whether and when domestic violence (physical, psychological, sexual and economic) caused by an intimate partner amount to a crime or not reflect the challenges in interpreting the Penal Code and the Law on Domestic Violence Prevention and Control. The survey results show that the forms that more believed to be crimes were physical and sexual violence (with over 73%) whereas less viewed psychological and economic violence as crimes (with approximately 50%). Of the victims who were interviewed, some had firm views that all forms of domestic violence, including physical, sexual and emotional abuse should be dealt with by criminal charges. Another interviewee was of the opinion that domestic violence should be considered crimes due to the effect of the physical and psychological violence on the individual and the children.

She was aware that accordingly to the Penal Code the physical injury had to be assessed at 11% in order to be considered a crime but thought this did not capture the reality that *“the injuries are slowly cumulative.”* Others were of the opinion that psychological violence or economic violence would not amount to a crime or a beating that was not serious would not amount to a crime. The majority of criminal justice providers were of the opinion that not every form of domestic violence against women is a crime (procurator, court, police); however the legal aid provider group was of the opinion that all forms of violence could possibly be crimes. Some of the justice providers noted that even when the violence would constitute a crime, not all will be handled criminally, particularly domestic violence.

Private versus public sphere

One interviewee highlighted how crimes that occur in the private sphere are perceived as less seriously than if they took place in the public sphere.

“In my opinion, my husband’s actions are crimes. Because these behaviours occurred in the family so they were not subject to punishment. If these actions happened on the street, they would certainly be criminal charges.”

Female victim of domestic violence.

The judges further acknowledged that rape is a crime whether it happens in public or in the family, but it is because women do not report it due to their perception that “*wives always suffer*” that the judges never see these criminal cases. Also, in such society like Viet Nam, where patriarchal ideology strongly exists, most of people believe that a “*good*” and “*proper*” woman should meet the sexual demand of their husband. This contributes to the lack of disclosure of forced sex by their husbands. Indeed, there is a strong view by the victims, women in general and justice providers that sexuality is a sensitive issue, a “*private*” one and should not be discussed. This traditional culture and perception constrains women from seeking support from the justice system. This might explain why women were hesitant to report sexual violence, and only few of them mentioned sexual violence during the interviews. The patriarchal ideology also imposes the belief that husbands can physically “*correct the bad behaviour*” of their wives and women suffer physical violence in silence. It is interesting that from the perception of the victim, it is due to the beliefs of justice providers that these criminal cases do not proceed along the criminal justice system whereas from the criminal justice providers’ point of view, it is the victim’s perceptions that results in these cases not proceeding.

1.2 THE CHALLENGES IN DETERMINING CRIMINAL CONDUCT AND ADMINISTRATIVE VIOLATIONS

A group of prosecutors said that there are many laws that protect women; however, there are many difficulties in implementation of these laws, due to differences in perceptions of law and how to put it into practice. They said that there was a need for clear guidelines in order to handle these difficult cases.

Many of the justice practitioners in the focus group discussions talked about their challenges in determining when an incident of domestic violence reaches the threshold of criminal conduct as opposed to conduct that would be considered an administrative violation or conduct that would result in being diverted to reconciliation. A group of judges noted that while the domestic violence has been regulated by the Law on Domestic Violence Prevention and Control, which establishes an administrative sanction regime, the conduct only becomes criminal if it reaches the threshold as set out in the Penal Code. The legal aid group said that:

“All forms of violence is understood as law violations, but it will be based on the behaviour and consequences that will classify whether administrative violation or criminal offence.”

Of the victims interviewed who experienced domestic violence by their husbands, all of them reported experiencing physical violence; seven reported also experiencing psychological violence, three reported also experiencing sexual violence and four reported experiencing economic violence. Eight of the domestic violence victims specifically stated that they regarded the violence they experienced as a crime. One victim who suffered for many years of physical violence said that:

“What he did to me was a crime, it is not merely a wrong-doing anymore.”

Yet, even though she reported to the police many times, their response was to conduct reconciliations and for the police to verbally warn her husband. There were never any administrative or criminal sanctions imposed on her husband as the police told her not to proceed with administrative punishment as this would affect her husband and her children’s job, so she finally applied for divorce to remove herself from the violent situation. However, even after divorce her ex-husband continued to be violent and threatening toward her. Another victim who experienced a long pattern of violence by her husband including one incident which required her to be hospitalized for nine days and receive five stitches said:

“To me, my ex-husband beating is a criminal act.”

The police originally said it was a criminal act but dissuaded her in continuing the case because they thought she was being too harsh on the husband. The forensic assessment was 6% when it eventually was conducted after a long delay. In this case, nothing was done in terms of criminal or administrative punishment despite a long history of violence, so she applied for divorce. Out of the eighteen victims who experienced domestic violence, only two of these cases were actually dealt with by the criminal justice system, the rest were dealt with either by administrative sanction or reconciliation and eventually all of those victims filed for divorce as the only way to leave the violent situation. This is in contrast to opinion by the Legal aid officers who thought most women only thought it was crime if it was serious injury and that domestic violence only equated to physical violence.

Problems with the administrative sanction regime. One group of police raised their concern that psychological violence and sexual violence often do not meet the threshold for criminal punishment. However, they felt that administrative punishment is not severe enough for these forms of violence but that criminal punishment would be too severe. They called for a proper solution to handle this violence. One victim who was of the opinion that all actions, both physical and emotional, are violence and are criminal acts, believed that husbands who perpetrate

domestic violence should be seriously punished rather than only fined as this does not deter them from repeating the violence. One group of prosecutors discussed the recent amendments to the Penal Code which introduced some administrative remedial measures, such as reformatory schools and community-based education and discussed the difference between using criminal punishment versus administrative sanctions which are typically fines that can have a negative impact on the victims of domestic violence.

“If the husbands get administrative punishment, the wives are the persons to pay money for the husbands. The question is why we do not use other options, such as let him do community work.”

These prosecutors referred to foreign countries' practice of having wider range of punishment options. This was echoed by a group of legal aid providers:

“In my opinion, we must break the interest of the husband. If we use administrative punishment, the wife is the person who brings her own money to pay for that. I learned that some countries they have some solutions, such as apply punishment for men who are perpetrators to do public works. It should have detailed guideline for domestic violence response, specifically on solutions to protect victims.”

The impact of continued traditional views on domestic violence. The study found that there continues to be traditional views on how domestic violence should be best handled by both the victims and the criminal justice providers. While a number of victims who gave the opinion that all forms of violence are criminal acts, in further discussion they suggested that only the more serious violence should be handled by criminal justice system and the less serious be handled either within the family or through reconciliation (so not even administrative punishment).

“I think not serious means scolding, beating but not causing injuries, such as slapping in the face or punching, kicking that does not cause a trace of injuries. Serious violence means causing injuries like bleeding, broken arm or legs or something that requires going to the hospital.”

Female victim of domestic violence.

One police officer noted that:

“Serious or not, they need to be treated. In any case, it depends on the law of Viet Nam. It may be condemned, the Women’s Union called the wrongdoer out to educate and deter, make them committed in front of the society and the family, or more severe measures should be applied

– criminal and administrative handling. But whether serious or not, all forms of sexual violence need to be condemned, the act that the husband use violence against the wife should be condemned.”

Another police officer said:

“I think violence behaviours should be punished even we did not see the injuries. There is one case where husband kicked into vital area of his wife. The wife felt

ashamed to report to the police and that is the main reason why the husband continues to be violent again. If this kind of behaviour is punished strictly, these behaviours will be reduced. The humiliation should also be punished to protect the rights of women.”

She went on further to say:

“I think we need to punish even if the beating did not make any injury or his wife did not report when the injury is over 11%.”

2. LINKING PERCEPTIONS OF CRIME WITH JUSTICE SEEKING AND PROVIDING BEHAVIOURS

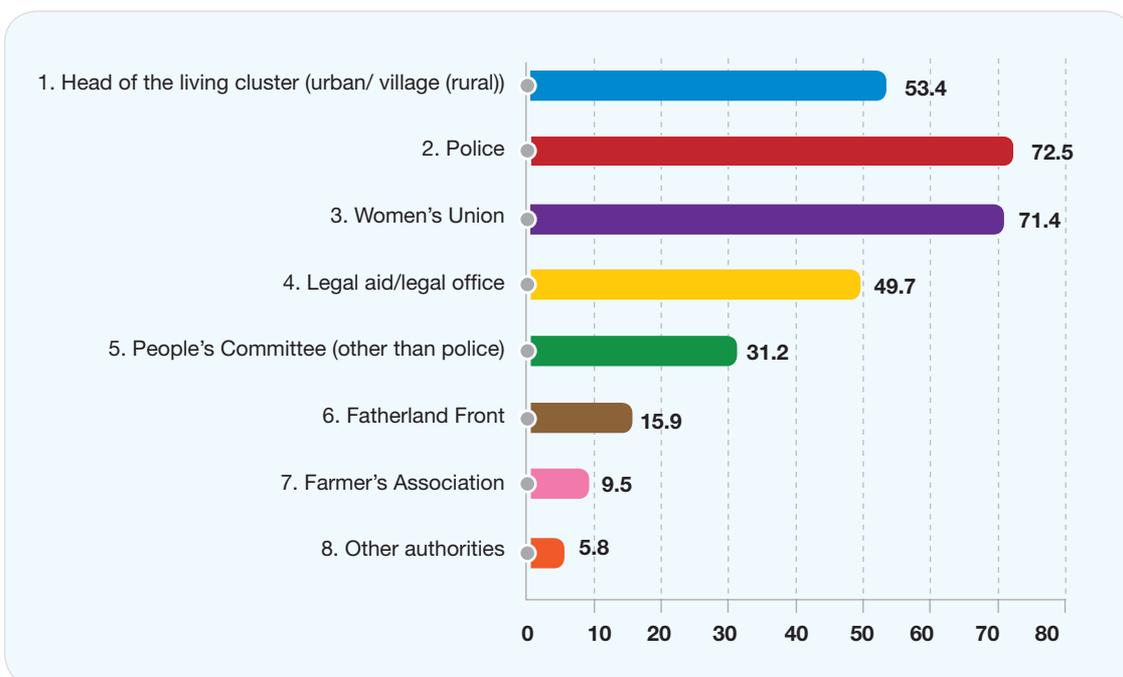
The perception of what amounts to a crime can impact on justice seeking behaviours and where women may choose to report. It will also impact on how criminal justice practitioners receive reports and handle cases.

2.1. KNOWLEDGE OF WHERE TO GO TO FILE A COMPLAINT IN CASES OF VIOLENCE AGAINST WOMEN

Most of the survey respondents reported that they would know where to file a complaint, with 95% noting that they know where to go. The results showed that most would go to the

police, then the women's union and then the head of the living cluster. A number of respondents marked more than one authority they would report the violence. This is consistent with some of the victims' interviews which noted that they have been told that they have to make reports to the head of residential cluster, police and Women's Union, all for one incident.

Diagram 2: Where women would go to file a complaint in a case of violence against women



2.2. JUSTICE SEEKING BEHAVIOURS OF VICTIMS OR POTENTIAL VICTIMS

Further detail as to the justice seeking behaviours of gender-based violence victims is provided by the victim in-depth interviews. The victims spoke of their own personal experience of where they choose to report. Of the victims interviewed, four were victims of human trafficking and the rest were domestic violence victims. There were no victims of non-partner rape, sexual assault, sexual harassment, or early or forced marriage.

Some victims thought that if the violence occurred in the family it should be handled within the family, so they did not report the domestic violence initially. When the violence was repeated, most interviewees said that they would report to the Ward police, hamlet or village head and some victims also reported to the Women's Union cluster.

"I submitted my complaint to the commune police, people committee and Women's Union."

Female victim of domestic violence.

"You should report to head of residential cluster, neighbours, Women's Union, police in your

area... The police are only concerned about serious case."

Domestic violence victim.

The majority of victims choose the police or the head of the residential cluster as the first agency they reported on violence because they believed that the ward or commune police is the nearest and most convenient. Some victims reported the case to the village head or head of residential cluster because they covered the affairs in the village/community. Some mentioned that if they reported to the Women's Union first, the head of the village may not know about the case, but if the victims report to the head of the village, then the Women's Union will be informed. There does appear to be confusion both by the victims and by local authorities as to where the victim should first report, and the role of each agency. If a victim seeks support from the Women's Union she might be seeking social support rather than seeking justice for the violence she has experienced. This support should be available to her without requiring her to make a formal report. When she reports to the police, their primary duty is to ensure the victim's safety and protection and then seek to hold the perpetrator accountable for his violent conduct, according to the law.

From the victim's viewpoint, the onus appears to be on them to report to all of these authorities.

“Firstly, I went to the local police. They asked whether the head of the residential cluster knew about this or not, later the head of the residential cluster said that this must be informed to the Women's Union. The conciliation consisted of four parties (local police, head of residential cluster, Women's Union and member of Fatherland Front), so I must notify all four parties. Later [after further violence] I knew the process so I reported to all. I called the police because they have the right to solve this problem, other organizations just recommend solutions.”

Female victim of domestic violence.

It does not appear that a victim can have the expectation that her report to the police will be coordinated with other authorities who need to be involved.

There was also some confusion as to which police level the victim had to report to. One interviewee noted that she reported to the ward police but when nothing happened, she herself made a report to the district police but then had to reapply to the city police who then later said they would transfer to the district police.

“They [the commune police] said if I want to report that he called and send “sms”[short message service] to bother me, I need to report to criminal police. They did not guide me how to do this report.”

Female victim of domestic violence.

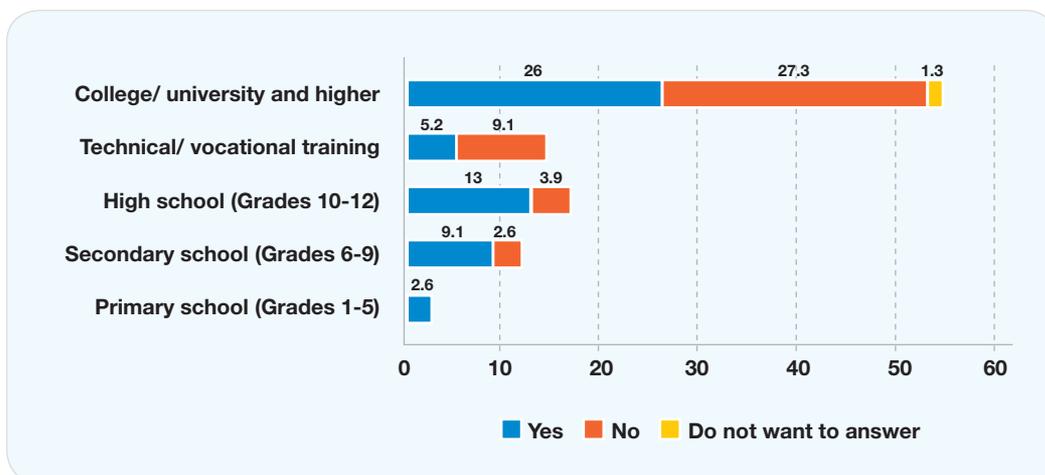
“When the [commune] police came to settle the dispute... they said this case is criminal one, but they only have responsibilities to maintain public order.”

Female victim of domestic violence.

There was also confusion as to which commune police would take the report. In one instance one interviewee explained that she was beaten by her husband and she left for her parent's home and called the police there, but they said that they only take cases that occur in the area that they are in charge.

The survey sought more details from those respondents who had experienced violence, specifically whether they had ever reported or tried to report an incident of violence. As seen from Diagram 3, the level of education of the victim does not correlate with reporting, which contradicts some of the justice providers beliefs that women do not report because of low education.

Diagram 3: The level of education of women subjected to violence who reported the violence



2.3. JUSTICE PROVIDING BEHAVIOURS OF PRACTITIONERS AND FIRST RESPONDERS

One judge spoke about how women perceive violence is linked to their justice seeking behaviour. He believed that the wife suffers violence until it becomes serious. He mentioned one case where the wife did not agree to forced sex at noon with her husband in front of their children and the husband used a knife on her which resulted in 55% injury assessment. He was prosecuted. He seemed to be blaming her for not reporting earlier because she did not perceive his violence as wrong.

“Violence in Vietnam is much more a result of women’s perception, and suffer because they do not know what their rights are to speak up. This is due to the fact that the Women’s Union and legal

aid centres have not yet been able to play their role, has not done its propaganda or has been propagandized but the perception of the women is seriously affected by feudal regime.”

A group of judges.

However, another judge reiterated that to deal with domestic violence, the ones to solve the causes is really the local agencies, such as the Women's Union, people's committee and social community. He said that the legal aid centres or Women's Union will receive these cases, and that the courts are the last resort. There seems to be no awareness that such perceptions of minimizing domestic violence are reflected by the local police and local authorities, not just the women.

Some criminal justice providers blame women for not reporting these cases. A group of judges mentioned many

kinds of domestic violence, such as beatings, not feeding, locking out of the house that would amount to criminal behavior, but the problem is that the victim does not make an accusation.

“How to make an accusation is still a problem, the people around them have to approach how friendly enough, trustworthy to share, see that the fulcrum to confide and believe, tell them that this does not affect anything and want to be help.”

One judge placed the blame on the women for not reporting.

“Their minds are so heavily rooted in feudal thoughts that women should suffer, this is the common psychology of Vietnamese women. Moreover, they want to keep the family image for their children, their loved ones, not for themselves so there are a lot of burden and pressure. Therefore, propaganda, advocacy and education on rights is still very important.”

A group of prosecutors also blamed the women for not reporting the violence. They will not report the violence as:

“The wife worries about negative impact on her children and did not report her case to police. The people do not accept the situation that man or woman report their violence cases... when asked the wife, she tried to hide her situation and do not want to share her story.”

However, other groups of criminal justice providers acknowledged that no matter what the level of violence experienced in the domestic sphere, the first “resolution’ of this violence is dealt with by reconciliation by local authorities. The judges in Lang Son commented that in their city they do not do reconciliation well. The Lang Son prosecutors appeared to be more understanding of how difficult it was for women to report the violence to police.

“In Viet Nam culture, it is difficult for the wife to go against her husband or make the man lose his face and marriage relationship is still very important to women.”

They recognize that making a formal report to police likely will mean the end of the marriage. Women want the violence to stop and not reoccur but might not want the marriage to end.

One group seemed to suggest that women do not know what violence is or where to go to report it. This is contradictory to survey results which indicate that a high percentage of women do know the various forms of violence against women and have rather perceptive idea as to which forms constitute crimes and most know where to go to file a complaint. The criminal justice providers further said that women do not know how to protect themselves, once again shifting the onus on the victim for the violence. Hanoi judges spoke of the need for more awareness of the tricks and ways of human trafficking so women are aware of this crime.

Other criminal justice providers expressed beliefs that reflected that they have misunderstanding of the root causes of domestic violence. A group of police officers believed that only if the husband is unemployed do they beat their wives. Concerning the issue of the victim’s protection, one group

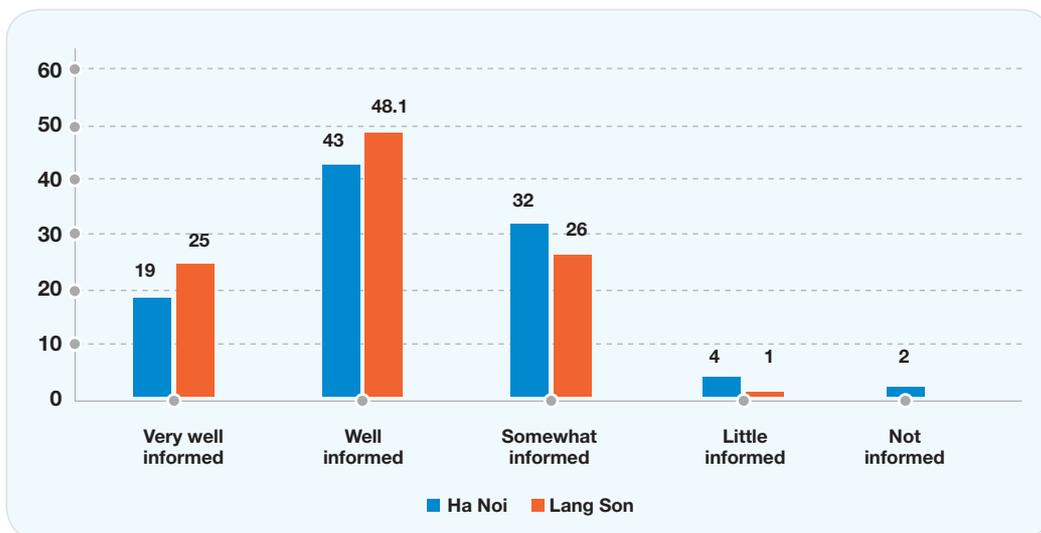
of police officers explained why they did not focus on protection measures such as separating the victim from the perpetrator. They said that the husband still loves their wives and children, usually blame alcohol or jealousy for the violence and that the husband shows remorse when sober.

3. UNDERSTANDING OF THE RIGHT TO ACCESS JUSTICE

A significant majority of women surveyed noted that they are well informed of their rights. This is compared to approximately half of those victims interviewed who reported that they had not been aware of their rights at the time of violence; however, some of them had subsequently learned about their rights once coming

to Peace House. The background of the women surveyed revealed a high percentage of highly educated women and over a third of them coming from within the “system.” This might explain why a significant number of respondents noted that they are well and very well informed with respect to their right to access justice.

Diagram 4: How well do you know your right to access justice?

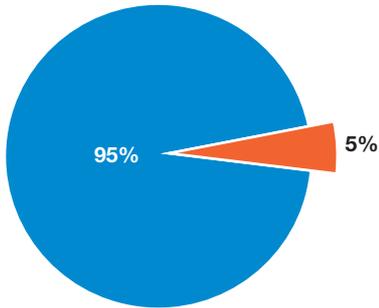


When asked about different rights, a high percentage of survey respondents reported having a high

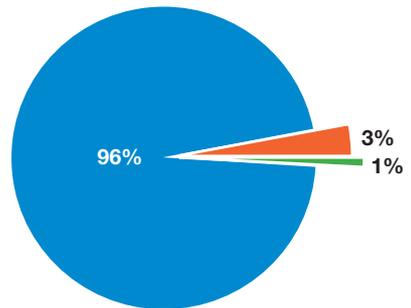
level of knowledge of their detailed rights in Viet Nam which relate to accessing justice.

Diagram 5: Do you believe you have the following rights in Viet Nam:

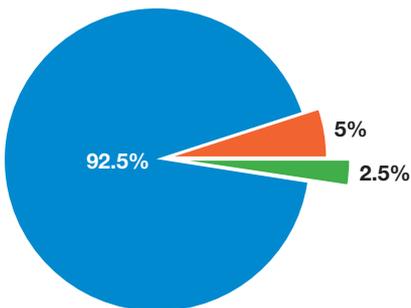
■ Yes ■ No ■ Don't know



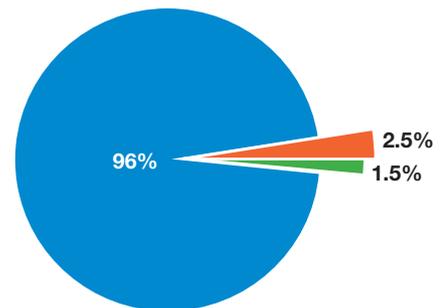
1. The right to live free of violence and from the fear of violence



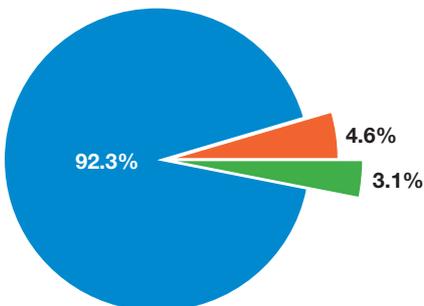
2. The right to be treated with compassion and dignity by justice providers



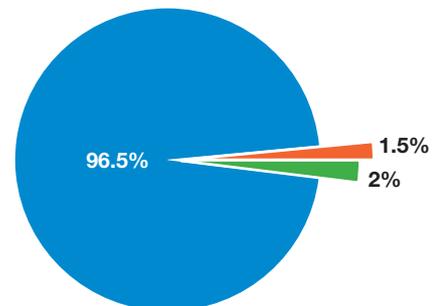
3. The right to easy access to policing and justice services



4. The right to be kept informed of the criminal justice proceedings

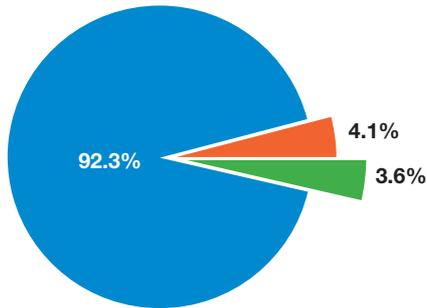


5. The right to voice your concerns and views at all stages of the criminal justice proceedings

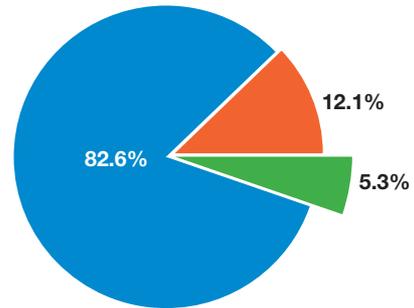


6. The right to privacy as victims involved in the criminal justice system

■ Yes ■ No ■ Don't know



7. The right to necessary assistance as victims in the criminal justice system, such as legal, social and psychological assistance



8. The right to prompt remedy for harm suffered

This is in contrast to the views of the criminal justice providers who thought that most victims did not know their rights and there needed to be much more propaganda being done by the women’s union and local authorities. It also further contradicts the views of some criminal justice providers that women are mostly responsible in protecting their own rights. While one group acknowledged that:

“In terms of protecting the rights of women, we always put the interests of women in the first place when dealing with all cases.”

In the next breath, they say that men are also as much the victims of domestic violence, so there appears to be little appreciation of the dynamics of gender based violence.

The in-depth interviews went further into detail highlighting concerns that these rights are not always guaranteed in domestic violence cases. This also contrasts with the criminal justice

providers who believe that the most important thing to prevent further violence is to advocate for everyone to understand the law and understand what is violence and the forms of violence. This view has the tendency to shift the blame on victims for not using the system rather than examine inherent challenges within the justice system.

Obligation to protect. A number of women interviewed said that they and their children had the right to live free from violence and that local authorities had a duty to protect them. A number reported that they became aware of this right only after coming to Peace House.

“When I come to Peace House, I know that this is the responsibility of the Women’s Union, police and residential cluster. Now they cannot tell me that it is not their responsibility as they have tried to tell me before.”

Female domestic violence victim.

There were a few victims who noted that they were not aware of this right.

“No, I don’t see any rights, if we have that [the right to be protected], its good.”

Female trafficked victim.

Some still think domestic violence is a family affair and that the government will not intervene. Some of those interviewed further discussed how the authorities need to do their duty. When victims report to the authorities they need to be active in keeping women safe.

“I hope the authorities intervene more.... I once talked to the head of the residential cluster, he just went to talk to my husband nicely. My husband was not afraid of any consequences so he continued to beat me.”

Female domestic violence victim.

Right to essential policing and justice services. When asked about access to essential policing and justice services, most interviewees focused on the victims’ need to social support services, such as medical, psychological support, temporary shelter, employment and education. Some did mention the need to have available legal assistance. However, very few victims received these services because they did not know about the availability of such services or how to access them.

“I am not aware of the rights to essential legal and police services... No one has told me about these rights.”

Female domestic violence victim.

Some victims noted that they knew about available services but did not access them due to concerns that they would have to pay a fee. The victims who spent time at the Peace House in Hanoi, had access to such services and thought other victims should have similar services available to them.

Right to be treated with dignity by police and justice service providers.

A number of interviewees reported that victims of domestic violence wish to be heard, listened to and believed, but often this was not the case.

“When I reported to the head of commune, she asked me to make a petition ‘Make a petition then I’ll come’. Next time when violence occurred I had a petition but they did not make a record about the violence.”

Female victim of domestic violence.

“Regarding treatment of local government, I would like to be treated as communal citizen, I have rights to be treated with respect, to receive information and to be heard.”

Female human trafficking victim.

Challenges to exercising their right to access justice. Some interviewees reported challenges where the commune police receive money from their husbands or their husband's family to not handle the

case. Others noted the challenge where the husband has connections with the police. Some of the victims of trafficking reported challenges to obtaining adequate compensation.

4. LEVEL OF KNOWLEDGE OF CRIMINAL JUSTICE

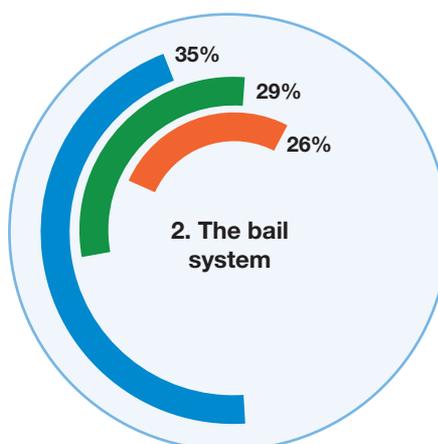
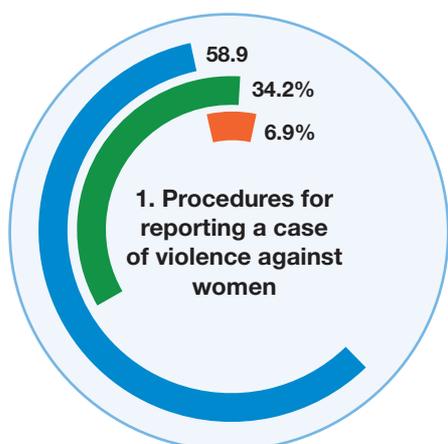
4.1. LEVEL OF KNOWLEDGE OF THE CRIMINAL JUSTICE SYSTEM

From the survey, the findings showed that more respondents were familiar with procedures for reporting a case of violence against women (with 58% noting they are very well and well informed) than with in how prosecutors decides to commence a prosecution or

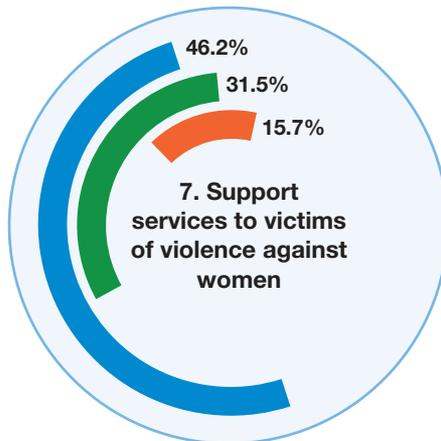
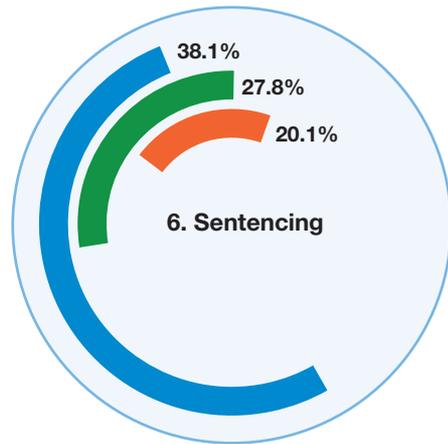
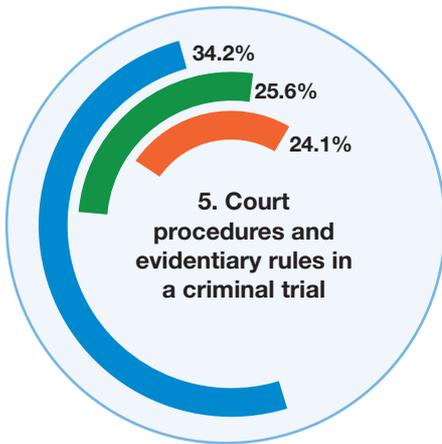
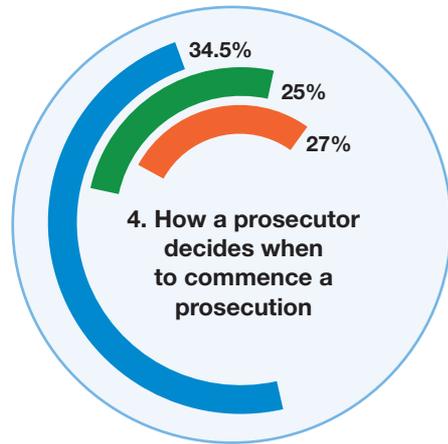
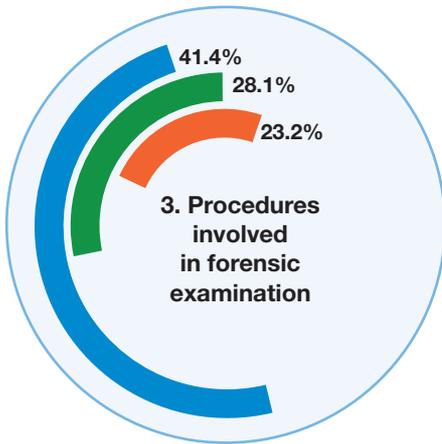
court procedures and sentencing with nearly 40% responding that there were little or not informed and with the bail system or sentencing, with around 30% responding that there were little or not informed. Approximately 40% of overall respondents noted being very well and well informed of support services to victims and procedures involving forensic examination.

Diagram 6: Level of knowledge of the criminal justice system

■ Very well informed and well informed
 ■ Somewhat informed
 ■ Little informed or not informed



■ Very well informed and well informed
 ■ Somewhat informed
 ■ Little informed or not informed



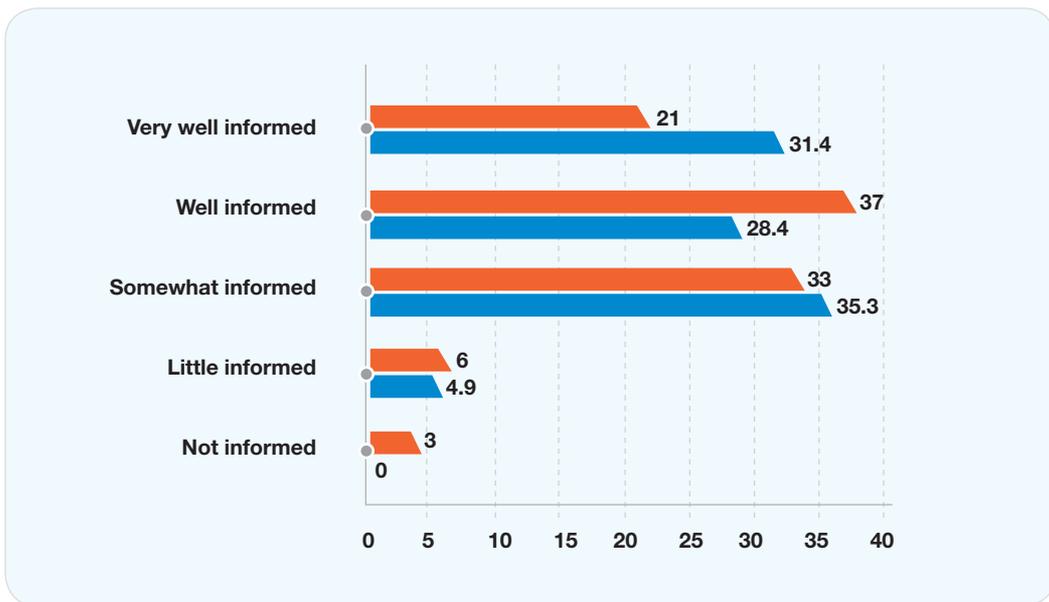
However, given the concerns of bias from representing the “justice system” in the survey population especially in Lang Son where 28% of the respondents were criminal justice practitioners and 33% received reports of violence and often involved in the first response, the results show that the Lang Son respondents were much better informed

than Hanoi respondents in each category. In a number of categories, approximately half of Hanoi respondents noted being little to not informed, especially with respect to: how the prosecutor decides a case (58%); court procedures (56%); procedures for forensic examination (47%); sentencing (46%) and bail (45%).

Diagram 7: comparing location sites

■ Ha Noi ■ Lang Son

Procedures for reporting a VAW case

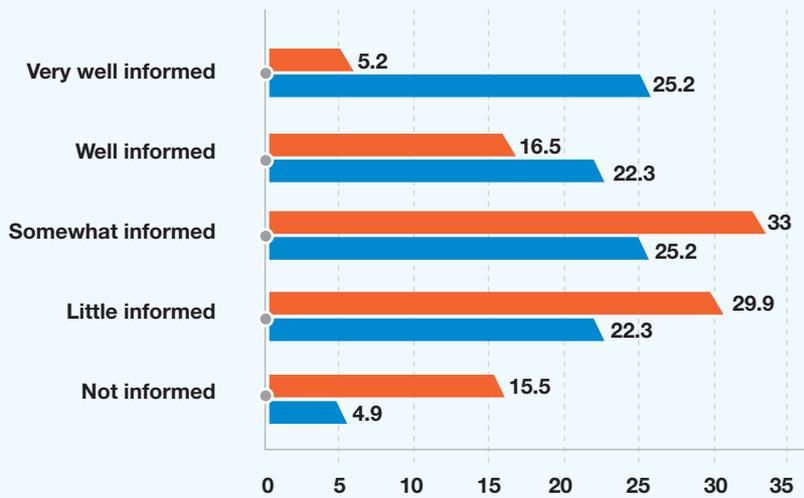


Ha Noi Lang Son

Prosecutorial decision-making

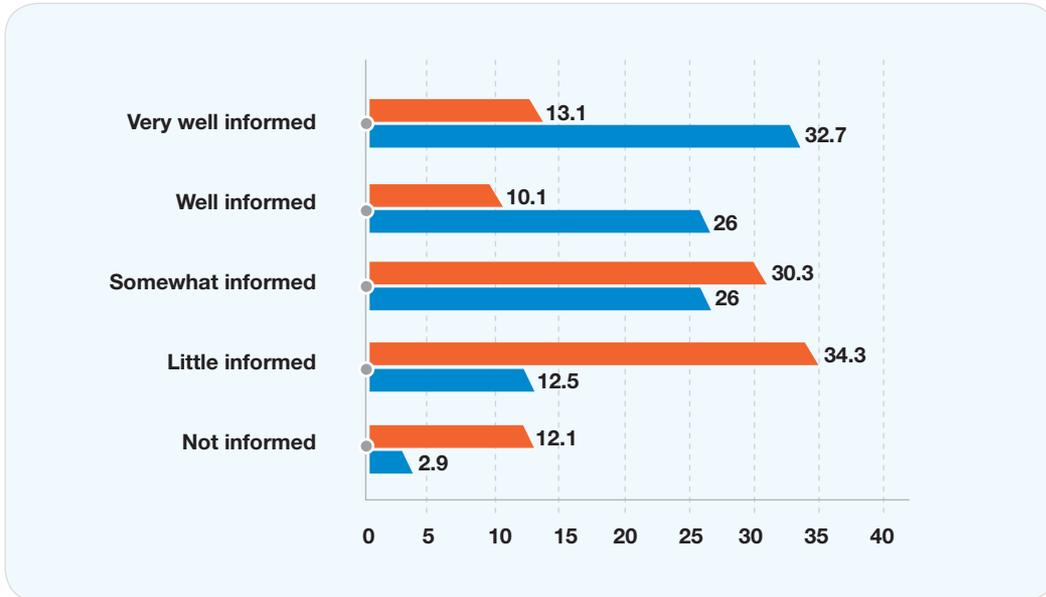


The bail system

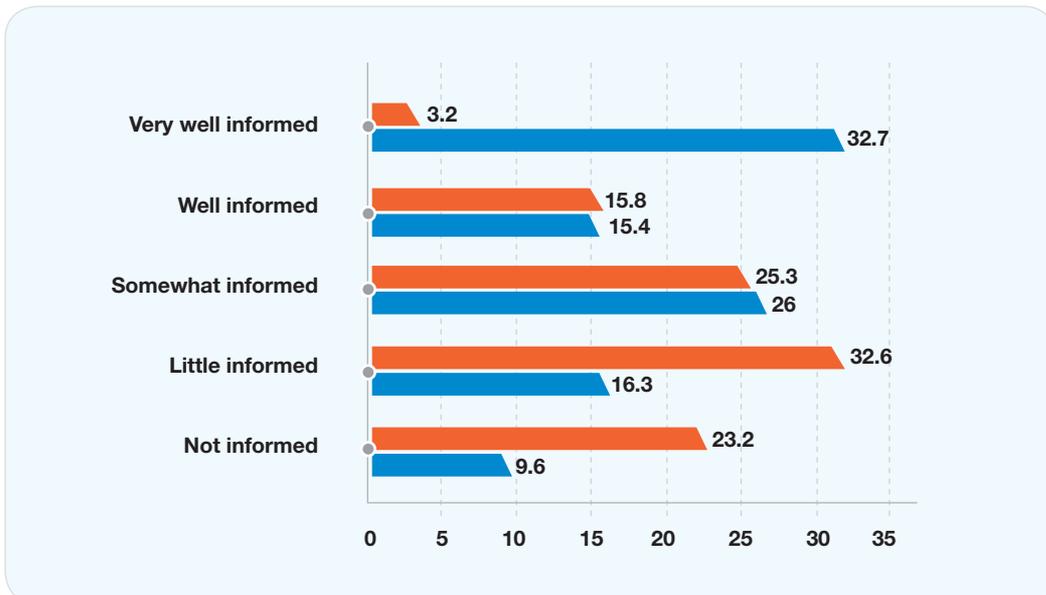


Ha Noi Lang Son

Procedures involved in forensic examination

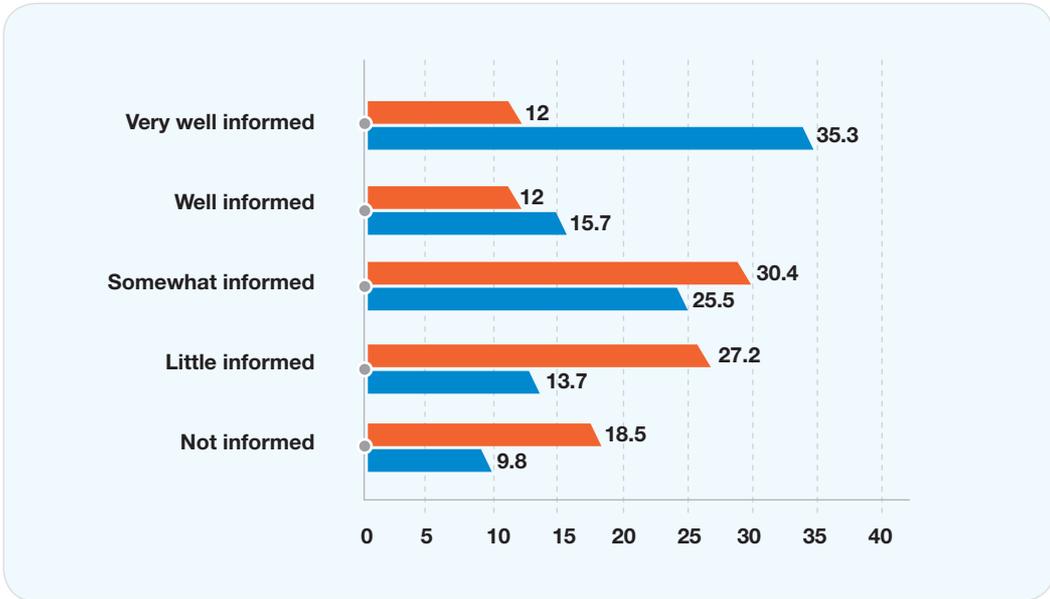


Court procedures



■ Ha Noi ■ Lang Son

Sentencing



This is in contrast to the criminal justice providers’ opinions where they believe most women have little understanding about the services being provided by police, especially women living in the remote mountainous areas who they think have limited awareness of their rights and the justice system. One group of legal aid officers also believed that victims do not know of the different services available to them when they experience violence. They believe there is still more work to do to make them understand.

4.2. KNOWLEDGE OF WHERE CRIMINAL JUSTICE INSTITUTIONS WERE LOCATED

Most of the survey respondents knew where their local police station and criminal courts were (respectively 99% and 78%) whereas less than half knew where to find the procuracy office (40.5%) and lawyers (49.8%). A little over half knew where the local legal aid office (56.6) and most knew where the local Women's Union office was (88.3%). These numbers were skewed slightly due to the high numbers of justice providers in the Lang Son subset.

TABLE 4: WHERE IS THE NEAREST JUSTICE INSTITUTION?

	Both	Hanoi	Lang Son
Yes I know where the nearest police station is	99%	98%	100%
Yes I know where the nearest prosecution office is	40.5%	27%	66%
Yes I know where the nearest criminal court is	78%	69%	99%
Yes I know where the nearest legal aid office is	56.6%	45%	79%
Yes I know where the nearest lawyers is	49.8%	45%	68%
Yes I know where the nearest VWU office is	88.3%	92%	93%

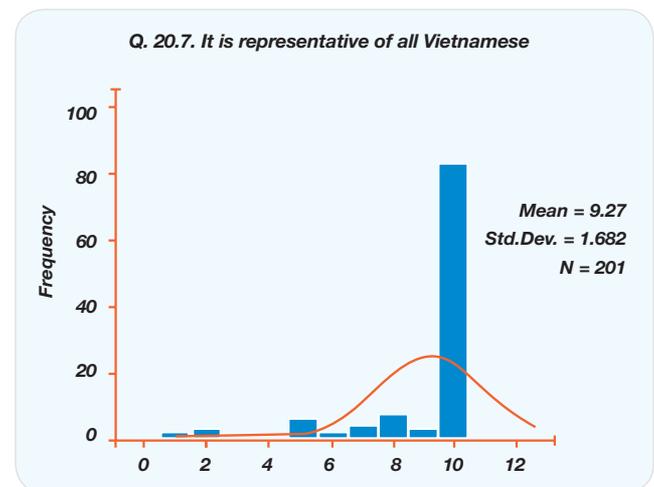
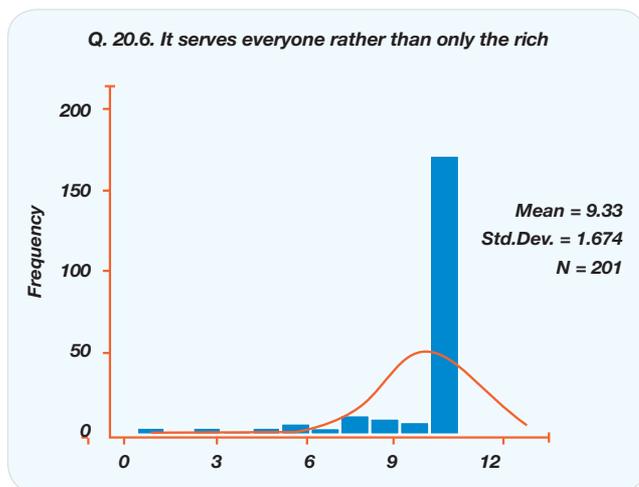
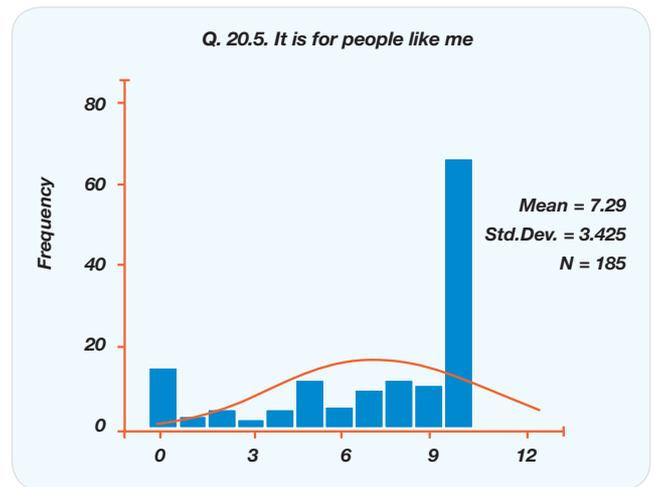
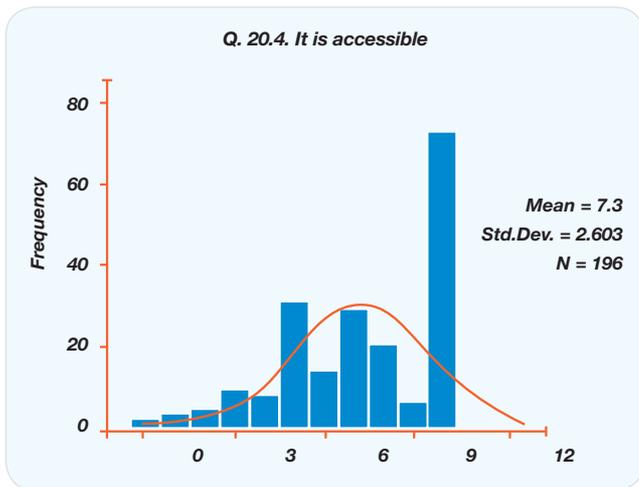
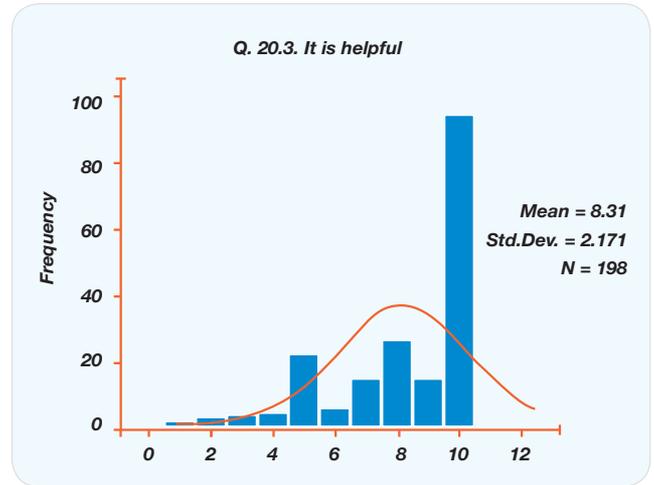
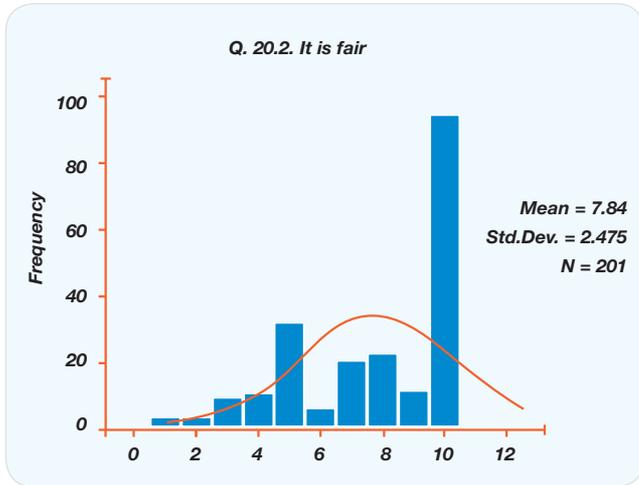
SECTION 2: PERCEPTIONS OF AND CONFIDENCE IN THE CRIMINAL JUSTICE SYSTEM

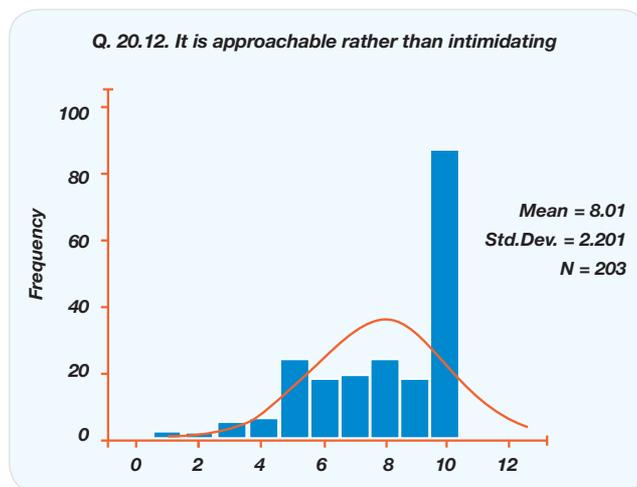
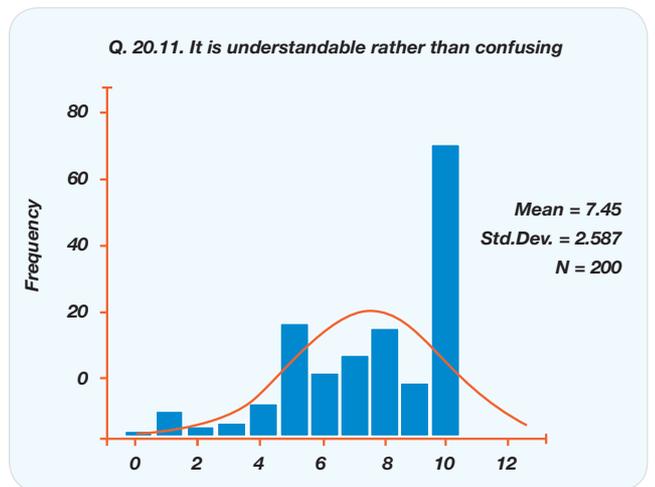
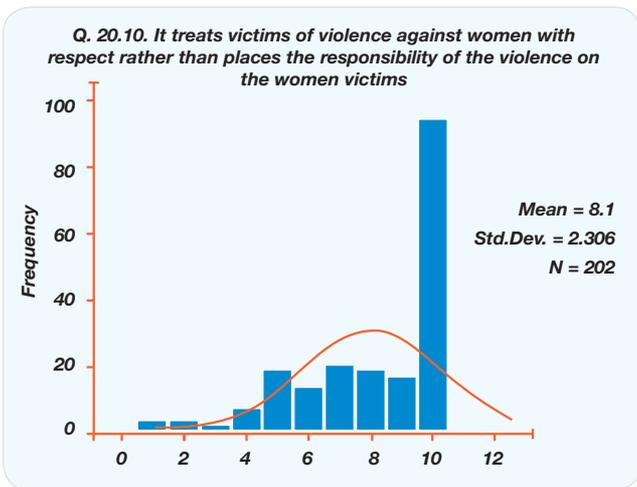
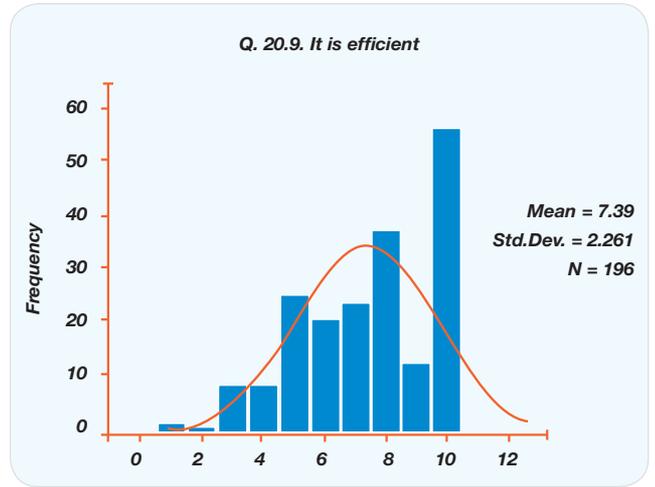
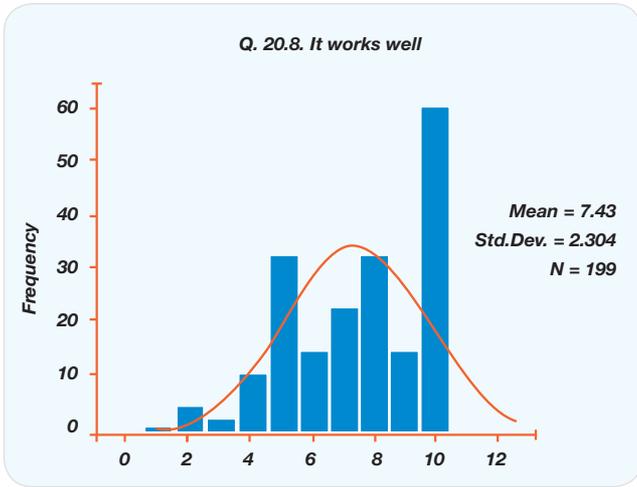
1. OVERALL PERCEPTIONS OF THE CRIMINAL JUSTICE SYSTEM AND THE BARRIERS WOMEN FACE WHEN ACCESSING JUSTICE

1.1. PERCEPTIONS OF THE CRIMINAL JUSTICE SYSTEM IN GENERAL

Overall, a significant proportion of survey respondents had very positive perceptions regarding the criminal justice system in Viet Nam. A significant number believe that the criminal justice system serves everyone, rather than only the rich (over 80% strongly agree) and was representative of all Vietnamese (nearly 80% strongly agree). The latter perception is in contrast to the findings from the 2012 assessment of the situation of women in the criminal justice system which found few frontline police officers and criminal investigators were female, and about one-third of the junior prosecutors and district and provincial level judges were female. At least half of the survey respondents strongly agreed that the criminal justice system was fair (51%); helpful (56%); and approachable (51%). Whereas less strongly agreed it was accessible (39%); it works well (37%); it is efficient (33%); and it is understandable (41%).

Diagram 8: General perceptions of the criminal justice system Which statement best describes how you feel about the criminal justice system?





In comparing locations, those survey respondents from Hanoi tended to have more negative views on the criminal justice system. In all but two statements (“*it is for people like me*” and “*it is efficient*”), the respondents from Hanoi disagreed more than those from Lang Son). In comparing respondents who had experienced violence to the general survey responses, those who had experienced violence tend to be less favorable to the criminal justice system. In comparing respondents who had reported or tried to report violence to the general survey response, those who had reported or tried to report violence tend to be even less favorable to the criminal justice system than those who experienced violence.

1.2. PERCEPTIONS OF THE CRIMINAL JUSTICE SYSTEM WHEN DEALING WITH VIOLENCE AGAINST WOMEN

When specifically asking about women’s perceptions of how the criminal justice system deals with violence against women, a review of the survey responses finds that there is still a positive perception of the criminal justice system. However, it becomes lower when asking them specific questions about women who experience domestic violence or sexual violence. Forty-four percent strongly agreed that all women have equal and fair access to the criminal

justice system and 42% for women who experience domestic violence and sexual violence (as compared to 51% from the overall survey results who strongly agreed the criminal justice system is fair). In comparing locations, those respondents from Hanoi tended to have more negative views on whether women who experienced domestic violence or sexual violence had equal and fair access to the criminal justice system, and this is also the same for those respondents who have experienced violence as well as those who had reported or tried to report violence.

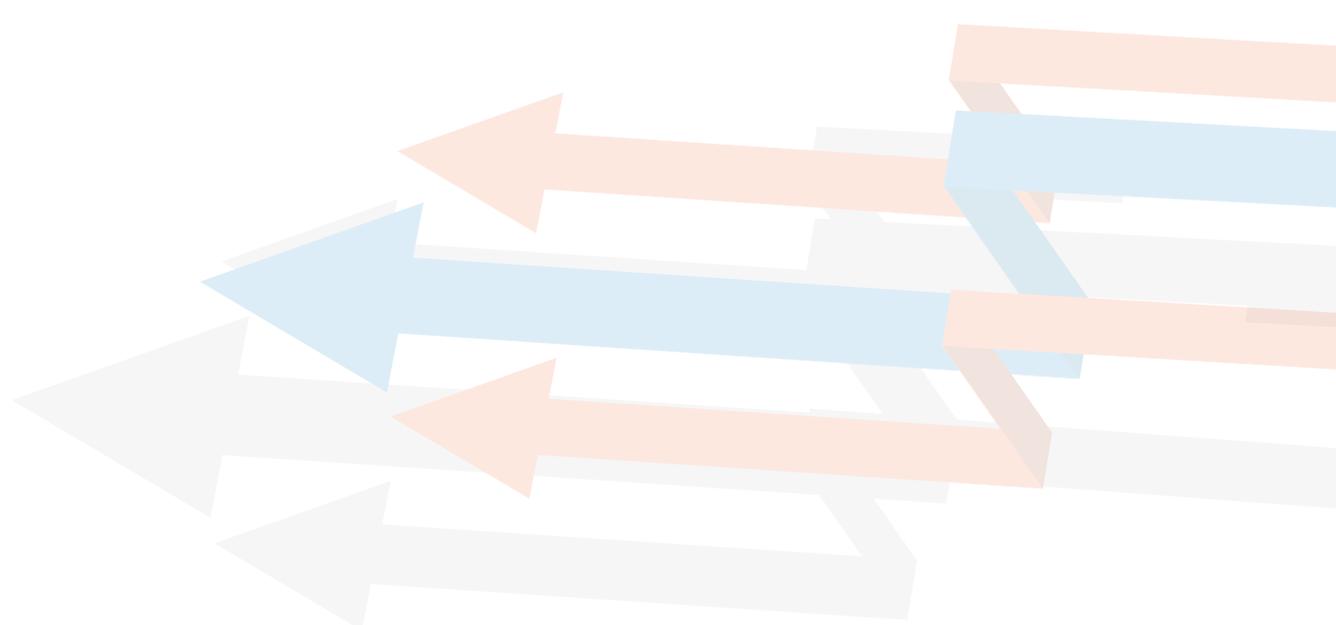
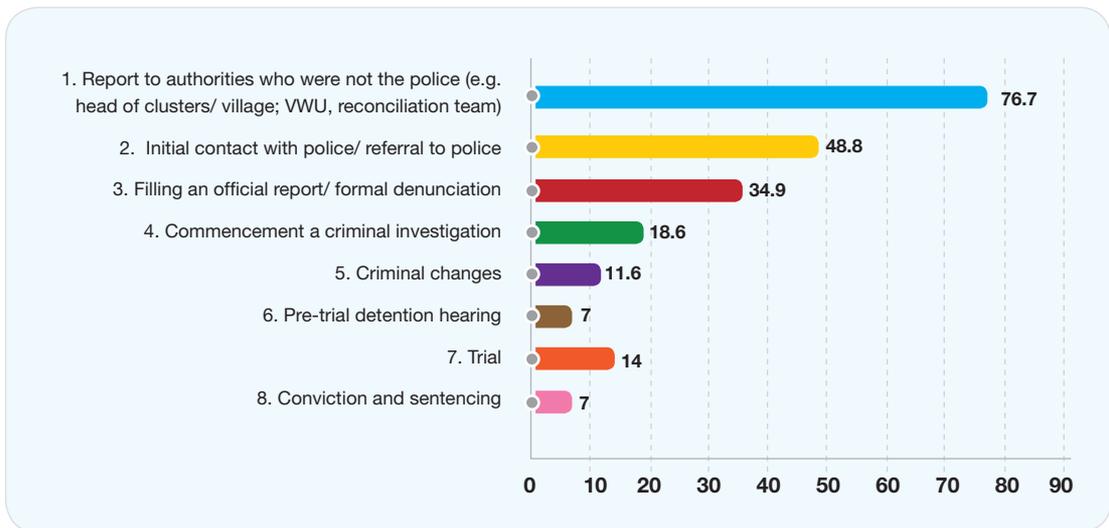
Perceptions versus attrition rates.

This level of positive belief in the criminal justice system is interesting given that those respondents who were victims and actually made a report to the justice system reflect high attrition rates from the criminal justice system. Out of the 205 survey respondent, sixty reported that they had experiences one or more form of violence against women (see Diagram 10 for the forms of violence experienced by the survey respondents). From this, forty-three respondents reported that they did or tried to report the violence. Diagram 8 shows that more women reported to authorities that were not the police (76.7%) than those who came into contact with the police, either by initially reporting to the police or by having the matter referred to the police (at 48.8%). As seen from Diagram 9,

there was significant drop out rates as the cases move along the stages of the criminal justice system. It should be noted that the question was seeking information about the criminal justice system, and did not ask whether

some of these cases were dealt with by reconciliation or administrative punishment. There also appeared to be confusion as to which court was reached and may include family court for divorce applications.

Diagram 9: what stage in the criminal justice system did you get to?



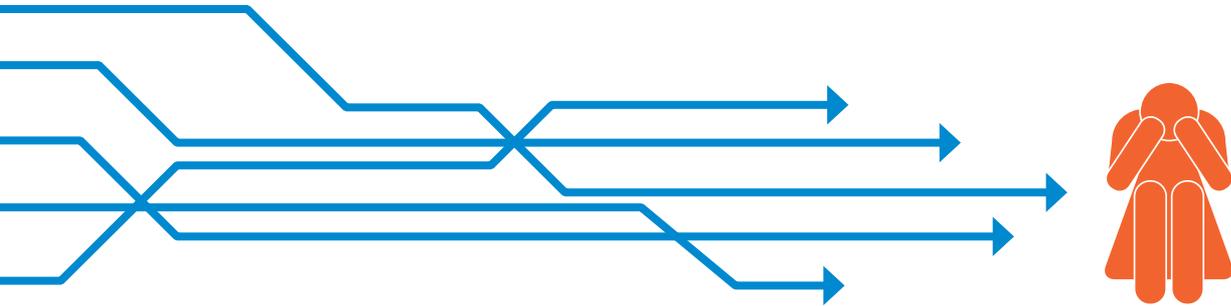
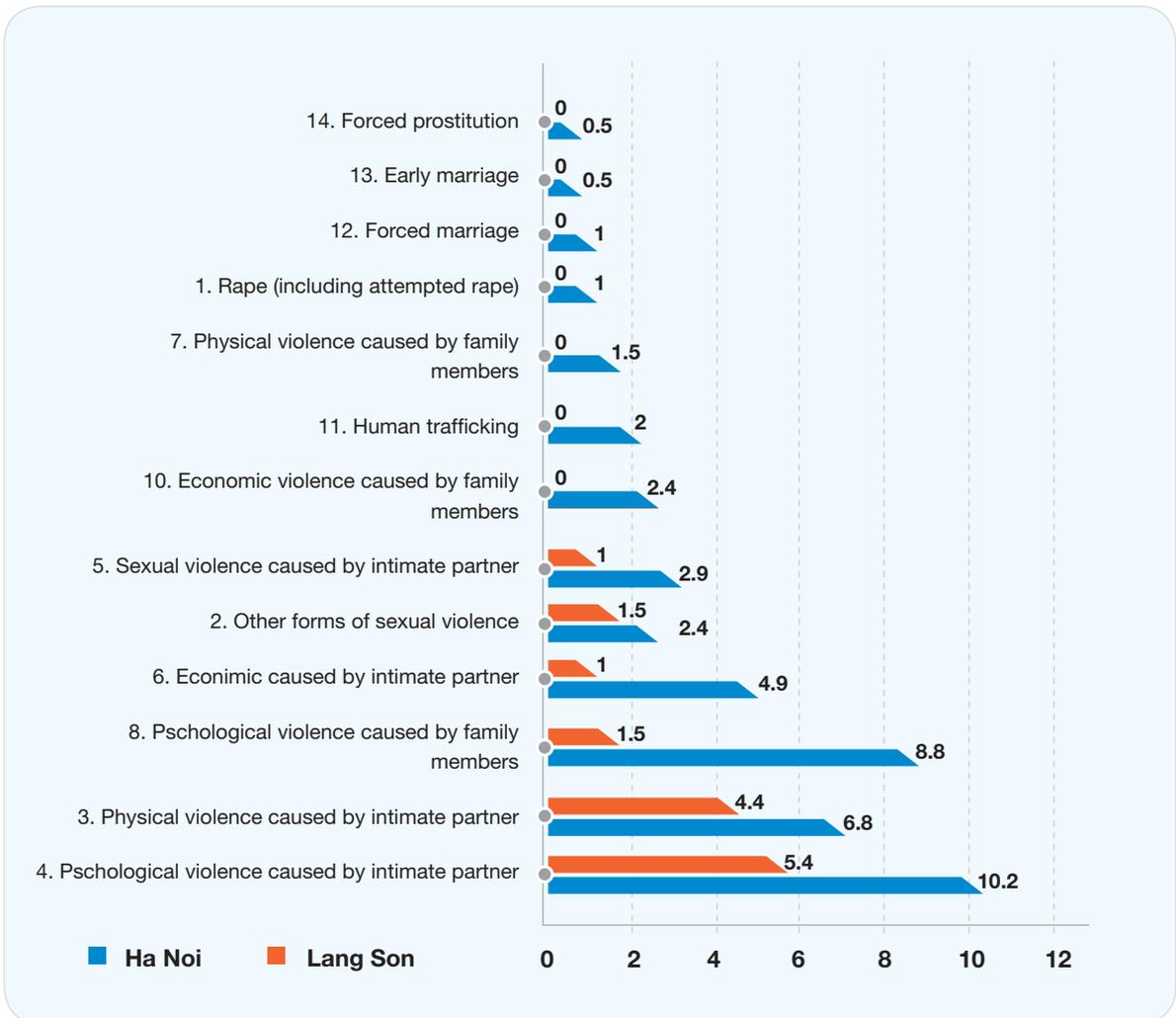


Diagram 10: What form of violence have you experienced?



The attrition rate from the survey can be compared to the attrition rate found in analyzing the victim statements:

Out of the five victims of **human trafficking**, two cases went to the criminal court and these cases resulted in the conviction and sentencing of the traffickers. In the other case, victim went to the criminal court as a witness when her trafficker was accused by other victims. For other case, victim was being challenged by police that she migrated cross border by herself and was not trafficked. She had to retell her story in a common room, where other police's colleagues work. It was not a private place. Her case was not brought to the criminal court because the perpetrator died before. One other victim reported her case to various levels of police, helped police to find out perpetrator. The local court invited her for court hearing as a complainer, but at that time she went abroad as a migrant worker. She perceived that the traffickers should pay compensation for her, and had been waiting for information for a year.

Out of the seventeen victims of **domestic violence**, most of them reported long term history of repeated violence, with most of them experiencing various reconciliation attempts and police verbally warning the husbands not to do it again, but then doing nothing further. Four of the victims

said their husband received administrative punishment (two cases involved stabbing the wife with a knife, one involved choking with a towel till she fainted, one involved being hospitalized for 9 days and receiving 5 stiches). One victim reported that the latest incident which involved being hit with a brick is still under investigation with the district police as the forensic assessment was delayed and the result has not been determined. Another victim mentioned that her last incident of violence which landed her in hospital made it to the prosecutor but the prosecutor encouraged her to withdraw her complaint so she decided to apply for divorce instead. Only two out of the seventeen victims reported that their cases reached the criminal court and resulted in conviction (one victim suffered a broken back bone and the other was beaten severely she went to hospital). In many cases, even after criminal conviction and administrative punishment, the violence continued and reconciliation was applied. Half of the victims applied for divorce as they could no longer live with the abuser.

Women's perceptions as compared to victim's opinions. The positive perception by women in general about how the criminal justice system handles cases involving violence against women is in sharp contrast with the opinions

of the victims who had experience with the justice system. The majority of the victims interviewed expressed dissatisfaction with their experience of the criminal justice system. When responding to the question of satisfaction, one victim stated:

“Should it be 0%, so I would go for 10%, just saying... If I am a citizen, my satisfaction would be 0%, but because I have personal contact and use bribery, I felt a little bit more satisfied.”

Female victim of domestic violence.

Another victim when asked whether she would advise a family member to report violence to the police advised that she would, but then stated:

“Whether they solve your case to your satisfaction or not is another story. I doubt it though.”

A number of victims expressed their reasons for their dissatisfaction. One victim expressed dissatisfaction in that the trafficker was never charged or punished. Others thought that the punishment for the perpetrators was not sufficient. Others thought that the police did not fulfil their responsibility as they only tried to solve the case when they viewed it as being serious.

One victim was not satisfied at first as she thought her case was obvious but she had to repeat her story many times but she stated she was relieved when the judgment was final. Other victims

expressed being unhappy about the way police dealt with them. For instance one victim was dissatisfied with the way police interrogated her when she was trying to defend herself; others felt that they were not being believed or listened to. Another victim stated:

“I do not satisfy as they treated me like crap, they abused me, said bad things about me, they did not believe me.”

Some of the victims were dissatisfied because they were not informed of the criminal justice process or the progress of their case.

“Working with the police, my satisfaction is under 50%. I felt they are in higher level than me, I am just a normal citizen. If I came from an organization or I was a person who had a high position in society, every time will be solved easily. Each time I report, they said “wait” and they didn’t explain why I have to wait. I am a normal citizen, I have to wait. I don’t know [the process].”

Female victim of domestic violence.”

Another victim reported that she did not receive any communication from the police or local authorities about her case and that they only informed the husband and his family. In one case they were not allowed to see the minutes of their report to the police. What is interesting is that a number of victims when expressing satisfaction refer to

the family court judge, rather than the criminal justice system (V18, V17). So for instance one victim mentioned that she was involved with the divorce court:

“I had satisfied with this service, the judge is very loving, she specifically analyzes my rights and responsibilities... I dissatisfied with the police ward, they were unhelpful and did not complete their responsibilities.”

Criminal justice providers’ belief in women’s satisfaction levels. In some of the focus group discussions there was a belief that there is a high level of satisfaction by the community in their services. This was expressed by legal aid providers, as well as police when handling trafficking cases.

1.3. TRUST LEVELS IN THE CRIMINAL JUSTICE SYSTEM

The study also explored the trust levels of women in general and of victims in particular for the police, prosecutors, judges and legal aid officers. Overall the majority of survey respondents indicated very much or rather much trust in the courts (at 62%) and prosecutors and legal aid (both at 60%). The trust in the police was slightly lower (although still relatively high at 54%). When comparing the trust levels per location, the respondents from Hanoi tended to have less trust in these justice providers than expressed by the Lang Son respondents. These differences in location where in Lang

Son the majority of respondents were from within the system, might indicate a disconnect between how those within the justice system perceive the justice system as compared to users and potential users of the system.

General trust levels as compared with trust of the victims. When responding to the question of trust in the criminal justice system, one victim stated:

“The level of trust on criminal justice system, 15%, should it be none?”

Female victim of domestic violence.

“I have no belief in the criminal justice system. They are not trained and have no skill, experience on violence especially domestic violence.”

Female domestic violence victim.

“I will fill the form, but I don’t have trust in the police, so I will ask my personal contact for help.”

Female domestic violence victim.

One victim who did not go to the police had heard from friends how the police do not keep reports of violence confidential and usually side with the husband and have the attitude that women are too free. She also expressed her concern that when a victim reports to the police and they do nothing, the mere fact of reporting can result in repeated violence and

can be more dangerous for the victim. One victim did not put much faith in the justice system as corruption may lead to the modification of judgment and disrespect of women. She also felt there were inadequate measures available to protect women.

Another victim who experienced long pattern of domestic violence stated:

“I saw that the police reporting was difficult My ex-husband wasn’t fined or anything. I lost my motivation and stopped reporting. I don’t put a big trust into the justice system because of many reportings without any results.”

Some of the victims of human trafficking were more confident in the criminal justice system than victims of domestic violence.

“Really I have trust in the criminal justice system but I am not completely happy with it. If I have a friend or a family member who was to be trafficked I would advise them and their family to report to the police to get help.”

“I only had contact with the communal police and I do not trust the communal police. Regarding provincial and district police, I have no contact with them so I do not know.”

Another victim noted that she trusts but does not approach them. She went on to report that:

“Trust in some cases, do not trust in other cases because abuser uses money to escape their offences.”

“In general, I have trust in the justice system. That’s why I reported to the local authorities. But I can’t say that I totally trust the justice system.”

1.4. PERCEPTION OF THE BARRIERS WOMEN FACE WHEN SEEKING JUSTICE

A significant majority of survey respondents believe women who experience violence face barriers when seeking justice.

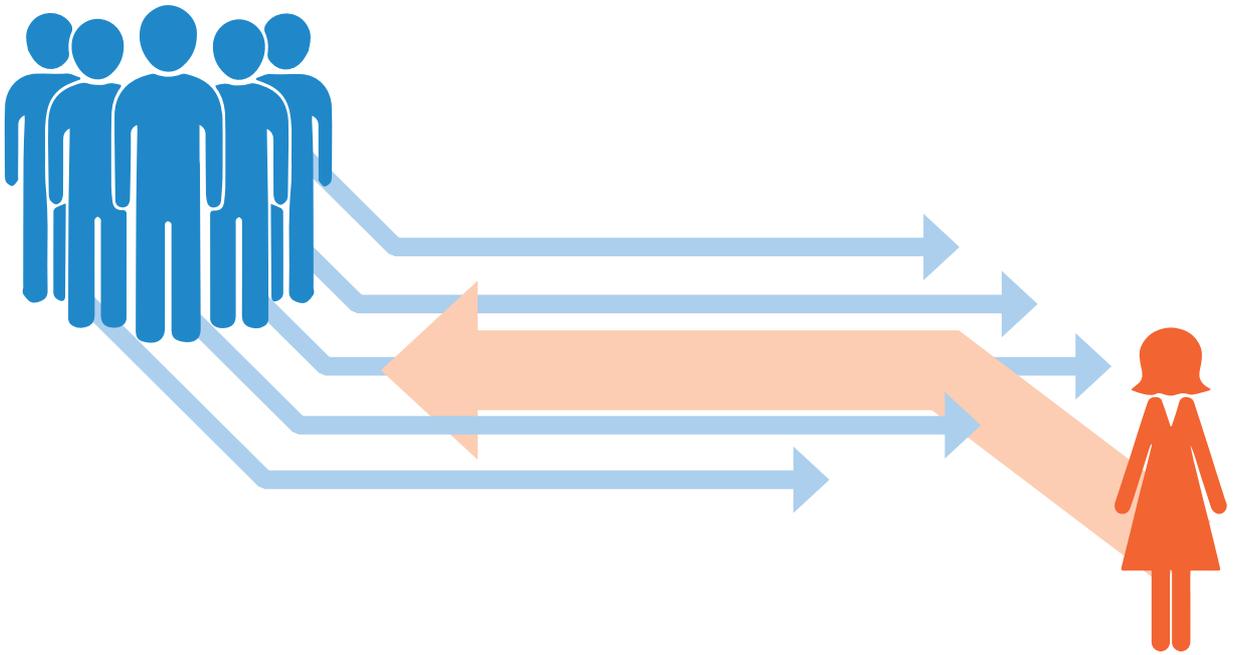


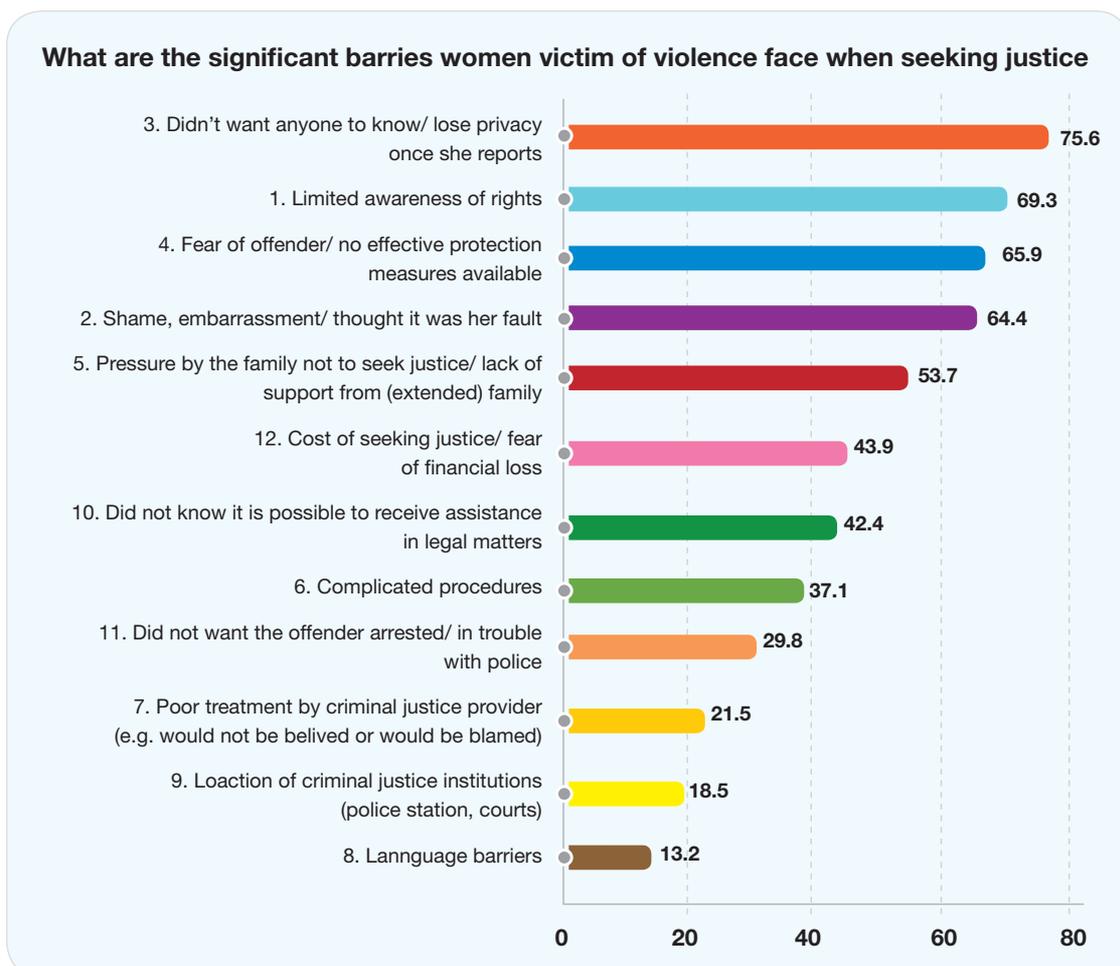
Diagram 11: Do women face barriers?



The survey respondents identified all the barriers they could from a list of barriers in the survey, which allowed a ranking of what they believed to be the more significant barriers women face when seeking justice. As you will see from Diagram 12, the top five barriers included: privacy concerns; limited awareness of rights; protection concerns; shame and embarrassment;

pressure by family. It is interesting that 69% of the survey respondents thought that one of the most significant barriers was that the women had limited awareness of her rights, whereas a high percentage of the survey respondents reported having a high level of knowledge about their rights to access justice.

Diagram 12: ranking the barriers women victims of violence face when seeking justice



Experience of barriers by the victims.

A number of victims mentioned concerns about once you report, you lose your privacy. This echoes the perceptions of women in general. The victims explained that this can cause embarrassment but as well as retaliation by the abuser. One victim noted being ashamed when reporting their family issues to the police as they

were afraid that their neighbours would laugh at them. Another victim who experienced sexual violence said that when she had to make her statement to the police:

“They talked about sensitive issues loudly, people in next room can listen to my story. It was not private.”

Another victim relayed a story of one case where a woman came to the police station to make a report:

“She asked the police to keep it secret. They told her to fill in a violence report and go back to her home. When she returned, she was beaten seriously because one of the police had told her husband.”

Another victim reported that:

“When I submit application to ward police and it required the signature of the women’s council head. She talked to my mother-in-law, my husband knew and beat me.”

Other victims mentioned no effective **protection** measures are really available. This also is consistent with the perception of barriers perceived by women in general. One victim said that the police told her she must protect herself. Another victim noted when she reported to the authorities, they did not prioritize her safety. Yet another victim said that she was afraid of being unsafe:

“My husband said he would kill me before I reported to the police.”

Others mentioned they were not aware of the criminal proceedings or that they were too complicated and no one explained them to them. Quite a few mentioned **poor treatment** by police,

not being believed and sometimes being blamed for the violence they suffered.

“When victims go to the police, they often get the same word, “you were talkative, jealous, therefore he beat you, right?” Women always get blamed for everything.”

Other victims mentioned that if they reported, this would mean to the family and community that they wanted a **divorce**. In situations of domestic violence they had to try to resolve within the family first, then reconciliation. Most of the victims who had reported ultimately left the family and applied for divorce. It was unclear why they then also did not agree to proceed criminally against the abuser. A number wanted the violence to stop and not to have the abuser arrested.

Perceptions of barriers by the justice providers. The justice providers provided further insight as to what they perceived as some of the barriers they thought women subjected to violence faced when accessing the justice system. They primarily spoke of barriers that would stop women from reporting to them in the first place. This included their belief that victims tend to accept their fate; fear of retaliation by the abuser if they reported; as well as the low awareness by the women themselves as to what is violence and a

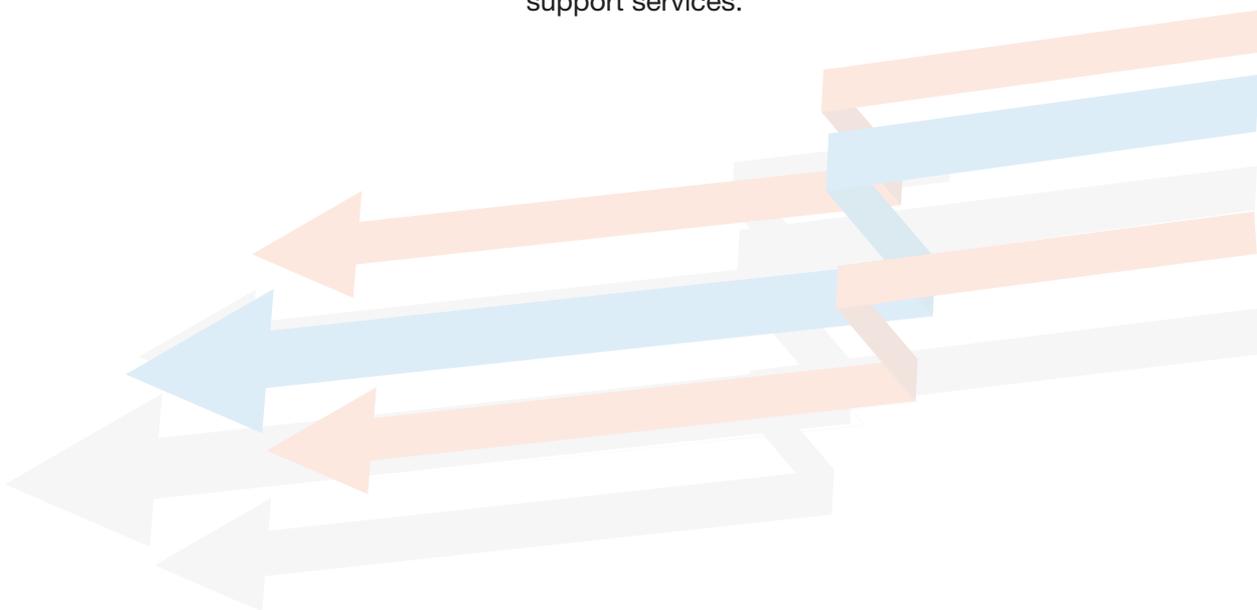
low understanding of the law. However, one of the common barriers they spoke of was the fact that often reporting domestic violence meant divorce for women and this would negatively affect women in terms of economic position or negatively affect their children. One prosecutor told the case of neighbors where she says the couple “often fight each other.” They will not report the violence as:

“The wife worry about negative impact on her children and did not report her case to police. The people do not accept the situation that man or woman report their violence cases... when asked the wife, she tried to hide her situation and do not want to share her story. I do not want the couple divorce... Some serious cases happen but neighbours could not interfere... There is one case that the couple fight each other and the young brother was killed by his brother when he come to interfere.”

There was less insight as to the barriers caused by the justice providers themselves and how the justice system treated these cases. However, a group of legal aid officers noted:

“It was not easy for them when access to police because majority of those people are men.”

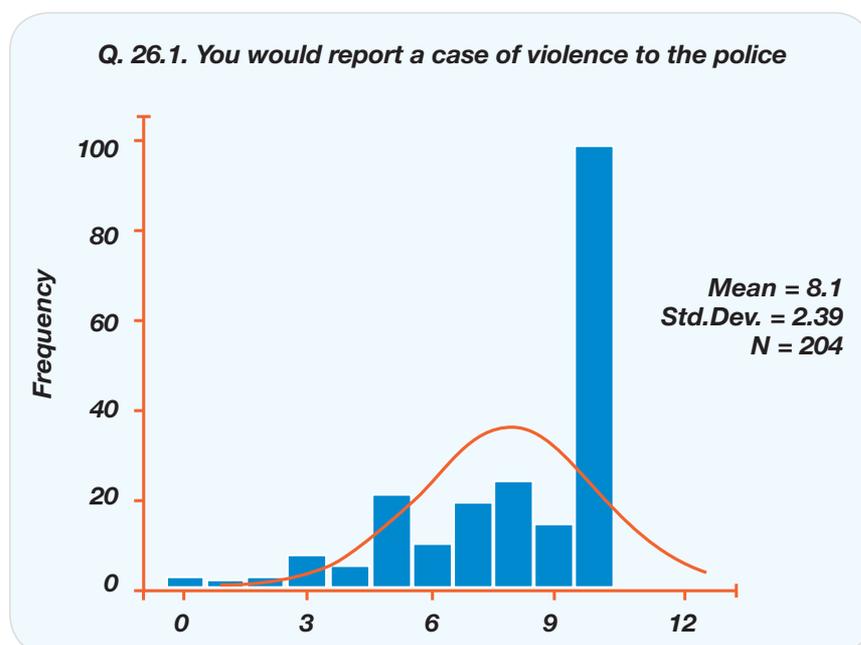
They mentioned it was easier for victims to access legal aid centres because most legal aid officials are female. They mentioned one case where the victim of human trafficking has been forced to work as a sex worker and when the police collected her testimony, the policeman asked many sensitive questions about sex frequency. Some victims feel uncomfortable with forensic examinations, that they are not married, or have a disease and they are worried the information will not be kept secret, and the community will find out. Another group of legal aid officers mentioned the lack of coordination among services and the lack of victim support services.



2. CONFIDENCE IN REPORTING AND THE POLICE

2.1. CONFIDENCE LEVEL THAT WOMEN WOULD REPORT A CASE OF VIOLENCE TO THE POLICE

Diagram 13: confidence in making a reporting



The survey results showed that over half of the respondents indicated that they had a great deal of confidence in that they would report a case of violence to the police (55%). This is similar to a number of victims' statements who stated that if violence happens to them again they would still report, even if they did not feel satisfied the times before. Other victims noted that if the same thing happens to her family member or friend, she would advise them to report to the police and the Women's Union but whether they will solve it is another matter. One victim said it was important to report:

"Because they need to share with persons who have the same situation."

And another stated that:

"The woman should react and report it to competent authorities because women should not have to suffer from violence any more."

While there are some victims who noted that they would report to the police, they also noted that they were looking for reconciliation first not seeking criminal justice. A few victims reported being reluctant to report to the

police because of feelings of shame in reporting family issues and fears of their neighbours finding out and fears that the family of the husband would alienate and curse them.

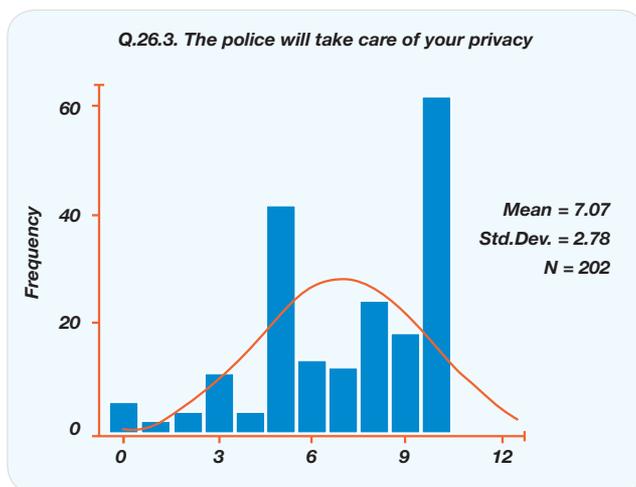
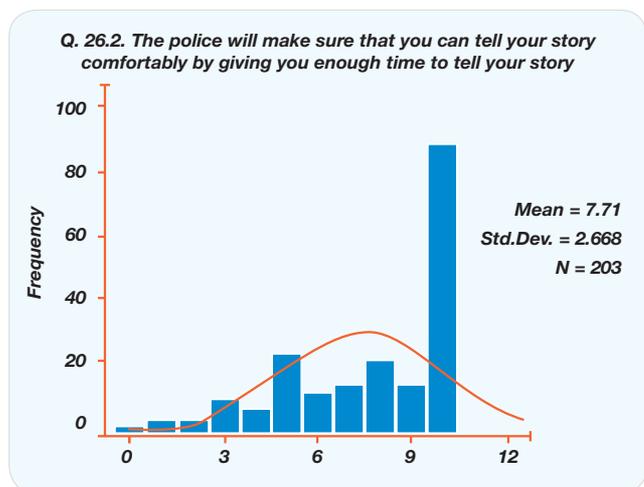
“I felt reluctant in reporting to the police even though the violence was increasing. I am afraid that the image of my husband’s arrest would affect my children.”

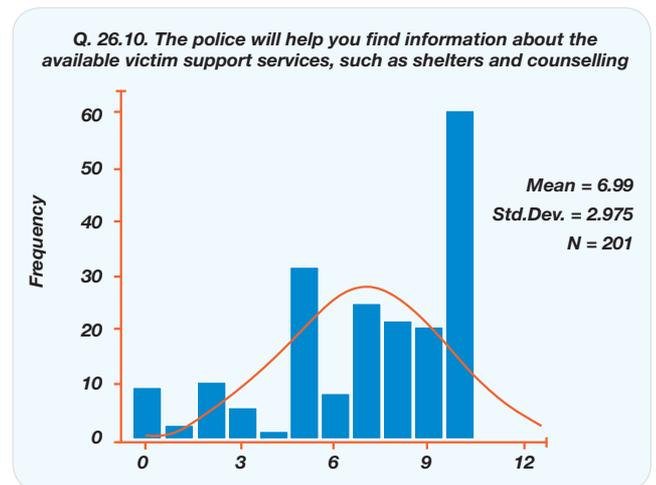
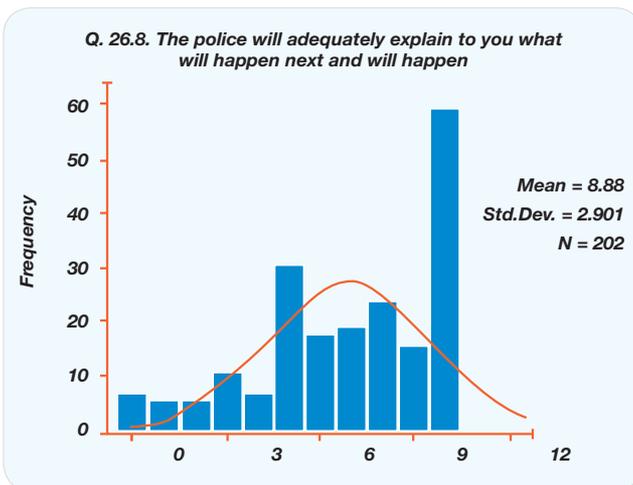
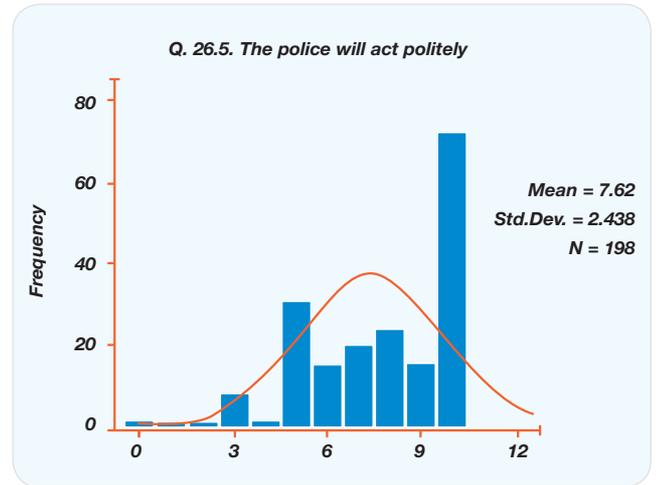
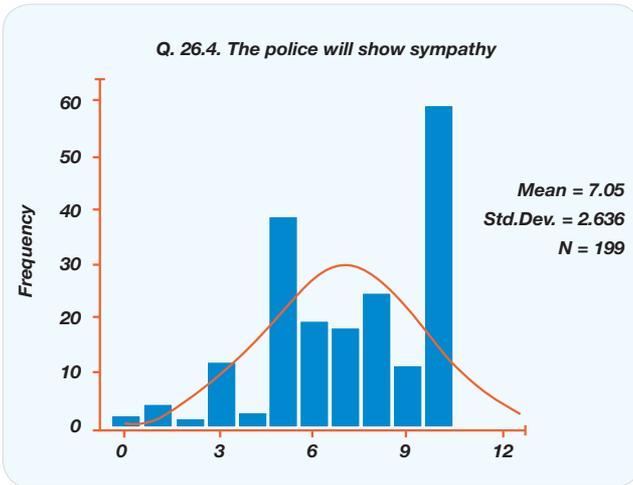
The views of the criminal justice practitioners appear to contradict the level of confidence expressed by women in the survey, as many of the focus groups discussed that they believed reporting was low, particularly in domestic violence cases because women still love their husbands, or feared for divorce or were concerned about the negative impact on their children.

2.2. CONFIDENCE LEVELS IN HAVING A POSITIVE INITIAL CONTACT WITH POLICE

The survey results showed that women in general had confidence in having a positive initial contact with the police. Over half of them had a great deal of confidence that the police will make sure that they can tell their story comfortably by giving them enough time to tell their story (at 51%). Forty five percent had a great deal of confidence that the police will act politely and forty percent had a great deal of confidence that the police would take care of their privacy and help them find information about available victim support services such as shelters and counselling. The confidence level decreased somewhat, to about thirty-five percent reflecting a great deal of confidence that the police would show sympathy and adequately explain to them what will happen next.

Diagram 14: Confidence levels in the police





Experiences of domestic violence victims

Most victims of domestic violence who were interviewed thought that making a report to the police was not easy. They cited a number of reasons such as: insensitive police attitudes; lack of interest by the police in the case or minimizing the violence; being diverted to reconciliation irrespective of the serious or repetitive nature of the violence; lack of protection measures;

and concerns of lack of privacy. The focus group discussions involving police officers also thought that reporting cases of domestic violence is not easy for the women. However they believed it was due to other reasons that were non-institutional such as the fear of divorce or concerns about the negative impact on their children. One group of police officers believed that women only reported domestic violence to the police when they decide not to stay in the relationship. They

then said that when they do receive these reports, the police try to collect evidences but it is difficult as:

“They are almost trying to hide their situation, because they want to avoid negative impacts on their family.”

Yet the same group of police mentioned that they merely refer these cases to local authorities for mediation.

Police’s attitude. A number of victims noted that the police did not show a sympathetic or respectful attitude towards them. Some said that police blamed them for the violence:

“You must have done something wrong or probably been so jealous or something that he had to beat you.”

The police would tell the victim that women must tolerate and suffer and when their husbands get angry they have to go away. In one case the police told the victim that:

“90% of men are drunk and patriarchal’. When he said that he himself smelled of alcohol.”

When one victim went to the police station to make a report:

“I said I was being beaten by my husband. He [the police] replied that family stuff needed to be self-addressed filing a report would take too much time.”

Another victim was told:

“It is his characteristics, you need to control yourself and don’t feel angry.”

While another was told by a district level police officer:

“Do you know that putting him in jail will be too harsh for him? That is the father of your children, later your children will be affected seriously about their curriculum vitae.”

Most victims of domestic violence said that the police treated them insensitively and sometimes used discriminatory language against women. For example, one victim said the police asked her:

“Is it true that you did not allow him [her husband] to have sex with you? He told me that you did not let him have sex.”

Minimization of domestic violence.

A number of victims said that the police were not interested in their case. They felt that when they reported they received the message that this is a family issue and should be dealt with at home and not to bring the problem to them.

“Police ignore the problem.”

Another victim said the police told her when she reported a serious incident of violence and she was scared for her life:

“If every couple was like you, called the police when fighting with husband, how can we manage.”

Another victim said:

“The police said that they don’t want people like me – a victim of violence lives in their area because of troubles.”

One victim explained that when her first report was being reconciled, she made another report of another violent incident. The reply by the reconciliation committee was that they were still solving the first file and asked her why she was sending too many reports. Another victim said when she tried to report, the police said they would not come until she filed a complaint report, so when she did that, they came but did not make a record, merely verbally warned her husband not to be violent as this affected the neighbours security. There was minimization of the concern of repeated and increasing violence that often happens in domestic violence cases.

One legal aid officer said:

“If I have a chance to make advice, I would say that we should not keep silent and divorce could be made to stop this situation. However, if this situation happened to me, I may not have enough confidence to do that, because as Vietnamese women, we are not easy to divorce. We have to tell lie about our injury.”

Unclear who to contact first.

A number of victims said that they first reported the violence to the police

or head of the living cluster but then received different information as to the procedures to report. Other victims said that the procedures to report were complicated or unclear to them.

“First I went to the ward police. They asked me to report to the head of the living cluster first. When I reported to the head, he said that I had to report to the Women’s Union too.”

A number of victims said that they had been given support from Peace House as to which authorities to make a report to. However it appears from a number of women this still meant reporting to four places: the party committee, the head of residential cluster; Women’s Union and the police. Another victim said:

“I reported it to the communal authority; they said that she must report it to the village authority first. But in that case the head of the village is absent.”

She suggested that the police should provide their telephone number in order for victims to be able to report the violence in a timely way.

There was also confusion as to which level of police they should report to – the commune or ward police or the district police - and whether by reporting to the local police their case would be sent to the appropriate police unit.

“I continued to send the file to the ward, district and city police, procuracy.”

And she also went to the media due to the delay in getting any confirmation that her report was accepted. Others spoke about the confusion regarding which police jurisdiction would deal with the report and getting the run-around by authorities, whether the police where the husband lives, the violence happened or where the victim is currently residing would have jurisdiction. It appears that it is up to the victim to ensure they file the report in the correct jurisdiction rather than being the responsibility of the police authorities.

“After the divorce, he blocked me, hit me and stole my motorbike, I submitted the file to the local authorities where the incident took place and where he lives. The officer said that the incidents would be taken care of by local authorities from where it occurred. I answered him “you need a solution to handle this because you always say that it is not the right area”.”

Feeling uncomfortable when reporting. Some victims mentioned that they felt they were being interrogated when trying to report. One police officer mentioned that she appreciated why women did not report, due to shame and fear and suggests that in order to encourage women to report.

“Local organizations should create enabling environment for women to share their cases.”

She further suggested having specially designated police to handle these kinds of cases might help. Another police officer mentioned that they usually have female police officers deal with these kinds of cases.

“If our office does not have female police, we will call for support from the district police. If the situation is complicated, male police are still involved.”

A complicated situation is where the husband must be captured or controlled.

Concerns of lack of privacy. One victim noted being ashamed when reporting their family issues to the police as they were afraid that their neighbours would laugh at them. Another victim complained that there was no privacy when making her statement, the police talked about sensitive issues loudly, so that the people in the next room could listen to her story. Another group of police officers did mention concerns about confidentiality.

“Information security is the rule. The press from the police get the information for propaganda, we do not publicize it.”

Another group of police officers said that:

“All victims’ names are confidential.”

However, they acknowledge that somehow the press get the victims' name and address and put this in the media. Another victim mentioned that when she submitted an application to the ward police, it required the signature of the head of Women's Union chapter who was her mother-in-law. Her husband found out and beat her.

Experiences of trafficked victims

Most victims of trafficking thought that the police treated them with respect and sensitivity. They felt that the police ensured confidentiality and took their cases seriously. One victim of trafficking appreciated that the Vietnamese border police took her to a private room to speak to her and they were nice and showed sympathy. The police referred her to the shelter for trafficked women and provided transport to the shelter. However, one father of a victim of trafficking said that he had:

“A lot of uncertainty dealing with police. Many times I felt they were telling lies... The police treat us like criminals.”

Some of the difficulties that trafficked victims mentioned include challenges to report due to the lack of phone to contact family and police, not knowing where they have been trafficked to and language barriers.

2.3. CONFIDENCE LEVELS IN POLICE IN PROVIDING PROTECTION

The survey results showed that women in general had confidence in the police in providing protection. Over forty percent had a great deal of confidence that the police will ask them about their concerns about further violence and that the perpetrator will be arrested. The confidence level decreased somewhat, to about thirty-eight percent saying they had a great deal of confidence that the police would take care of their protection needs.

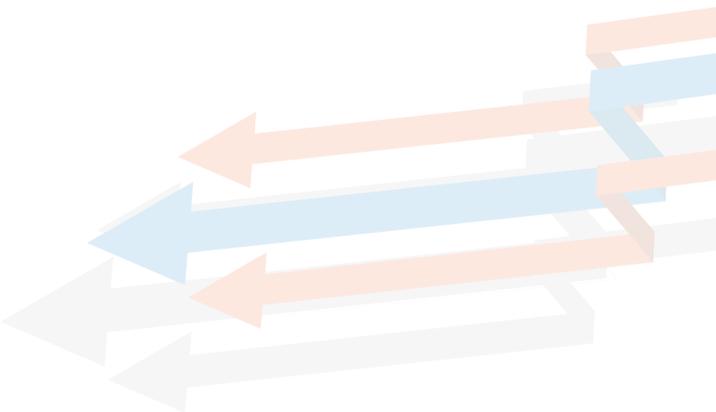
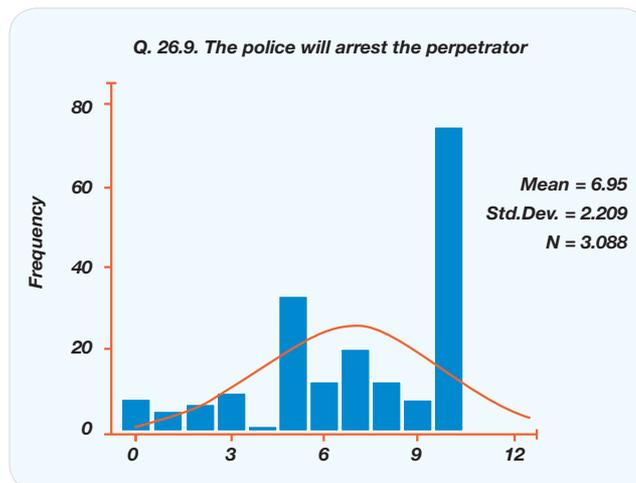
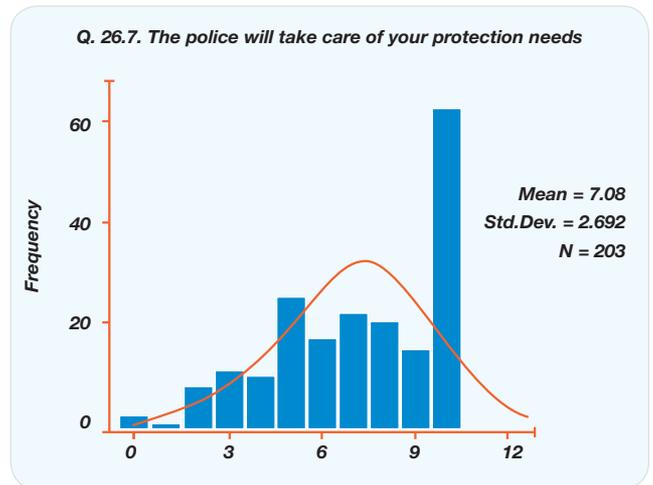
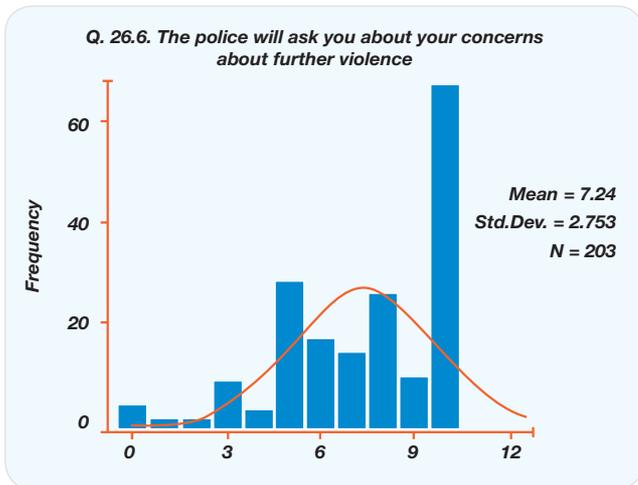


Diagram 15: Confidence levels in the police



Most of the victims who were interviewed mentioned their concern regarding the lack of protection measures.

Delayed responses to emergency calls. A number of victims noted that the police were not interested in protecting domestic violence victims. Some victims mentioned that it took a while for the police to respond to their call. One victim said that the police took so much time to arrive at her

house after reporting, 15-20 minutes, the victim was afraid that she might die. When the commune police did arrive, they said that it was not their responsibility as their responsibility was to ensure security and order and not deal with domestic matters. Another victim who said she had called the police many times recalled:

“One time my son called them, and one hour later when he had finish the violence, they came and asked

me “are you okay?” Then they leave quickly.”

No measures to ensure victim can feel safe in her own home.

The husbands are not often removed from the home or arrested. If the victims felt unsafe, it was up to them to leave and find a safe place for themselves and their children. One victim said:

“Women should have the right to be protected: safety is most important. For me and some other women, the safest way is isolation, if living together cannot be solved because he can hit me at night, and when day comes he will be normal and he is easy to cover up his actions. The protection will help women be psychologically stable.”

In a few cases the police show their concern for the victims’ protection and asked if they wanted to go home or be sent to Peace House. One group of police officers said that they know of no cases where the husband was arrested or detained or removed from the home in domestic violence case, and they went on to say that this was because the husband loves his wife and was remorseful after he sobers up. The police officer general accepts the husband’s explanations that he was violent only because he was drunk or jealous.

Lack of protection measures.

A number of the victims related how they had gone to the police station to report the violence and how the police

told them to go back home without providing any support or protection measures. One victim who had been experiencing a pattern of domestic violence for five years said that when she tried to make a report to the ward police, they told her to call them only when she was next being beaten or there would be no evidence. One prosecutor agreed that there were few protection measures available to the authorities:

“Victims often worry about their privacy will be disclosed and they may get threats or do not believe they will be protected because of low education, however it is difficult to protect them and we are not able to come inside to protect them.”

One victim who tried to defend herself and had scratched her husband during a beating was told by the police:

““If you kill him in self-defence, will you be innocent?” He beat me, if I don’t protect myself, you tell me what should I do? “report to commune police, don’t against him”.”

However the next time he beat her, she tried to submit a report to the police but they took two days to respond and when they did the police again wanted to write a criticism again him even though he already had an earlier criticism for violence against her.

“They do not really care about the victim, I feel so. When he beat me, I must protect myself. I may die.

However, the police blamed me, they think my self defence is wrong. And they think women always have to make her husband happy.”

A group of police officers mentioned that women often go back home after reporting to the police. There was no discussion as to why this might be the only option for women or that the man should leave the house not the women and children. Another victim who experienced repeated violence and only reported with the assistance of Peace House, said that after filing a report, the commune police called her:

““You were beaten by your husband, was it true? Yes. They asked “Now you want to return or stop”, I want to stop. “OK, I will call you”.”

There was no discussion regarding her needs for protection or whether she was concerned of reoccurrence of violence. Furthermore, if the police believed that the wife wanted to return home that was the end of the matter, despite the perceptions that if the wife has left and gone to a shelter, it must be serious as her husband might consider this means divorce.

Lack of skills of police to access safety risks. When one victim told the police that she was afraid for her safety, the police told her that the police could not follow and protect her. They said that the victim’s husband wrote a criticism and pledge not to be violent again, so if anything happens

the petition should be submitted to higher authorities. In one case where the victim fought back in self defence and broke her husband’s phone as he was sending “sms text” to constantly threaten her, the commune police called her to the station and treated her like a criminal, threatened her and was rude to her. They told her not to defend herself when her husband beats her and that she can only write a petition to the commune authorities. Another victim noted that the police never asked her any questions about her need for protection or whether she had been threatened. There was no follow-up when the husband continues to threaten the victim. One victim said that she withdrew her complaint as her husband continued to threaten her, he told her:

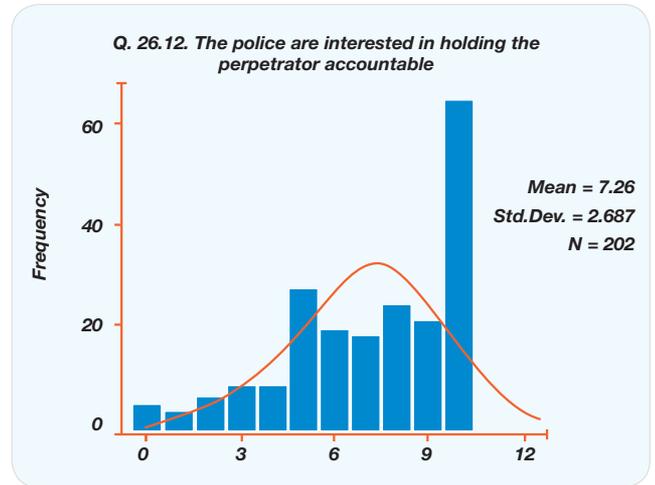
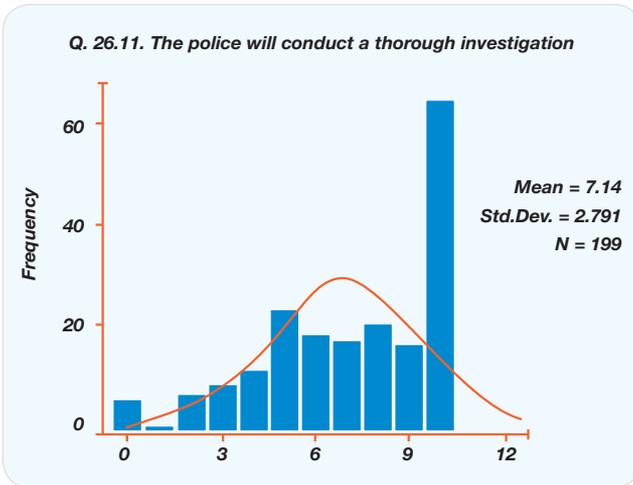
“You will pay the price, I’ll make you regret.”

2.4. CONFIDENCE LEVELS IN FILING AN OFFICIAL REPORT AND THE INVESTIGATION

The survey results showed that women in general had confidence in the police during the investigation stage. Over forty percent had a great deal of confidence that the police will conduct a thorough investigation and that the police are interested in holding the perpetrator accountable.



Diagram 16: Confidence levels in the police



Most victims who were interviewed expressed some difficulties in filing official denunciations to start a criminal investigation and delays and challenges in the investigation.

Challenges in making official denunciations to commence criminal investigations. A number of victims mentioned confusion as to the procedures to officially file a criminal report.

“I submitted the petition to the district police. Half a month later, they did not answer my petition. Then I sent my petition to the investigation team and provincial police. They said they would ask district police to handle my case. After that, the district police announced that they had received the case and called the ward police to handle my case.”

The father of one of the trafficked victim said:

“The reporting to the police was very complicated. I was

very worried about my daughter because now I knew where she was. A policeman said it’s not possible to take my daughter back because no clue of it. Then I went to the district police, the province police but there was no sound-recording as evidence. I said, “a stolen bike can be retrieved, why can’t a stolen person be retrieved?” I made many many reports. At least four at the district police, two to the Ministry of Public Security, two to the hotline.”

The focus group discussions concurred that not many victims proceed with filing official denunciations. One group of police officers believed most women do not file official reports because they either feel embarrassed or they consider it a family matter. This belief places the onus on the woman for not filing an official report and does not seem to be aware that they too share the views they are saying women have. There appeared to be no awareness that this attitude impacts on how they

treat the victims when they actually do try to report. One police officer was more sensitive to the challenges for victims to officially report.

“If we do not make them feel being understood, do not hear their story with all our heart, it becomes very difficult. If we are not careful with the victim of human trafficking, they will not cooperate with us, they will not denounce. It took not only one time to record testimony, but dozens of times to finish it, sometimes we asked not smoothly, they stopped answering.”

Victim has to repeat her statement many times. It was mentioned that the investigating agency has to strengthen the record for the prosecutor so has to take detailed statements. In answering how it must be like for victims to have to tell their story over and over again, one group of police raise the point that:

“In terms of law, we have to be sure to pursuit the truth. Today they said this, tomorrow they change the answer, so we have to reinforce the testimony. We also encourage them, “this is the law, it should be full of evidence, if you are tired psychologically, then we stop and work the next day’.”

Prosecutors mentioned one case where a woman reported she had been trafficked to China. When she made the initial report to the police, she had difficulty recalling details such as exact time and such information. During the

police investigation, they kept trying to get her to repeat her story, but she was getting married and decided not to proceed and recall the bad memory. Such cases raise the concern that there is a lack of understanding of how traumatic events are remembered and that incomplete or inconsistent statements should not be seen as affecting the victim’s credibility and influencing the decision to proceed with the investigation. One prosecutor raised the concern that the victim has to share her story many times, with the police, then by the judges at court which re-traumatizes her.

Victim not provide with a copy of her report. One victim said the first time she was asked to give a statement:

“I asked to take a picture [of the written report] and they did not allow me to. I did not remember very well but it was written through the style of the writer [3rd person pronoun].”

The next time she gave a report, she initialed each page as she believed the last time was not correct when they transcript it to another report.

“I did what I was told because at first I believed in the police. I did not have any experience back then.”

Another victim said that:

“I always consider that my real testimony and testimony sent to the police was different. In the real

one I told and wrote clearly, fairly. I know what is right and what is wrong. I swear to tell the truth. I was surprised when my real one had been cancelled, it was not saved. When I asked my real one to apply to the court, they said they did not save.”

Victim not informed of the

investigation process. One victim mentioned how ill-informed she was throughout the process.

“Firstly I reported to ward office and then someone advised me to report to the district judicial. They said they had sent to district police and hoped I understood because they were too busy. I continued sending reports to the investigation team. They said they have accepted my case and I should not send anymore. They don’t say why they solve too slow like that.”

Lack of specially trained

investigators. A group of police officers mentioned that taking victim’s testimony requires someone with the professional and experience in working with victims but they do not currently divide their staff by thematic areas. They said that all staff are required to have multiple knowledge. One police group mentioned that they have never criminally investigated domestic violence cases. One judge mentioned that during the investigation, the investigators are often male, but when asked, the court will coordinate with

female investigators to work on these kinds of investigations. The reason they gave for this was to minimize the impact on the victim’s lives. There are some justice providers who are sensitive to the needs of the victims. However, there also appears to be some justice providers who do not understand the dynamics of domestic violence, with one police officer telling a victim that because she and her husband did not have a marriage certificate it is not domestic violence and in another situation a victim was told that because she and her husband had divorced, this was not domestic violence, even though she had suffered for years and the violence continued after they separated and divorced.

Delays in the investigation. A number of victims mentioned that the handling of the case by police was delayed which made them feel discouraged. A couple of victims said that they had to file the report many times but their cases were still not resolved. There were also reports of delays in obtaining a forensic assessment which had negative implications for the investigation.

“There is no [forensic] result after four months.”

Another victim mentioned that when she reported a serious incident of violence the police tried to convince her to reconcile and delayed the forensic examination so that when she went much later, the assessment was only

6% even though she had been in hospital for 9 days and had 5 stitches. One victim, who had initially reported a serious incident of violence to the ward police but were not doing anything, on the advice of her friend, she made her report to the district police:

“After half a month, there was no answer, I continued reporting to the district police, they did not call me or make any injury assessment.”

When they finally called her 2 weeks later, they took her for a forensic examination, but the result was still not available when she did the interview and that was four months ago.

Lack of integrity. Some victims mentioned cases that have been reported to the police where the police did not thoroughly resolve but only reprimand the husband because the police and the husband’s family were acquaintances or the husband’s family had given money to the police. Other victims mentioned that bribery is a problem which results in the police not enthusiastically solving their case.

Investigation relies on the victim statement rather than on meaningful case building without the victim.

One group of police officers said that domestic violence cases are hard to investigate because the violence takes place in private. The police group talked about the challenges in investigating human trafficking cases. They said if there is no cooperative

victim in the case, they cannot proceed, even if they have the accused who has made a confession that coincides with the accusation and all appropriate with the information the police have confirmed. They say that the procuracy will not approve the charge because there is no willing victim. Therefore the police release the accused. One victim provided a list of the threats she received as text messages. The police only asked for the telephone numbers and then said they were not working. However she continued to be threatened from these telephone numbers.

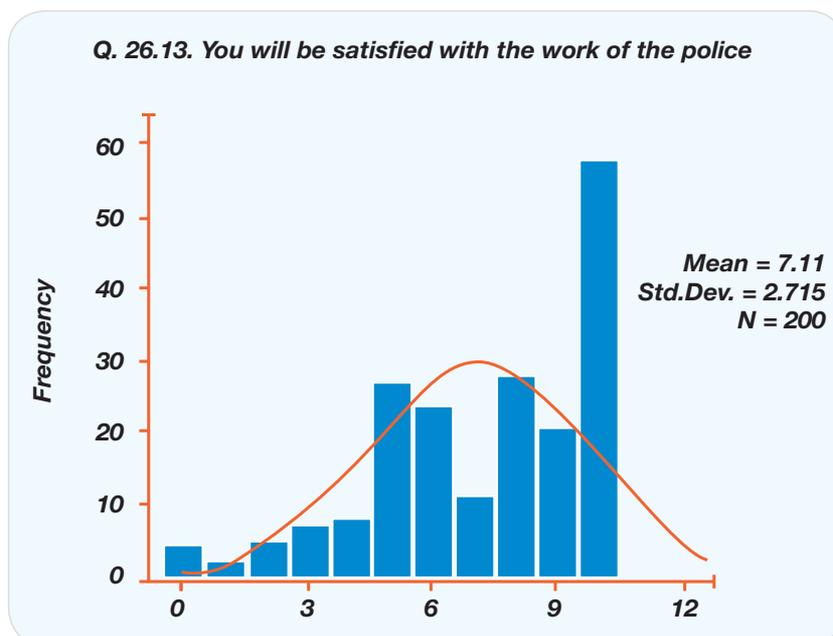
Not familiar with Penal Code

provisions. There were a number of victims who made reports to the police that were not investigated because the police could not see any injuries. The police said that they only solve cases when a serious injury has occurred. Some of the victims said that they learned that when they are beaten and if there is no obvious injury, they did not report anymore. Other victims said that they continue to report after each incident hoping that the violence can be solved. There appears to be a lack of knowledge of the law, and particularly how article 185 of the 2015 Penal Code can apply to domestic violence cases involving repeated abuse over years. There also appears to be unfamiliarity with how repeated violence, should result in different assessments of whether criminal threshold has been crossed.

2.5. CONFIDENCE LEVEL OF BEING SATISFIED WITH THE WORK OF THE POLICE

The survey results showed that women in general had confidence that they would be satisfied with the work of the police, with 39% expressing a great deal of confidence.

Diagram 17: Confidence level in police



The victims interviewed expressed being unsatisfied with different aspects of the work of the police. Victims of domestic violence said that the measures the police used were not strict enough to hold the perpetrator accountable. There were numerous stories of where the victims experienced violence many times but the police only conducted reconciliation or applied administrative punishment. They told of how the police sometimes did not even make a record of the violence and would just verbally warn the husband. Others said that if the police made a record, they would conciliated and asked them to sign a

commitment form to not fighting with each other anymore.

A number of victims who experienced domestic violence noted that ward and commune police just reprimanded the husband and left the house and did nothing further. They often only resorted to reconciliation even when the violence had occurred many times and was serious to require hospital visits. There was one case where the district police was sympathetic to the victim's situation. The police called her husband and then slapped him and asked:

“How does that feel? If it hurts then why did you beat your wife?”

The group of police officers mentioned one case where they had mediated. The first time of the report, they did not meet the husband. The second time she reported, they said:

“The second time, we met him directly and he said to us he felt very embarrassed and he still loves his wife and his children, but because he uses alcohol too much and his wife refuses to sleep with him. We advised the wife to spend time with her husband when he is not drunk and try to find the way to balance with her husband. After that we did not see violence happened any more.”

This case showed that there was no understanding of the dynamics of domestic violence and the risk of further violence. Neither was there any measure to protect the victim or to try to address the circumstances in which the husband was violent, such as ordering him not to consume alcohol. The police concluded that their talk with the husband was effective as after it there was no further report of violence. Another scenario might be that when her husband was violent again, she decided not to report to the police because all they do is mediate. A group of judges also spoke about reconciliation. One judge mentioned one case where the domestic violence was going on for years and every time it went for reconciliation, the wife does not want to reconcile but the ward kept telling her to reconcile saying “*You need to talk less*” thereby blaming the victim for the violence.

A group of police believed that mediation is a good way to handle domestic violence cases and that the last option is to bring the case to court, either for criminal case or for divorce. There was little discussion about assessing the behaviour according to the law and whether reconciliation, administrative sanction or criminal options apply. The times the police administered administrative punishment, the victim often had to pay the fine.

“In many cases, the wife is the person to request us to stop administrative punishment because they have to pay from her pocket.”

Lang Son police.

If the punishment is to have public criticism, the wife also might want to stop this because she wants to avoid negative impact on her family. The Lang Son police mentioned that most domestic violence victims do not want to go through administrative or criminal justice system. They mention one woman who went to them and asked how such behaviours could be punished. They told her he could get administrative punishment and if he continues to repeat many times, then he could get criminal punishment. After that she did nothing. They said because of the implications to her family but it might be because she was a business woman who thought she would have to pay the administrative fines. One focus group mentioned that they should consider community service so that the victims would not be negatively impacted.

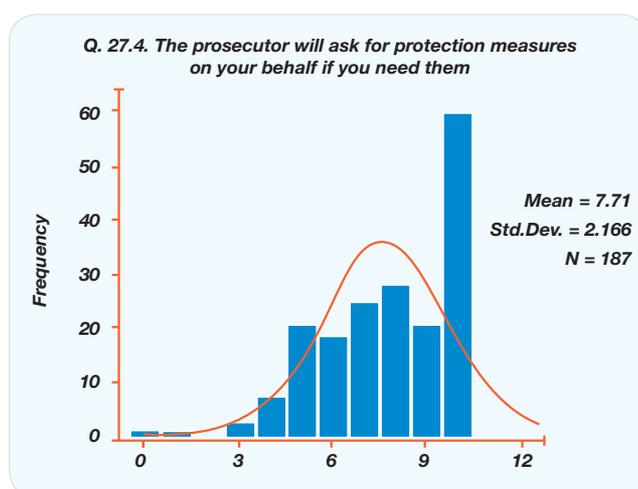
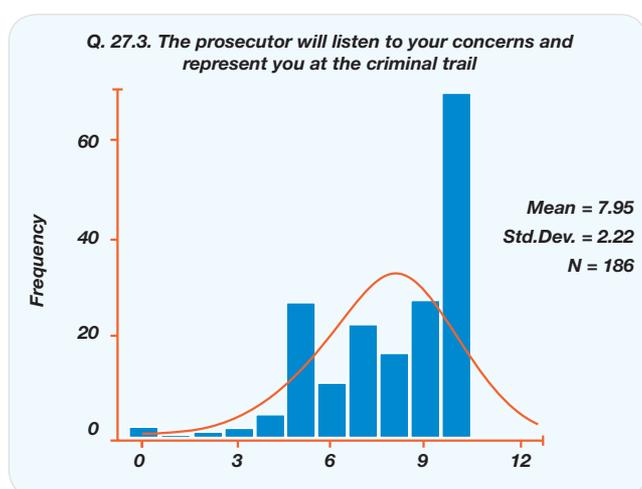
3. CONFIDENCE IN THE PROSECUTION

3.1. CONFIDENCE LEVELS IN HAVING A POSITIVE CONTACT WITH PROSECUTORS

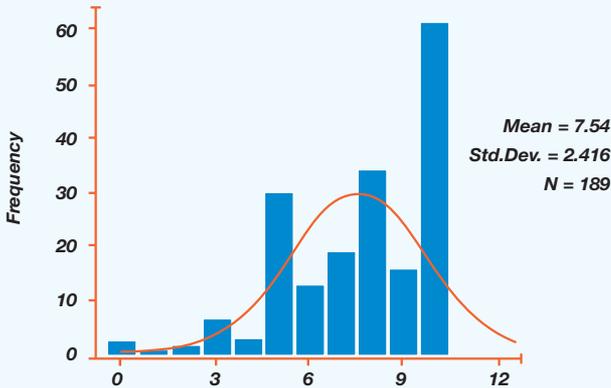
The survey results showed that the majority of the respondents had confidence or a great deal of confidence in the prosecutor, however overall slightly lower than in the police. Over half of them had a great deal of confidence that the prosecutor will listen to their concerns and represent them at the criminal trial (at 53%). Nearly half of them had a great deal of confidence that prosecutors will act politely (48%) and

that prosecutors will adequately explain to them what will happen (48%). The high confidence level slightly declined to about forty-one percent that prosecutors will take care of their privacy, show sympathy, and will ask for protection measures on their behalf. In comparing locations, those respondents from Hanoi tended to have less confidence in the prosecutor than the respondents in Lang Son. The respondents who were victims of violence or had tried to report also tended to have less confidence in the prosecutor than the survey respondents overall.

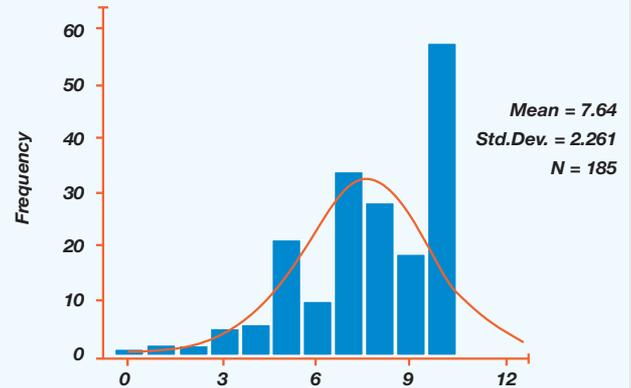
Diagram 18: Confidence levels in the prosecutors



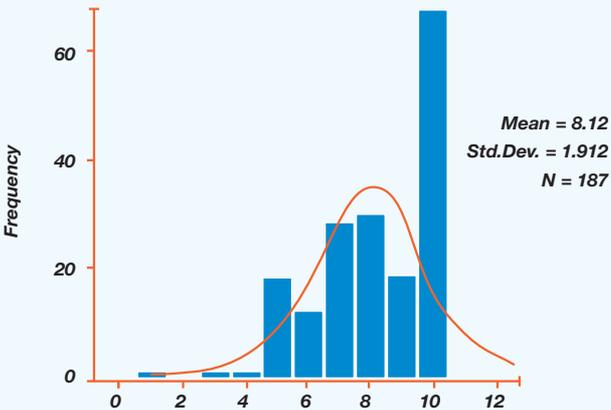
Q. 27.5. The prosecutor will take care of your privacy



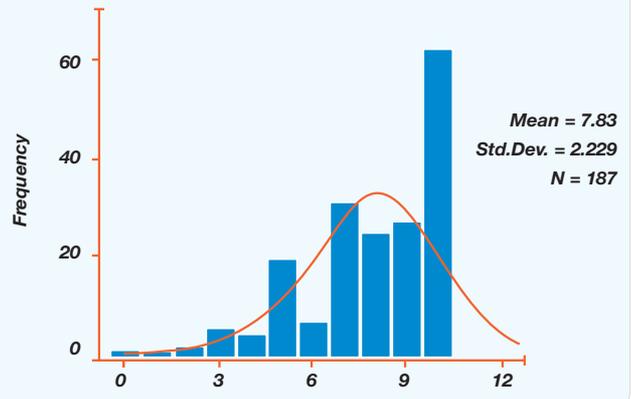
Q. 27.6. The prosecutor will show sympathy



Q. 27.7. The prosecutor will act politely



Q. 27.8. The prosecutor will adequately explain to you what will happen next and what will happen



The majority of victims interviewed did not have any contact with the procuracy. Some did not know what role the procurators played in the criminal justice system. In response to the question of which authorities are responsible for prosecuting a criminal case, one victim thought that the police referred the criminal case to the court for trial. This is not unusual as most of the victims who were interviewed said they only had contact with the police and their cases went no further or that if their case went to court, it was civil court for a divorce application, not criminal court.

Only three of the victims interviewed mentioned being in contact with the procuracy and their experiences were not favorable. One victim mentioned that her case was referred to the People’s Procuracy but they encouraged her to withdraw the case. Another victim whose case did go before a criminal court said she did not know whether she had met a prosecutor. Before her case was brought to court, somebody came to ask her about her case. She said:

“They wore casual clothes, so I could not make sense who they were.”

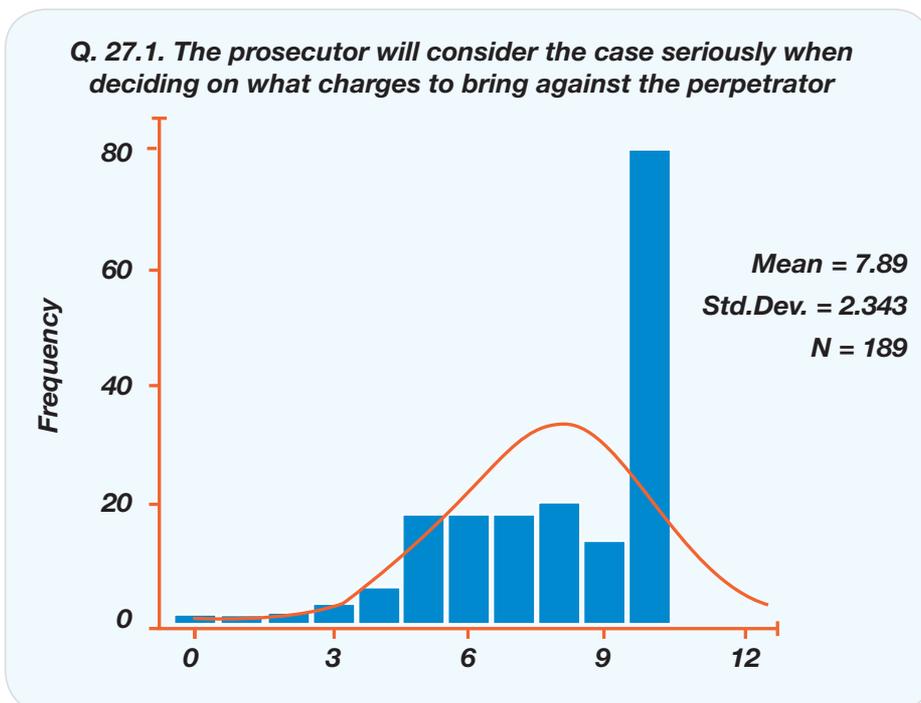
They asked her about the case and requested her to narrate it in detail. She did not want to re-tell the case as she felt she had done so in detail to the police. Another victim mentioned that the prosecutor she met with was not helpful and suggested that she should go to civil court not criminal as they said the violence happened in a spousal relationship.

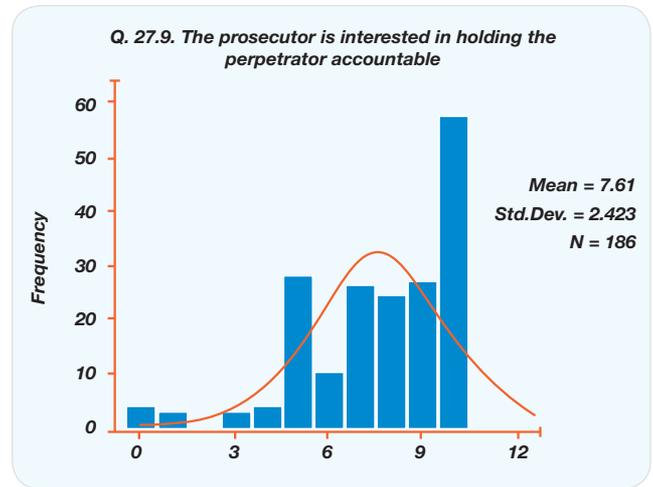
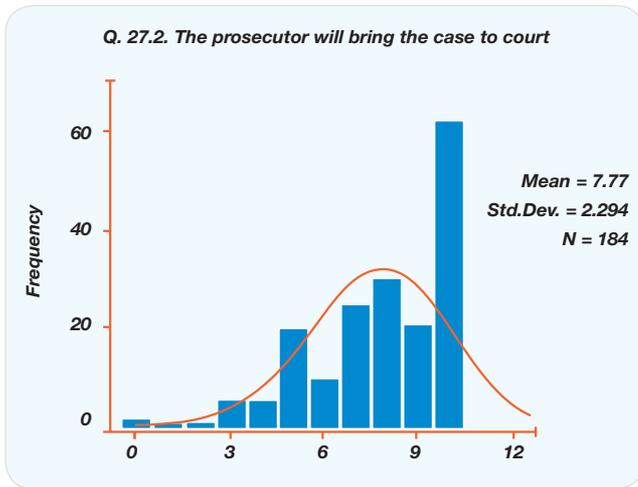
“I asked whether they read the file or not, they only smiled. In my opinion, they did not read even though I filed to the procuracy. They did not solve it and still saw it as spousal relationship even though we divorced.”

3.2. CONFIDENCE LEVELS IN THE PROSECUTOR'S DECISION TO PROSECUTE AND SELECTION OF CRIMINAL CHARGES

The survey results showed a high level of confidence that the prosecutors will consider the case seriously when deciding what charges to bring against the perpetrator, with half of the respondents expressing a great deal of confidence (50%). Forty-five percent said that they had a great deal of confidence that the prosecutor will bring their case to court and is interested in holding the perpetrator accountable. Those respondents who were victims of violence or had tried to report tended to have less confidence in the prosecutor than the survey respondents overall.

Diagram 19: Confidence levels in the prosecutors





While the victims did not have much experience with prosecutors to provide insight into their confidence levels of prosecutors, the focus group discussion with prosecutors felt that the most difficult thing to bring the case to the court for them is the victim herself. *“To deal effectively with this situation, it really depends on victim.”* The prosecutors mentioned that sometimes it is the local authorities

that want to bring the case, but the victims are afraid to cooperate for a number of reasons, such as fear of threats, dependent economically on the husband and does not want him to be jailed as this will affect family’s economic situation, as well as the negative impact on the children. There did not appear to be any discussion of how witnessing domestic violence has a negative impact on the children.

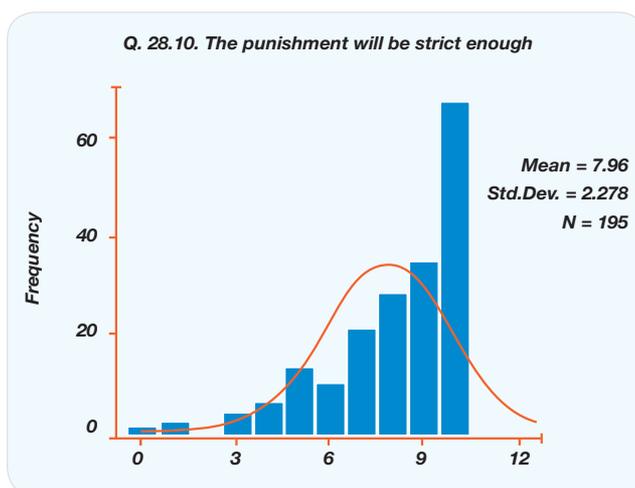
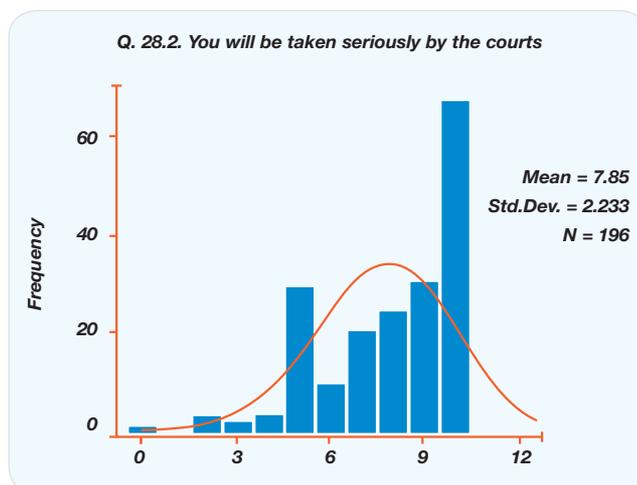
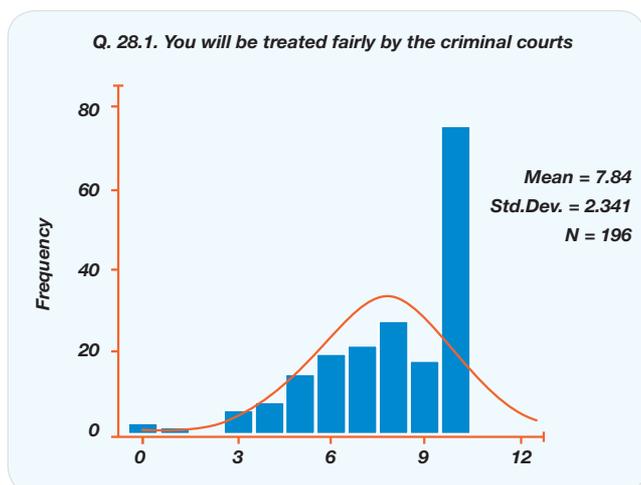
4. CONFIDENCE IN THE COURTS AND JUDGES

4.1. CONFIDENCE LEVELS IN THE PROCEDURES OF THE COURT

The survey results showed that about half of the respondents had a great deal of confidence that they would be taken seriously in court and that the punishment would be strict enough. Slightly less (at 48%) expressed a great

deal of confidence that they would be taken seriously by the courts. For respondents who identified as victims, this level of high confidence dropped by over ten percent.

Diagram 20: Confidence levels in the courts and judges



Very few of the victims made it to the criminal court stage. One of the four human trafficking cases went to criminal trial and two out of the eighteen victims of domestic violence ended up in criminal court. A number of victims spoke of their civil court experience during their divorce case. The Lang Son judges noted that they had never seen a domestic violence case as a criminal trial but only heard of domestic violence situations when mentioned at family court.

Testimony of victim at trial. When the case comes to court, the judge is required to check the evidence and therefore the victim must provide her testimony and be questioned by all the relevant parties. The judges in Lang Son mentioned that there are many cases where the first statement is not consistent with subsequent statements and the judges suggest that it is necessary to take testimony several times in order to ensure the accuracy of the testimony. They did say that if the

first two statements were consistent then if she is asked a third time, she can say “*keep the same.*” However, if she is consistent but it is different than the defendant’s statement, then she will have to be asked again. It was unclear whether there was an understanding of how inconsistencies from traumatic victims should be accessed and this raises the issue of training. The Lang Son judges raised an issue of evidentiary standards in rape cases, and whether there is a practice requiring forensic examination report. While this is not required by the law, the judges were of the opinion that if there is not one then there will be difficulties. This raises the concern of training and understanding of how common delayed reporting is in rape cases.

Challenges around determining compensation. In one trafficking case where the court awarded the victim compensation, the victim complained that she does not know of any procedures as to how to claim the money. The Lang Son judges mentioned that they found it difficult to determine compensation for victims because of the difficulties of proving the damages. They said that there are no specific regulations on this and they find it not easy to calculate. They mentioned one case where the victim of rape had agreed to a compensation amount with the accused but the criminal case continued. The judges mentioned that they found it difficult to calculate compensation as they did not have a measurement for “*damages*

to the victim’s honor.” Another aspect of compensation was mentioned by the Lang Son judges. There are cases where a victim is a witness and comes to court, she might ask for compensation for her travel costs, but they noted that the court does not have any financial support to provide for the victim. There was no discussion as to whether the judges could order the accused to pay compensation. The judges did say that because of the financial challenges for victims to come to court, many times the trial is conducted in the absence of witnesses.

Challenges of bribery. One victim who was speaking about her divorce application mentioned that she had to pay money in order to have the case processed quickly and the onus was placed on the victim to obtain documents on the husband’s property rather than having a court order both parties to produce documents. However it was not clear if this is required to speed up criminal trials.

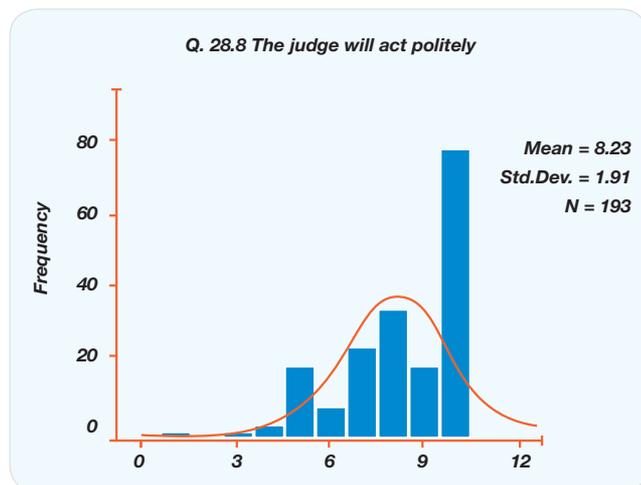
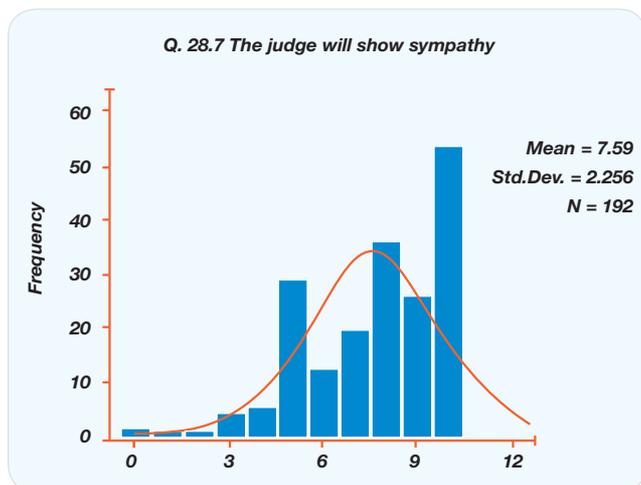
Sentencing. One victim of domestic violence said that the atmosphere at the criminal hearing was serious but she felt that the punishment was not strict enough. The level of satisfaction appeared to be greater when speaking about the judges in family court, with the family judges looking interested and being sympathetic. Regarding the issue of sentencing, the Hanoi judge mentioned cases which are technically crimes, such as sex with a minor, but because he thought it was not serious, the offender was sentenced to probation.

4.2. CONFIDENCE LEVELS IN THE JUDGES

The survey results showed that half of the respondents had a great deal of confidence that the judge would act

politely, but only forty percent had a great deal of confidence that the judge would show sympathy.

Diagram 21: Confidence levels in the courts and judges



The victim of trafficking who went to criminal court felt that the judge showed her respect and regard trafficking as a real crime. However she did say:

“Good judges respect me, bad judges don’t.”

Victims of domestic violence had different experiences in criminal court. One said that the judge had a serious attitude.

“The talking in formal manner makes me feel scared, I felt like I’m a criminal.”

Another victim said:

“The judge should be more sympathetic and fair.”

Most of the domestic violence victims had experience in family court in their application for divorce. A number of victims raised their concern that family court judges did not take into consideration the domestic violence when dealing with child custody or child support.

Most of the judges in the focus group discussions had more experience in dealing with divorce cases and it

is in those cases where they heard about the long pattern of domestic violence, which is the underlying cause of why the women were requesting divorces. However it was also mentioned that many women do not mention this issue in their testimony in divorce cases but rather in informal discussions with the judges and they thought this was because women were afraid such information would have a negative effect on their children in the future. It also appears that the judges do not make further inquiries as they think it is too difficult to determine if the violence experienced would meet the criminal threshold. They also mentioned that if the woman does not mention domestic violence in her testimony but only informally to the judge, the judge will not record this information, inquire further nor refer her to any other agencies that could assist her.

Lack of understanding of the dynamics of domestic violence.

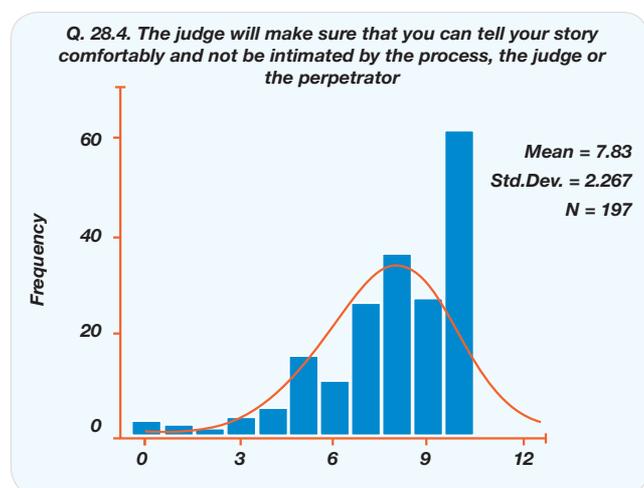
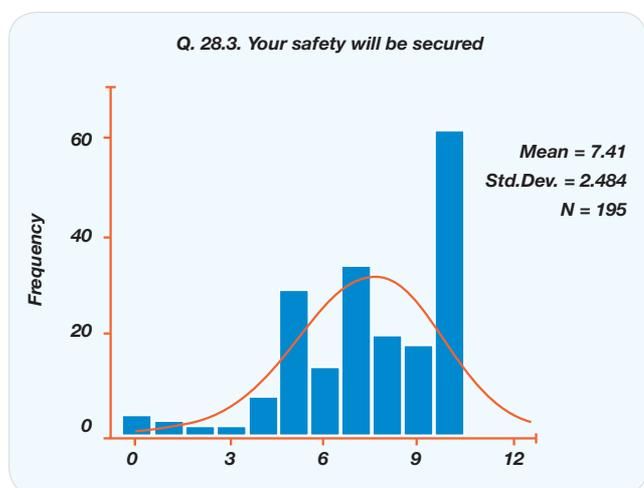
The judges from Lang Son mentioned that in some divorce cases where the

application is the result of domestic violence, they specifically check about whether there is a chance for reconciliation. The judges said that they will provide a room for mediation and if they fear there is insecurity they arrange the police to be in the room. This is strange that they still think mediation is an option even when they need to call the police to ensure the victim’s safety. It was not clear whether there was further inquiry into the history and extent of the violence she has suffered before pushing her into another reconciliation. This suggests the need for further training.

4.3. CONFIDENCE LEVELS IN BEING SAFE AT COURT

The survey results showed that about forty percent of respondents had a great deal of confidence that the judge would ensure their safety in court, while forty-five percent had a great deal of confidence that the judge would make sure they were not intimidated by the court process or perpetrator.

Diagram 22: Confidence levels in the courts and judges



Safety measures in criminal courts.

From the victims who went to court, most of them noted that they were worried about their safety because they had to face the perpetrator. While there was police in the courtroom to protect the order of the hearings, they were worried when the trial ended they did not have any protection measures. The courtroom structure does not really take into account the need for safety of the victim. There are no private waiting room for victims to stay while awaiting trial to provide protection from intimidation or harassment from the perpetrator and his family.

“The protection of safety for victims is very depending on capacity and skills of judges.”

Group of judges.

Safety measures in family court. One victim mentioned that in divorce court there was only the judge and the clerk so she felt unsafe as her husband was sitting next to her and allowed to insult her and nothing was done. Another victim mentioned:

“I am anxious and fearful about my safety. I go to the trial with my friends but they cannot go in. My husband is very aggressive so I am very afraid.”

There was different information about whether during a trial (family court) there were security officers present. In the judges’ discussion group, it was mentioned that the victims in divorce court are protected by security officers

and guards, whereas others suggest only a judge and court clerk are in the court room for family court but these security guards are present in criminal courts. A group of judges mentioned that the victim and defendant never sit near each other, but whether this was in reference to criminal court or family court was not clear. If family court, this contradicts victim’s statements that she had to sit right near her husband in divorce court and was fearful that he could attack her. Another victim spoke of her experience in divorce court where her husband threatened her in court:

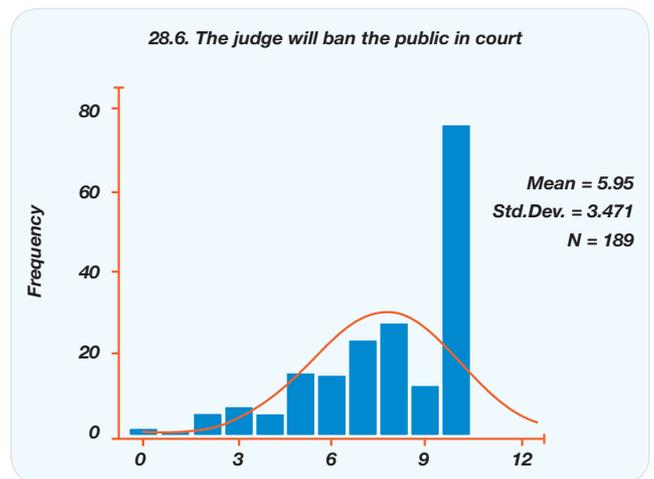
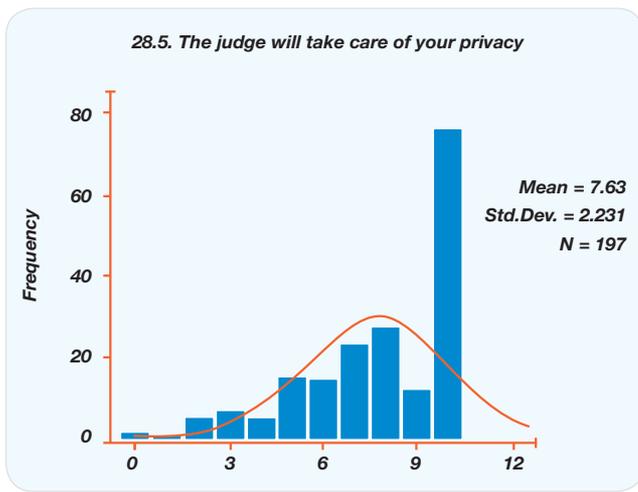
“He said if I dared to receive or sell the house, he would behead me and bring it to my family. That was the last time we met in court.”

Forbidden contact orders. There was very little (if any) discussion from the judges as to their role in providing protection for women such as issuing forbidden contact orders. One group of judges said that if the woman does not apply for divorce, the court cannot protect their rights, and has to collaborate with mass organizations to protect their rights but nothing about protection orders.

4.4. CONFIDENCE LEVELS OF HAVING PRIVACY AND CONFIDENTIALITY

The survey results showed that forty percent of respondents had a great deal of confidence in the judge to take care of their privacy however less than thirty percent had a lot of confidence that the judge would ban the public in court.

Diagram 23: Confidence levels in the courts and judges



Closed court. One group of judges mentioned that there is an option for closed-door trials wherein only a few people are present in the court room. However there was no information as to when this is usually applied and who must make the request and what they have to show in order for the judge to make such an order. One judge spoke about the possibility of having closed trials. A group of legal aid officers said that in cases of rape, the trial can be conducted in secret, but it is up to the judge. One victim thought the trials should be public to let everyone know about the way violence against women is handled.

Publication of the case. The Lang Son judges mentioned that they follow the principles of transparency where all the information of the case are published in detail, including the personal information of the victim. The Hanoi judge mentioned that the litigants can ask that the court keep the contents related to them secret so as not to affect their lives. There was no discussion as to what criteria is used for this. The Hanoi judge said that in principle, records are kept confidential. The press release is under the authorization of the judge. But they did say that the judgement is disclosed. One victim mentioned that journalists were at the courts so she did not know if the case would be reported in the media.

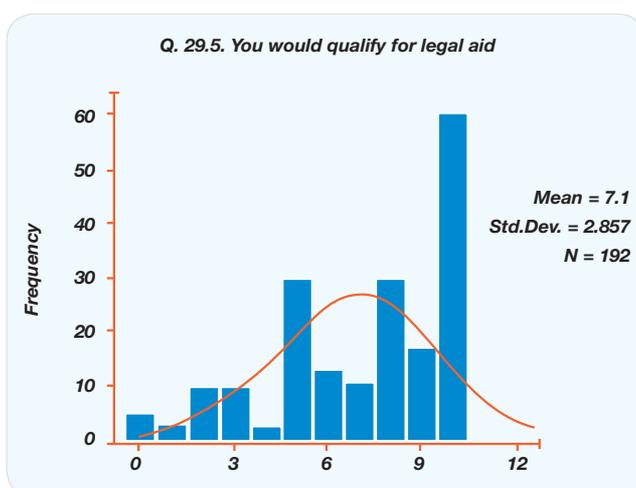
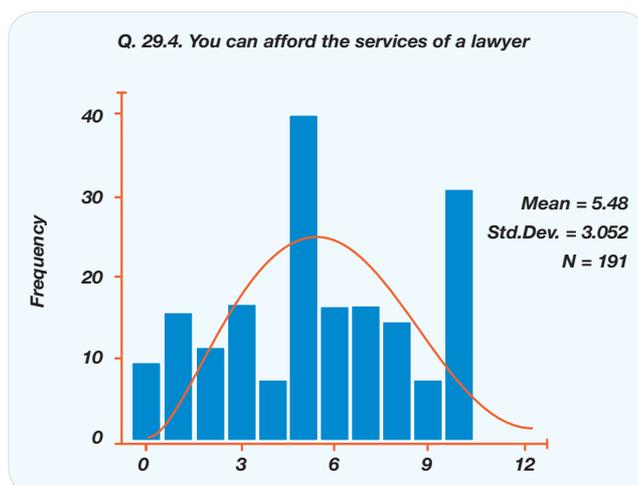
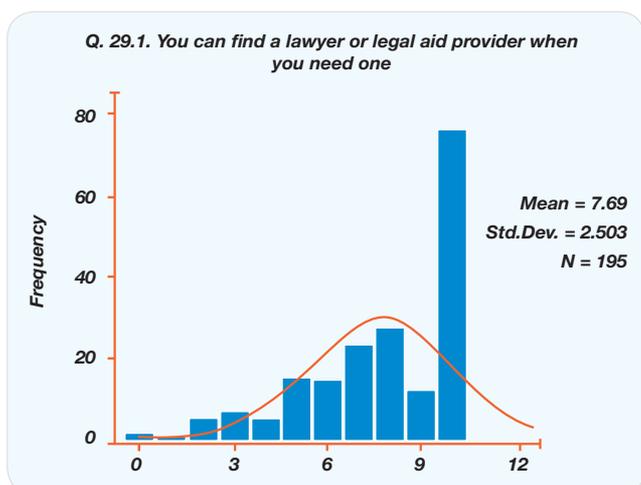
5. CONFIDENCE IN LAWYERS AND LEGAL AID

5.1. CONFIDENCE LEVEL OF BEING AWARE OF AND ACCESSING LEGAL ASSISTANCE AND LEGAL AID

The survey results showed that the respondents had a great deal of confidence that they could find a lawyer or legal aid provider when they needed one (at 46%), however much less had a great deal of confidence that they could afford a lawyer (at 20%).

Forty percent had a great deal of confidence that they would qualify for legal aid; however, only two percent of the survey respondents noted that they came from households that were classified as a poor household.

Diagram 24: Confidence levels in lawyers and legal aid



Many victims claimed that they did not know of legal aid until they went to the Peace House, because most of them live in rural areas. With the legal assistance provided by Peace House, they had more knowledge about their rights, how they are protected and how to report the violence to the authorities. One victim said that:

“In my home town there is nobody who knows about legal aid.”

Another victim said that it was not easy to access legal aid because they do not have transportation or money.

The Lang Son legal aid centre said that they do not receive many cases of domestic violence. The Hanoi legal aid group said that they mainly give legal advice on divorce such as child custody and property division. One legal aid provider from Lang Son spoke of how she assisted a woman accused of violence towards her husband when she cut him with a knife after he had for years been violent towards her. She was able to introduce this evidence in court (the husband's record of administrative punishment) and mitigated the woman's sentence. One group of legal aid providers mentioned how a 2012 Circular used to regulate legal aid function for cases dealing with domestic violence, but now that the circular has expired, legal aid officers

said they only have consulting function (do not provide legal representation only legal advice). They thought that this consulting function is not enough for these victims. They would like to see an amendment to the legal aid law.

“Legal support is not for every victim. Formerly stipulated women with family violence helping but now it has expired.” “We advise them to solve their incidents by getting advices from social organizations, associations and other related agencies.”

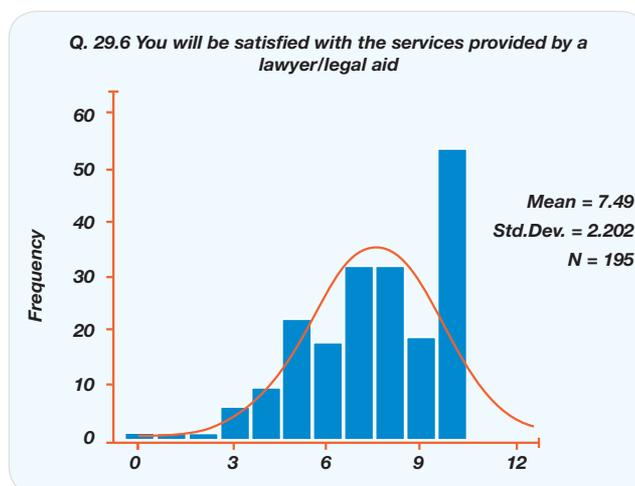
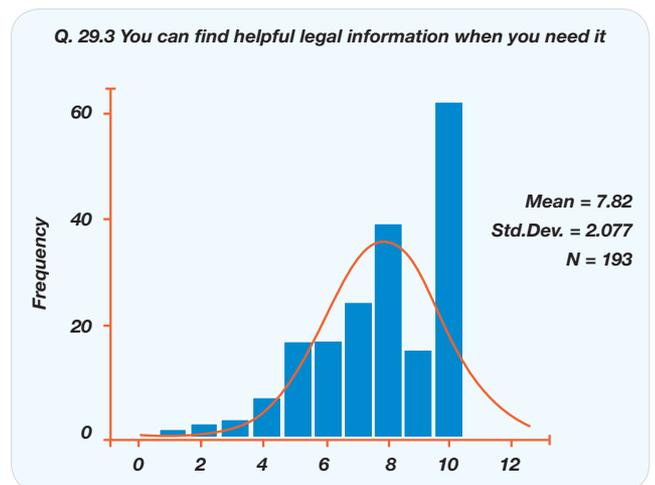
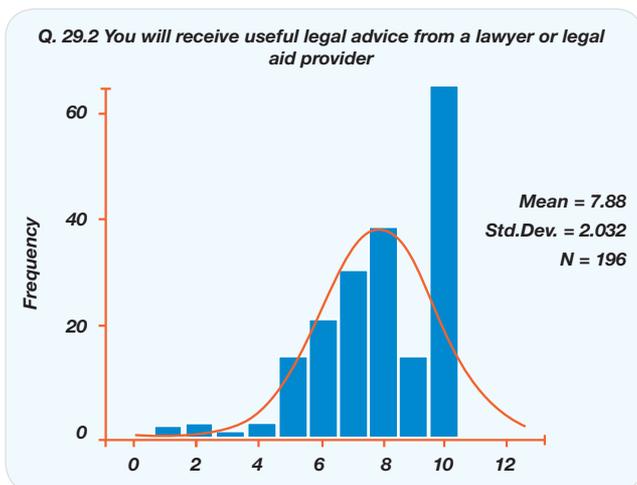
Hanoi legal aid providers mentioned how their centre has organized mobile legal aid in coordination with the Women's Union annually. They provide free legal education and talk about domestic violence. Legal aid services are hard to access by rural women. Legal aid officers say that they do get some training, but some said they need more training. They would also like to see an expansion of who are beneficiaries qualified for legal aid to include victims of domestic violence. Better guidelines for each other's roles and responsibilities, for example women's union should specialize in psychological counselling and leave the provision of legal advice to legal aid agencies.

One victim said that she did not qualify for legal aid. However, she then mentioned that she had to work for her abusive husband for 15 year and when she left him, she had no money. If it was not for Peace House she would not know where she would be living. For those victims who do not qualify for legal aid, they mentioned that it is challenging to hire a private lawyer for a divorce application as they had to pay for the lawyer prior to the property settlement and they had difficulties accessing the family money.

5.2. CONFIDENCE LEVEL REGARDING THE TREATMENT OF LEGAL AID PROVIDERS

The survey results showed that around forty percent of respondents had a great deal of confidence that they would receive useful advice from a lawyer or legal aid and that they can find helpful legal information when they needed it. Slightly less at 37% had a great deal of confidence that they would be satisfied with the services provided by legal aid.

Diagram 25: Confidence levels in lawyers and legal aid



In general, victims felt that legal aid providers respected victims of violence and they are interested in assisting.

“They listened without prejudice, engaged to obtain more information.”

One victim noted:

“Legal aid staff are definitely trained.”

Another said:

“Legal aid officers believe women’s stories.”

However, other victims who had experience in having a lawyer in divorce cases pointed to traditional views by lawyers with respect to domestic violence:

“I have a lawyer to solve divorce, and my lawyer told me that “I was hit by my husband as well, and I accepted it.” Everyone advised me to accept it, let it go, Lawyer also said the same.”

SUGGESTIONS FOR THE GUIDELINES FOR CRIMINAL JUSTICE PROVIDERS

This part of the report reviews the three components of the study (i.e. the survey, the victim's in-depth interviews and the focus group discussions with criminal justice practitioners) and summarizes the suggestions made by women, victims and criminal justice providers on how to enhance access to justice for women victims of violence.

Two points need to be mentioned before reviewing the study findings. First, it should be noted that the survey questionnaire structured this part into the four main criminal justice practitioners who are the subject matters of the future practical guidelines, namely: (1) police; (2) prosecutors; (3) criminal court judges and (4) legal aid providers. However it has become clear in reviewing the in-depth interviews and focus group discussions that the guidelines could also cover first responders who receive initial reports of violence in the community (e.g. residential clusters; Women's Union), reconciliation teams as well as family court judges who become aware of domestic violence in divorce cases.

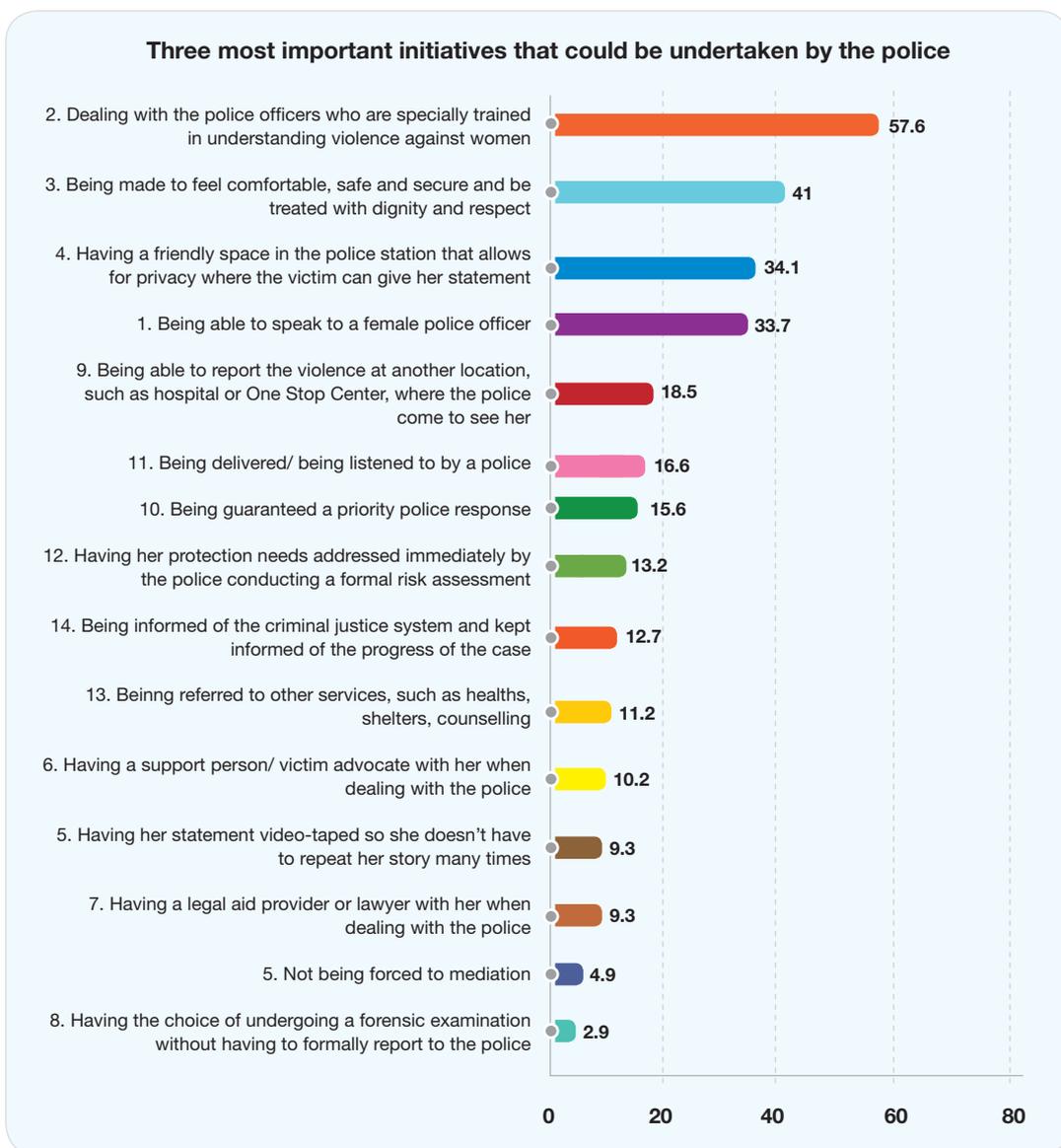
Secondly, the survey asked the respondents to rank a number of listed initiatives by choosing their top three initiatives that they thought were the most important for enhance access to justice for women victims of violence. In developing the list of initiatives, the survey was informed by the UN Model Strategies and Practical Measures on the Elimination on Violence against Women in the Field of Crime Prevention and Criminal Justice and research on good practices from other countries.

1. SUGGESTIONS FOR THE POLICE

The top four initiatives ranked by the survey respondents which they believed could enhance access to justice for women victims of violence were: dealing with police officers who are specially trained in understanding violence against women (at 58%); being made to feel comfortable, safe and secure and treated with dignity

and respect (at 41%); having a friendly space in the police station that allows for privacy where the victim can give her statement (34%); and being able to speak to a female police officer (at 34%). The Hanoi respondents ranked the initiative of being able to speak to a female officer above having a friendly space at police stations.

Diagram 26: Ranking of initiatives for police



Overall, there were a number of initiatives that received between 10-20% of respondents ranking the initiative as their top 3 choice. These were: being able to report the violence at another location, such as hospital or One Stop Centre, where the police come to see her (19%); being believed / being listened to by the police (17%); being guaranteed a priority police response (16%); having her protection needs addressed immediately by the police conducting a formal risk assessment (13%); being informed of the criminal justice system and kept informed of the progress of the case (13%); being referred to other services, such as health, shelters, counselling (11%); having a support person / victim advocate with her when dealing with the police (10%). Some differences were found between the Hanoi and Lang Son respondents. More than twice as many respondents in Lang Son (20%) ranked being guaranteed a priority police response than Hanoi respondents (10%). Hanoi respondents ranked protection needs and video-taped statements higher than Lang Son who chose to rank higher being referred to other services, being kept informed, and being provided support persons and legal aid.

The victims themselves made a number of suggestions they thought easier for them. In addition, the criminal justice providers also provided some suggestions as to what might enhance access to justice for women victims of violence.

Police who are trained to handle violence against women cases.

One police officer suggested having specially designated police to handle these kinds of cases might help. Victims recommended that police should not be indifferent to them. They need to ask more details about the violence and the history of violence that they have experienced and about the previous reports and responses and then follow the law. Another victim suggested that police need to be empathetic when listening to a report of domestic violence. A number of victims mentioned the need for specialized staff to be trained to understand domestic violence and know what to do when they receive a report.

“People working as law enforcement need to have specialty, understanding about domestic violence.”

One victim spoke about the need to understand the repetitive nature of domestic violence and that it usually involves physical, emotional and sexual violence that need to be taken into account when determining how to proceed criminally. Another mentioned that the training should ensure that police understand that domestic violence is a crime and not simply a family matter.

Provide for immediate protection.

A number of victims emphasized the importance of immediate protection. One victim said that women have the right to receive support for their protection. If the victim does not feel

safe she will not participate in justice. Another victim mentioned there needs to be more use of forbidden contact orders and that breaches should be taken down as evidence for insulting behaviour. One victim said:

“Arrest the perpetrators to the police station. The isolation is the best measures.”

Being able to speak to a female police officer. A number of victims thought that dealing with female police officers would be easier. One victim of trafficking said she thought that speaking to a policewoman would definitely be better.

“If it is related to sex, it is easier to talk to them.”

A domestic violence victim said:

“Should have female police, there would be differences.”

Another thought:

“It would have been better if female police officer had participated in solving the case as women can better understand and sympathize.”

One police officer mentioned that they usually have female police officers deal with these kinds of cases.

“If our office does not have female police, we will call for support from the district police. If the situation is complicated, male police are still involved.”

A complicated situation is where the husband must be captured or controlled.

Create an enabling reporting environment. One police officers spoke about the need for:

“Local organizations should create enabling environment for women to share their cases.”

A group of prosecutors also recommended that the victim’s statement should be taken in a room that ensures privacy. They said that a victim’s statement:

“... At least should be taken in a private room.”

One police officer suggested that having a private centre for women to report the violence which have doctors available to provide psychological consultation that have direct contact with the ward police would help to encourage women to report. One victim suggested that police have a separate department to deal with violence against women cases.

Minimize re-telling by victim. A group of prosecutors recommended reducing the number of times that the victim has to tell her story. They noted that a victim’s statement should be taken:

“Only one time and it should be recorded for reference later in order to avoid taking testimony many times.”

Support person. A number of victims told of how the support person at Peace House assisted them in reporting and dealing with the police.

“At first day, I was still in panic, they [Peace House] consult, advice and tell me I am safe now... They helped me report and submit complaint to the commune police, people committee and women’s council.”

Another victim mentioned:

“There should be a violence expert on ward, she can do other work but she must be trained on violence.”

Prioritize cases involving violence against women. Some victims suggest that these cases need to be handled as quickly as possible due to the high risk involved for the women. This relates to also obtaining a forensic assessment of the injuries in a timely fashion.

Clear policy on what police should do in specific cases. A number of victims suggested that there be clear guidelines for police and investigators to take all violence cases seriously, and respond according to the law. Another victim mentioned that police should be told to respect victims and not blame them for the violence. Another victim said that all police should listen to the victim in a more sympathetic way and believe the victim. This policy should also be available to victims, so as one victim noted that victims:

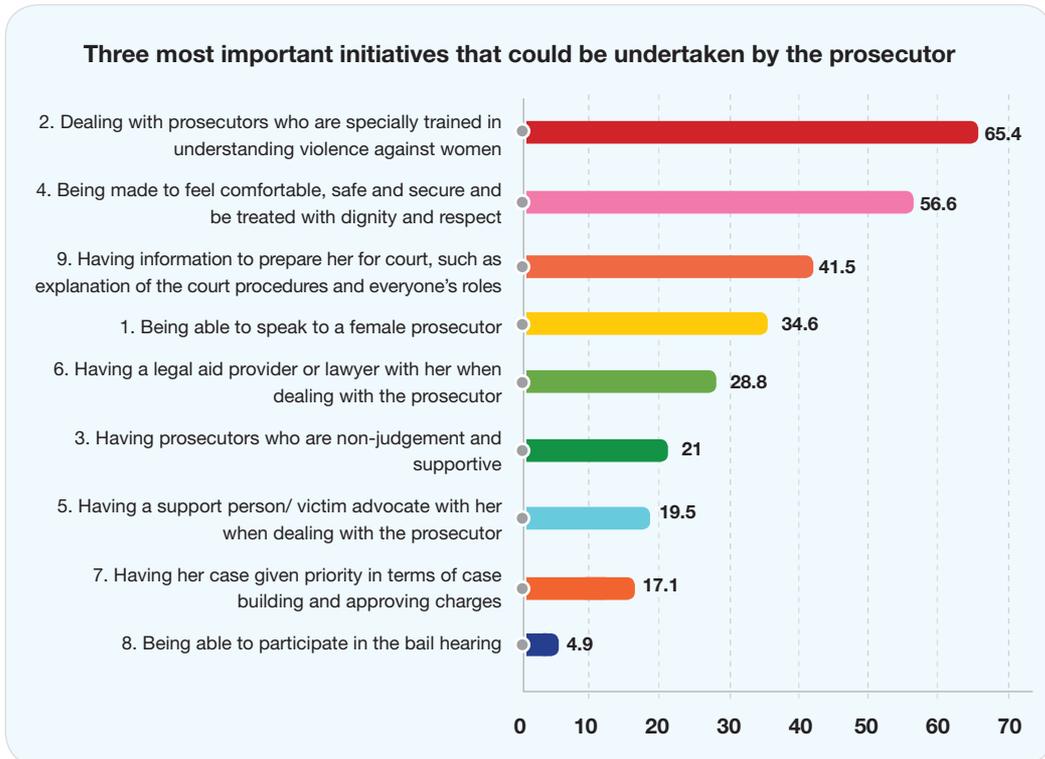
“Need to have document on right of women to make women understand clearly about their rights.”

2. SUGGESTIONS FOR PROSECUTORS

The survey respondents from both locations ranked as their top two initiatives for prosecutors: dealing with prosecutors who are specially trained in understanding violence against women (65%) and being made to feel comfortable, safe and secure and be treated with dignity and respect (57%). Overall, the next three ranked which received less than half but over 25% of responses were: having information to prepare her for court, such as explanation of the court procedures and everyone’s roles (42%); being able to speak to a female prosecutor (34.6%); and having a legal aid provider or lawyer with

her when dealing with the prosecutor (29%). There are some differences per location as Hanoi respondents ranked being able to speak to female prosecutor much higher (43%) than Lang Son (27%). However both ranked having information to prepare her for court and a legal aid provider similarly. For the other initiatives, Lang Son respondents ranked having non-judgmental prosecutors higher at 25% than Hanoi at 17%; and prioritizing such cases (Lang Son at 21% as compared to Hanoi at 13%). Similar rankings were given to having a support person (20% in Lang Son as compared to 19% in Hanoi).

Diagram 27: Ranking of initiatives for prosecutors



Very few of the victims met with prosecutors so there were no particular suggestions specifically related to the prosecution of gender-based violence

cases. There were also no specific recommendations made by the criminal justice providers in the focus group discussions.

3. SUGGESTIONS FOR COURTS

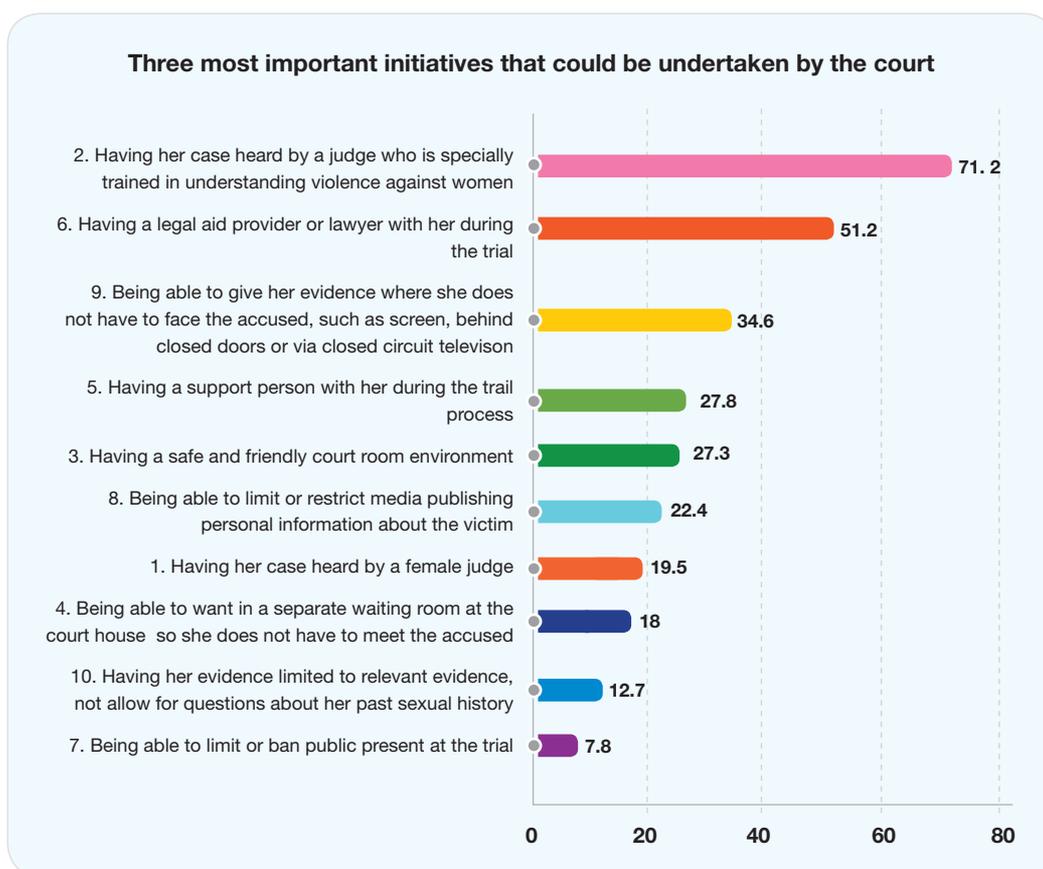
The survey respondents ranked as the top two initiatives they believed could enhance access to justice for women victims of violence to be: having her case heard by a judge who is specially trained in understanding violence against women (71%) and having a legal aid provider or lawyer with her during the trial (51%). While at both locations these two initiatives were ranked the first two, in Hanoi, less

than half of the respondents chose legal aid while in Lang Son 55% did. Overall, the next three ranked which received less than half but over 25% of responses were: being able to give her evidence where she does not have to face the accused, such as screen, behind closed doors or via closed circuit television (35%); having a support person with her during the trial process (28%); and having a safe

and friendly court room environment (27%). A lesser number of respondents chose as one of their top three: being able to limit or restrict media publishing personal information about the victim (22%); having her case heard by a female judge (20%); being able to wait in a separate waiting room at the court house so she does not have to meet the accused (18%); having her

evidence limited to relevant evidence, not allow for questions about her past sexual history (13%); and being able to limit or ban public presence at the trial (8%). One of the differences to mention is that Hanoi ranked speaking to a female officer higher than Lang Son, here for judges it is 25% in Hanoi as compared to 14% in Lang Son.

Diagram 28: Ranking of initiatives for the courts and judges



The victims themselves made a number of suggestions they thought would have made dealing with the justice system easier for them. In addition, the criminal justice providers also provided some suggestions as to what might enhance access to justice for women victims of violence.

Holding the offender accountable for the violence. The punishment must meet the severity of the violence. One victim noted that in one district:

“When the husbands beat his wife, he will get detention from 1 to 3 months, so there are no violence there anymore.”

Other victims mentioned that when their husbands received verbal warnings or had to sign self-criticism they laughed at the wife and say:

“Even if I beat you to death, nothing would happen.”

Need for a range of sentencing options. Many victims of domestic violence did not want their husbands to go to jail. They wanted the violence to stop and for him to change his behaviour. As one victim said:

“I think we need a direct intervention to men who cause violence. ... We need stronger intervention to make him change

his behaviour, to stop him causing that violence.”

The current range of accountability options, such as self-criticism and fines, did not seem to work and the violent is often repeated, and jail for the abusers in situations where the wife wants to remain in the relationship is also challenging. One victim suggested the possibility of sending the offender to a rehabilitation centre.

The need for specially trained judges.

A number of victims mentioned that judges need to be trained. One victim mentioned that judges also need to be specially trained on domestic violence and how such violence affects women going through family courts.

“The judicial authorities should have specialized staff on domestic violence so they will understand. Specialized officers will have more knowledge.”

One victim thought judges who deal with these kinds of case should be women as it would be easier for victims to give their testimony. One group of judges said that there are no specially trained judges that are designated to handle these kinds of cases. They said that the court will look around to assign a judge who has experience with dealing with similar cases. They did not

mention whether it was important to have an understanding of the unique nature of violence against women cases or to treat victims with empathy.

Special family court. A group of judges mentioned the newly established family and juvenile courts and thought that these courts need further support. One group of prosecutors also mentioned the need to expand the family and adolescent courts and suggested that these courts should be designed in a friendly way to address the vulnerabilities of these victims. This is similar to a suggestion made by one of the victims who thought there should be one unit to deal with domestic violence, both the civil issues such as divorce and the criminal issues.

Support and safety during the trial.

One of the victims who experienced criminal court mentioned the importance of having two guards and a social caring staff attend the trial with her. She said without them she would have been alone and was concerned for her safety and feared both her husband and his relatives. The Peace House made such arrangements for her, not the court. One victim mentioned that she would prefer a closed-door hearing.

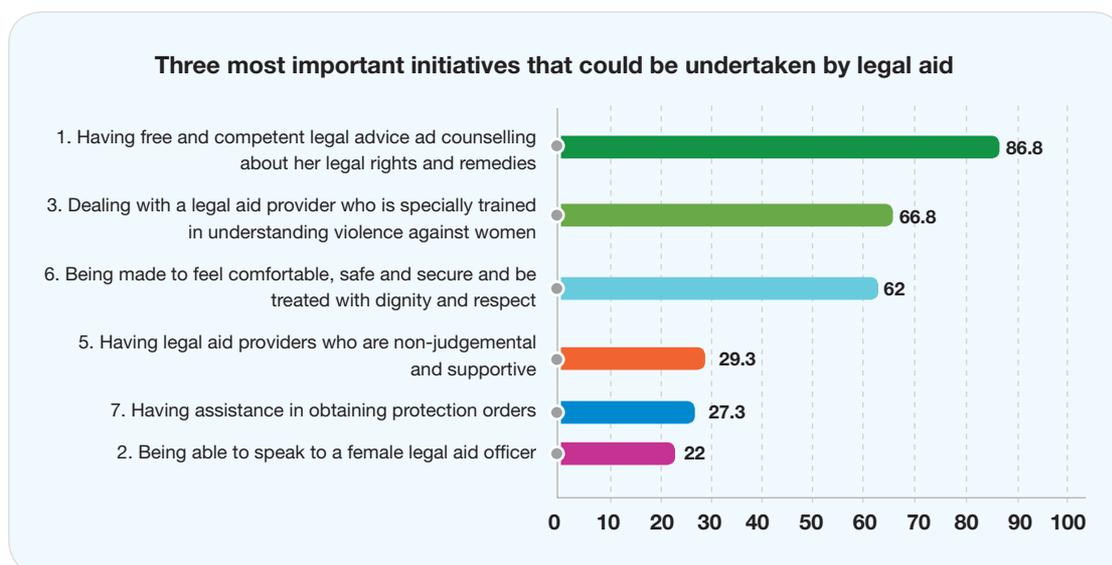
Oversight of the judiciary. Some of the victims suggested that there needs to be in place some measures to ensure that judges do not seek bribes from women applying for divorce.

4. SUGGESTIONS FOR LEGAL AID

Overall and for both locations, the number one ranked initiative in terms of legal assistance is to have free and competent legal advice about legal rights and remedies. The next two rankings are: dealing with a legal aid provider who is specially trained in understanding violence against women (67%) and being made to feel comfortable, safe and secure and be treated with dignity and respect (62%). Less than a third of the

respondents ranked as one of their top three initiatives: having legal aid providers who are non-judgmental and supportive (29%); having assistance in obtaining protection orders (27%); and being able to speak to a female legal aid officer (22%). These are ranked in similar orders in both locations. However Hanoi continues to place more emphasis on speaking to female officer than Lang Son (28% as compared to 16%).

Diagram 29: Ranking of initiatives for legal aid



Many of the victims who received legal advice and legal information received this from the Peace House shelter rather than the Ministry of Justice legal aid office. Most of the victims expressed appreciation for the legal assistance by the shelter. Some provided broad suggestions regarding legal aid.

Free legal assistance to all victims of violence. One victim said that:

“Access to justice does not cost, should receive an enthusiastic support, many legal counselling and easy access.”

Legal assistance at the trial.

One victim whose case did proceed to the criminal court noted that she appreciated that a staff member from the legal assistance centre accompanied her to the criminal trial. The legal assistance staff was sympathetic, explained the law and her rights. She thought because the staff was a female that she paid closer attention to this case and she herself was more comfortable speaking about the domestic violence which included physical and sexual violence.

WAY FORWARD

This study has highlighted that while the general female population in two selected sites in Viet Nam has a generally positive perception of the Vietnamese criminal justice system, this does not reflect the realities for women victims of violence who have experienced the justice system. Women subjected to gender based violence face numerous barriers to accessing justice, particularly accessing the criminal justice system. The perceptions of the barriers victims face differ from the victims and the justice providers. The justice providers generally focus more on the societal and cultural barriers women face which they feel has little to do with them and their role in implementing the law. However, women, as well as noting the societal and cultural barriers they face, also provide further insight into the legal and institutional barriers. This provides a way forward for the Criminal and Administrative Law Department of the Ministry of Justice who plan to develop guidelines for justice providers.

The next phase of this project between the Ministry of Justice and UN Women will be to develop the guidelines for

justice providers to ensure better enforcement of the relevant provisions under the amended Penal Code and Criminal Procedure Code to improve access to justice by women subjected to violence in Viet Nam. Once the guidelines are developed, training materials will be developed to raise awareness of the guidelines and develop capacity of criminal justice providers to ensure gender responsive criminal justice for women subjected to violence.



ANNEX 1

GUIDELINES FOR THE IN-DEPTH INTERVIEWS WITH VICTIMS

Starting points:

- Qualitative interview: discussion on the topics with the focus on the respondent.
- Is tape recording possible?
Transcription of the interviews?
- If no tape recording: written document of the interview (as detailed as possible).
- Full confidentiality must be ensured: no names are asked, no possibility to identify the respondent afterwards. Data will be given to researchers only.
- No personal violence experiences should be shared in the interview, rather focus is on her experience with the criminal justice system. However if personal violence experiences emerges, have the name of a counsellor available for referral to minimize victim's secondary victimization.
- No outsiders allowed (no colleagues, chiefs or others controlling the interview).
- Natural every day environment: tea / coffee, small snacks served.
- Length 30-60 minutes, avoid yes / no questions.
- Probing suggestions: "what about something else" option can be added to all items.

Explanation:

We are conducting research proposed by the United Nations and the Ministry of Justice of Viet Nam on women's perceptions and levels of awareness of the availability and function of the justice system, with a specific focus on the criminal justice services to victims of violence against women. The aim of the research is to ensure better enforcement of the criminal laws and to improve the legal system to enhance access to justice by women subjected to violence in Viet Nam.

Your name will not be written down in the document. All of your answers will be treated as strictly confidential and none of the information will be reported in a way that you could be identified. Your participation is voluntary, but very important if the research is to be successful.

TOPICS

Start

- What is violence against women? What kind of forms of violence are there? (If not mentioned, probe: sexual violence (e.g. rape, sexual assault, unwanted sexual touching, sexual harassment), domestic violence (e.g. physical, psychological, sexual, economic); human trafficking; forced or early marriage, etc.)
 - Are all these forms crimes?
 - Should all VAW cases be handled by the criminal justice system or by other authorities or should they be dealt with other ways, such as by the families?
 - What form of violence have you experienced (without going into the details of the incident too much and not commenting on whether this is a crime or not)
 - Did you regard the violence you experienced as a crime? Or wrong but not a crime? Or something that just happens?
- Probe: different ways to explore some areas in which you can ask her about her rights:
 - Do you think the government has an obligation to ensure you are able to live free of violence and from the fear of violence? If yes, what should they be doing to ensure this? International due diligence obligation: prevention, protection, prosecution, punishment and providing remedies to victims.
 - Rights to essential services in police and justice sector; health sector; social services sector? What are her rights in obtaining medical assistance? In obtaining social services support (e.g. shelters, counselling)? In getting justice?
 - With respect to being treated by authorities: prioritizing her safety; ensuring dignity, treating with respect, kept informed, allowed to be heard, etc...
 - Access to justice – what does this mean to her? E.g. accessibility, availability, affordability, responsive...

Victim's rights

- When a woman experiences violence, what are her rights? What can she expect from the government?

EXPERIENCE AND LEVEL OF KNOWLEDGE OF POLICING AND JUSTICE SERVICES

Reporting and the police

- Which authorities are available for victims to report?
- To which authorities did you report the violence first? (e.g. Head of the living cluster; police; Women's Union, Legal Aid office; etc.) Why?
- Did any of the violence you experienced come to the attention of the police?
 - How did it come to the police's attention? (e.g. you reported directly to police, someone else reported it to police, report was part of police's own activity, reconciliation team or head of village or VWU or legal aid officer made a report, etc.)
 - In what way was the police contacted? (e.g. calling 113, calling or visiting local police station, etc.)
- Did you find reporting to the police easy or troublesome? What were the reasons you felt that way? (e.g. the way the police behaved; how the reporting situation took place, ie privacy issue; location of police station; did or did not have enough information about the procedure / your rights, etc.)
- Do you think other women victims of violence face challenges when they contact police?
 - If yes, what are those challenges / complicating factors?
 - If no, why not (what do the police do to make it easy)
- In your opinion, what is the police attitude toward VAW? Probe: do the police respect victims of VAW? Do the police regard VAW as "*real crimes*" = worth investigating OR: are they not interested in VAW?
- Describe the police process during your reporting:
 - Confidentiality provided?
 - Did you feel the police treated you sensitively? Could you tell your story comfortably, did you have enough time to tell your story? Was your privacy ensured? Shown sympathy? Treated politely?
 - Were the police concerned about your protection? Did they ask you about the need for protection? About any specific information about any threats made against you?
 - Information about your rights? Did they police adequately explain to you what would happen next and when it will

- happen? Did the police give you a written document of the crime report? Did the police report correspond to the story you told the police?
- What measures did the police take? e.g. refer to reconciliation, administrative punishment, laid charges, conduct criminal investigation (ie. took photos of your injuries, asked about possible witnesses? Arrest the perpetrator?), referred case to prosecutor?
 - Were the measures that the police took in your opinion strict enough?
 - Did you think the police officers you dealt with were trained to understand/investigate VAW cases?
 - Do police officers believe women's stories or do they believe more easily the perpetrator? Can the perpetrator speak or pay himself to be free of the case?
 - Should female police officers be used in VAW investigations? Or is it easier to talk to a male police officer? Or is there no difference?
- Did you find dealing with the prosecutor easy or troublesome? Explain.
 - Describe your dealings with the prosecutor:
 - Did the prosecutor adequately explain to you what will happen next and when it will happen?
 - Do prosecutors respect VAW victims and regard it as a real crime, worth taking on as a case or are they not interested?
 - What is the prosecutor's attitude towards VAW in your case? o How about confidentiality of the handling of these cases?
 - Sensitivity of prosecutors towards VAW victims?
 - What measures did the prosecutor take? Did you agree or not? Explain.
 - Did you think the prosecutor you dealt with was trained to understand/investigate VAW cases?
 - Do prosecutors believe women's stories or do they more easily believe the perpetrator?
 - Is there a difference if the prosecutor is a male or female for the victim of VAW?

The procuracy

- Which authorities are responsible for prosecuting a criminal case, such as VAW?
- Did your case come to the attention of the procuracy?

Legal aid

- Is legal aid known among people in general and victims of VAW in particular?
- Did your case come to the attention of the legal aid office?
 - If yes, how did it come to the attention of the legal aid office? (e.g. you asked for help from the legal aid office, someone else informed it to the legal aid office, the legal aid office found out about the case by themselves, etc.)
 - If no, why did you not report this incident to the legal aid office (e.g. did not qualify for legal aid, did not know it was possible to receive assistance in legal matters, did not think the legal aid office would or could do anything?)
- If legal aid was used: please describe the process:
 - Regarding eligibility?
 - Did the legal aid office adequately explain to you about how the case would be processed (what will happen next and when it will happen?)
 - How about confidentiality of the handling of these cases?
 - Sensitivity of legal aid officers towards VAW victims?
- In general, even if you did not use legal aid, what is your opinion:
 - Are legal aid services accessible enough or are there limitations in services / groups to whom the service is available? Are there any other problems with legal aid services?
 - Is it easy for VAW victims to approach legal aid and to get assistance? What are the complicating factors?
 - Does legal aid respect VAW victims and regard it as a real crime, worth taking on as a case or are they not interested?
 - What is legal aid's attitude towards VAW?
- Are legal aid officers trained towards VAW victims?
- Do legal aid officers believe women's stories or do they more easily believe the perpetrator?
- Is there a difference if the legal aid officer is a male or female for the victim of VAW?



Courts and judges

- Did your case go to a criminal trial?
- If yes, please describe the trial and procedures:
 - Was your safety ensured?
 - Was your case taken seriously?
 - Were you intimidated or anxious by court process, if yes, why, what factors caused this intimidation or anxiety?
 - Were there any measures to help you relieve this anxiety? Probe: use of screen or CCTV when providing evidence; separate waiting room for accused and complainant; media ban; closed court room, etc.
- In general, even if your case did not reach the courts, what is your opinion:
 - Do judges respect VAW victims and regard it as a real crime or are they not interested? o What is judge's attitude towards VAW?
 - How about confidentiality of the handling of these cases?
 - Sensitivity of judges towards VAW victims?

- Are judges trained towards VAW victims?
- Do judges believe women's stories or do they more easily believe the perpetrator?
- Is there a difference if the judge and/or court staff are a male or female for the victim of VAW?

Satisfaction in the criminal justice system?

- How satisfied are you with the result of the work of the criminal justice system in your case and the justice providers [from police, prosecutors, judges, legal aid]?
- Why were you dissatisfied / what made you satisfied?
- Was there something else that you would have needed from the criminal justice system? Explain.

Confidence in the criminal justice system?

- In general, how much confidence do you have in the criminal justice system? Ask them to elaborate.
- Specifically how much confidence do you have that the criminal justice providers handle VAW cases in a way that prioritizes victims' safety and ensures offender accountability and sends a message to the community that VAW will not be tolerated? [could break down criminal justice provider into police / prosecutor / judge / legal aid provider] Ask them to elaborate.
- Taking into account your experiences with the criminal justice system, if a similar incident would happen to you or to a friend, would you report it to the police / criminal justice? Why or why not?

Suggestions for justice guidelines to enhance women's access to justice

- How to improve the police / prosecution / judges / legal aid response?
 - What do you think the _____ [police / prosecutor / judge / legal aid provider] could do to make the _____ process [reporting process/ the investigation / the prosecution / the trial] easier for victims of VAW?
 - How could they ensure better protection for victims?
 - What could they do to ensure better support for victims so that the victims want to cooperate with the criminal justice system?





ANNEX 2

**GUIDELINES FOR THE FOCUS
GROUP DISCUSSIONS
WITH CRIMINAL JUSTICE
PROVIDERS**

Starting points:

- One group could include 5 to 7 criminal justice providers with similar background.
 - Is tape recording possible?
Transcription of the interviews?
 - If no tape recording: written document of the interview (as detailed as possible).
 - The focus group interview is administered by two members of the research team: it is led by a moderator; the other member of the research team is observer who takes notes of the discussion, and reads out the conclusions of the discussion to the group at the end of the group discussion. The conclusions should also be discussed whether it corresponds to the discussion or whether something is missing.
 - Full confidentiality must be ensured: no names on the written notes or on tape, no possibility to identify the respondent.
 - No outsiders allowed (no colleagues, chiefs or others controlling the discussion).
 - Natural every day environment: tea/ coffee, etc. served.
 - All participants should have the possibility to express their opinions (Moderator's task is to ensure equal opportunity and space).
- Length of the session 45-60 minutes, avoid yes / no answers.
 - Possible probing, the moderator can ask additional questions, e.g. *"is there something else"* if there seems to be willingness to continue the discussion of some specific topics.

Explanation

We are conducting research proposed by the United Nations and the Ministry of Justice of Viet Nam on women's perceptions and levels of awareness of the availability and function of the justice system, with a specific focus on the criminal justice services to victims of violence against women. The aim of the research is to ensure better enforcement of the criminal laws and to improve the legal system to enhance access to justice by women subjected to violence in Viet Nam.

Your names will not be written down in the document. All of your answers will be treated as strictly confidential and none of the information will be reported in a way that you could be identified. Your participation is voluntary, but very important if the research is to be successful.

LIST OF TOPICS FOR POLICE OFFICERS

1. What duties do you as police officers have towards victims of violence against women OR what police services are available to victims of violence against women?

- Are all forms of violence against women (VAW) crimes?
- How do you take into account victims of VAW in:
 - Receiving complaints? *High priority response? Victim friendly spaces?*
 - Filing formal reports? *Do you provide assistance to victims in reporting? Does it matter if the offence is a complainant offence?*
 - Investigation? *How do you ensure comprehensive investigations?*
 - Referral to prosecution office?
- Are there procedures to minimize secondary victimization?
- Protection of the victim against the perpetrator? (e.g. detention? restraining orders?)
- Preventing repeated victimization / tools for risk assessment?
- Confidentiality? Is this possible? What is done in practice?
- Transportation to medical care?
- Do you inform the victim of the services of other authorities or organizations or make referrals (e.g. legal aid, social sector, counseling services)?
- Reconciliation? What is your criteria for referring a case to reconciliation?
- Other proactive work?
- Are police services available to all women, 24/7, irrespective of where they live, if disabilities, etc?
- Do the policing services being provided depend on whether the offence is a complainant offence (i.e. where victim has to be active in filing a formal denunciation)? If yes, which ones and in what way?
- What are the corresponding rights of victims to these services?

2. Perception of the police / police services by community, and victims of VAW

- Do you think they know about these services? Why or why not?
- Do you think they are satisfied with these services – range – why or why not?
- How the public thinks / trusts / appreciates the police in general? Are the police seen as willing to receive reports and to investigate all VAW cases? Seen as corrupted?

3. Organization of the police to deal with VAW

- From your point of view, what are the special problems in reporting of and investigating VAW? What are the main challenges faced by the criminal justice system to VAW?
- Is it easy for the victim to report VAW cases? Compared to other crime types? What are the complicating factors in reporting? What are the victims' challenges in accessing police services?
- Is the police station or force organized in any way to respond to those special problems?

- Anh/chị có được tập huấn để làm việc với các nữ nạn nhân bị bạo lực hay không? Anh/chị hãy mô tả chi tiết.
 - Have you received training on dealing with victims of VAW? Describe. ◦ Are there special units? Describe.
 - Availability of female police officers for taking reports / investigation?
 - Does your police station have a separate interview room (that ensure privacy and is not intimidating).
- How do you cooperate or work with the other criminal justice actors? With victim support services?
 - If you knew a family member, a friend or a colleague who has experienced VAW, would you recommend to her that she report and proceed with a criminal case? Why or why not?

4. For guidelines to assist the police in handling VAW cases, do you have any recommendations?

- What are some of the strategies and approaches that could be used to address the challenges?
- Could prompt them by going through the steps of the justice chain, from initial contact, reporting, to investigation, bail hearing, prosecution and trial.
- Some examples:
 - Victim's statement must be taken by a trained police officer, and the victim provided the choice of speaking to a female police officer?
 - Video record her statement to limit the number of times she has to repeat her story?
 - Allow for victim support person to support her in her dealings with police?

5. Is there anything else on handling VAW cases that we have not discussed and that you want to mention?

LIST OF TOPICS FOR PROSECUTORS

1. What duties do you as prosecutor have towards victims of violence against women OR what prosecution services are available to victims of violence against women?

- Are all forms of VAW crimes?
- How do you take into account victims of VAW in:
 - Supervising the investigation? Does victim have the right to be kept informed of the criminal investigation?
 - Initiating prosecution? Who has primary responsibility?
 - Charging / approval of charge? Does the victim have the right to know if charges are to be laid and if not, why not?
 - Deciding to detain the perpetrator? Does the victim have the right to provide information before this decision is made?
- Are there procedures to minimize secondary victimization?
- Protection of the victim against the perpetrator? (e.g. detention; restraining orders?)

- Preventing repeated victimization / tools for risk assessment?
- Confidentiality? Is this possible? What is done in practice?
- Do you inform the victim of the services of other authorities or organizations or make referrals (e.g. legal aid, social sector, counseling services)?
- Are prosecution services accessible, available, responsive to all victims of violence?
- What are the corresponding rights of victims to these services?

2. Perception of the prosecutor / prosecution services by community, and victims of VAW

- Do you think they know about these services? Why or why not?
- Do you think they are satisfied with these services – range – why or why not?
- How the public thinks / trusts / appreciates the prosecution in general? Are the prosecutors seen as willing to investigate and prosecute all VAW cases? Seen as corrupted?

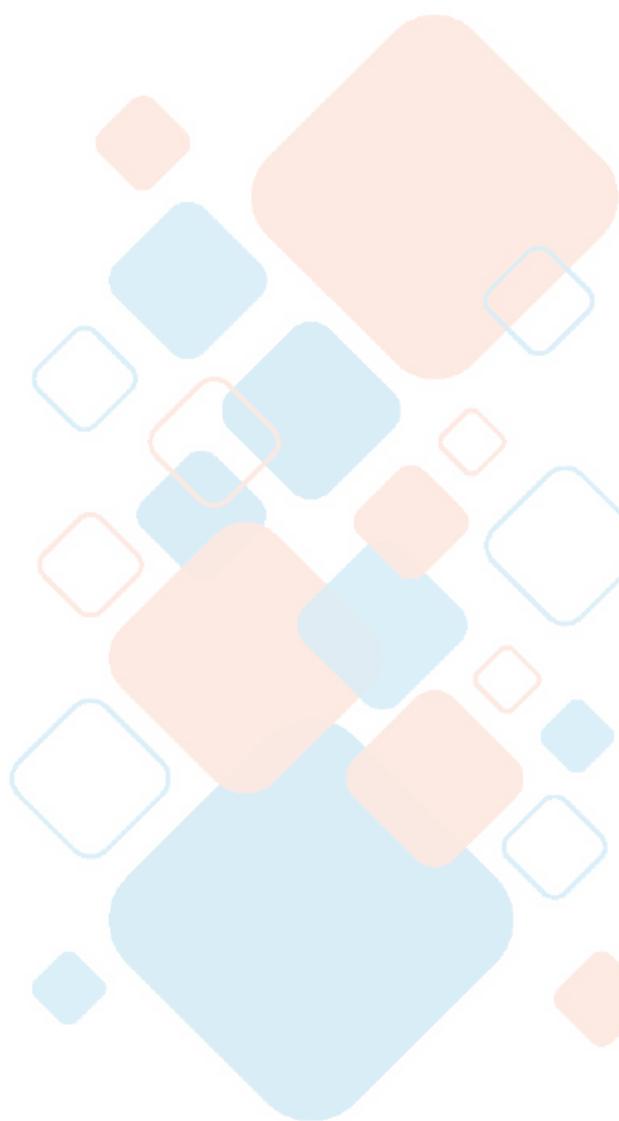
3. Organization of the prosecution to deal with VAW

- From your point of view, what are the special problems in prosecuting VAW? What are the main challenges face by the criminal justice system to VAW?
- Is it easy for the victim to be involved in the prosecution of VAW cases? Compared to other crime types? What are the complicating factors in prosecuting?
- Is the prosecution service organized in any way to respond to those special problems?
 - Have you received training on dealing with victims of VAW? Describe.
 - Are there special units? Describe.
 - Availability of female prosecutors for handling these cases?
 - Does your prosecution office have a separate interview room to take statements (that ensure privacy and is not intimidating)
- How do you cooperate or work with the other criminal justice actors? With victim support services?
- If you knew a family member, a friend or a colleague who has experienced gender-based violence, would you recommend to her that she report and proceed with a criminal case?

4. For guidelines to assist the prosecutors in handling VAW cases, do you have any recommendations?

- What are some of the strategies and approaches that could be used to address the challenges that have been mentioned?
- Could prompt them by going through the steps of the justice chain, from initial contact, reporting, to investigation, bail hearing, prosecution and trial.
- Some examples:
 - Pro-prosecution policy? Vertical prosecution policy?
 - Allowing and supporting victim to participate at bail hearings?
 - Allow for victim support person to support her in her dealings with the prosecutor?

5. Is there anything else on handling VAW cases that we have not discussed and that you want to mention?



LIST OF TOPICS FOR JUDGE / THE COURTS

1. What duties do you as a judge have towards victims of violence against women OR what court services are available to victims of violence against women?

- Are all forms of VAW crimes?
- How do you take into account victims of VAW in:
 - During the trial? *Providing a safe and friendly court room environment? Any measures to protect her privacy, integrity and dignity?*
 - During the provision of her evidence? *Assistance in presenting evidence in court?*
 - Sentencing decisions?
 - Civil hearing for protection orders?
- Are there procedures to minimize secondary victimization?
- Measures to protect the victim from the perpetrator? Protection measures during a criminal trial?
- Confidentiality? Is this possible? What is done in practice?
- Do you inform the victim of the services of other authorities or organizations or make referrals (e.g. legal aid, social sector, counseling services)?

- Are courts accessible, available, responsive to all victims of violence?
- What are the corresponding rights of victims to these services?

2. Perception of the courts / judges by community, and victims of VAW

- Do you think they know about these services provided by the courts? Why or why not?
- Do you think they are satisfied with these services – range – why or why not?
- How the public thinks / trusts / appreciates the courts / judges in general? Are the judges seen as willing to adjudicate all VAW cases? Seen as corrupted?

3. Organization of the courts to deal with VAW

- From your point of view, what are the special problems in adjudicating VAW cases? What are the main challenges face by the criminal justice system to VAW?
- Is it easy for the victim to be involved in the criminal courts in VAW cases? Compared to other crime types? What are the complicating factors in prosecuting?
- Are the courts or judiciary organized in any way to respond to those special problems?

- Have you received training on dealing with victims of VAW? Describe.
- Are there special courts/ dedicated judges? Describe.
- Do your courts have a separate waiting room for victims to wait during the trial?
- How do you cooperate or work with the other criminal justice actors? With victim support services?
- If you knew a family member, a friend or a colleague who has experienced gender-based violence, would you recommend to her that she report and proceed with a criminal case? Apply for civil protection order?
- Some examples:
 - Can the court order special measures, such as measures to ensure victims' privacy (closed courts, ban on media); protection measures (screens or CCTV to give evidence); dignity measures (no intimidating or negative stereotyping questions)?
 - Allow a victim support person or advocate?

5. Is there anything else on handling VAW cases that we have not discussed and that you want to mention?

4. For guidelines to assist the judges and the courts in handling VAW cases, do you have any recommendations?

- What are some of the strategies and approaches that could be used to address the challenges that have been mentioned?
- Could prompt them by going through the steps of the justice chain, from initial contact, reporting, to investigation, bail hearing, prosecution and trial, and specifically available civil protection measures.

LIST OF TOPICS FOR LEGAL AID PROVIDERS*

** This group might also include Vietnam Women's Union representatives who provide legal information and support to VAW victims. Adjust question accordingly.*

1. What duties do you as legal aid providers have towards victims of VAW OR what legal aid services are available to victims of VAW?

- Are all forms of VAW crimes?
- How do you take into account victims of VAW in:
 - Accessing whether individual qualifies for legal aid? (i.e. if family has enough income but woman cannot access it?)
 - Provide advice, legal information, legal representation to victims in criminal and civil matters?
- Are there procedures to minimize secondary victimization?
- Protection of the victim?
- Confidentiality? Is this possible? What is done in practice?
- Do you inform the victim of the services of other authorities or organizations or make referrals (e.g. social sector, counseling services)?
- Are legal aid services accessible, available, responsive to all victims of violence?

- What are the corresponding rights of victims to these services?

2. Perception of the legal aid provider / legal aid services by community, and victims of VAW

- Do you think they know about these services? Why or why not?
- Do you think they are satisfied with these services – range – why or why not?
- How the public thinks / trusts / appreciates legal aid in general? Are legal aid providers seen as willing to assist and represent all VAW cases? Seen as corrupted?

3. Organization of legal aid to deal with VAW

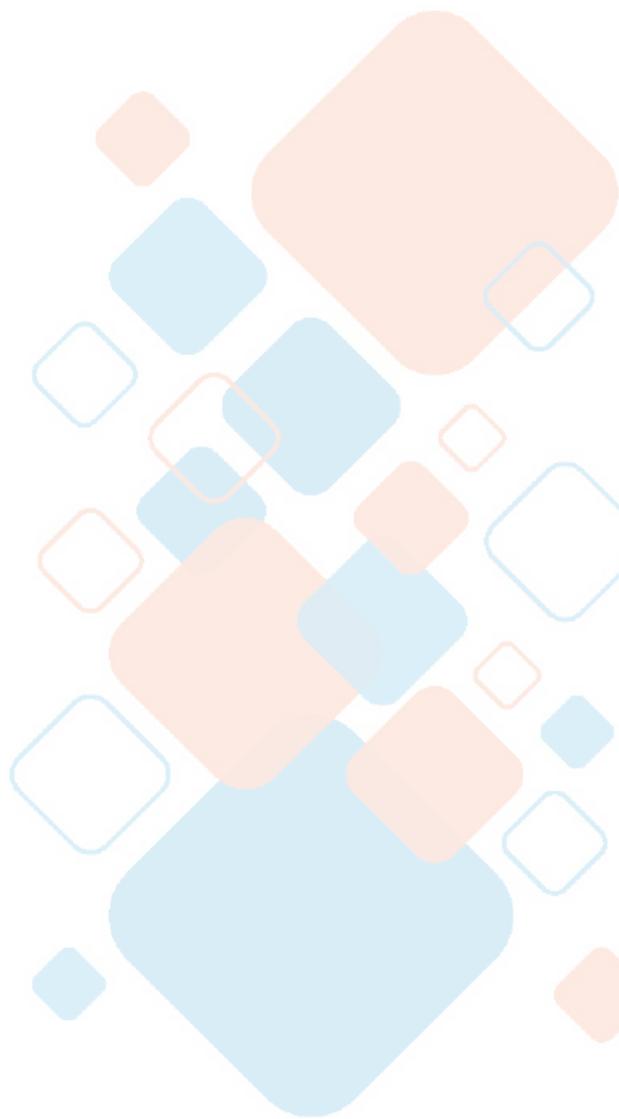
- From your point of view, what are the special problems in providing legal aid for victims of VAW? What are the main challenges face by the criminal justice system to VAW?
- Is it easy for the victim to be involved in reporting and participating in the criminal justice system? Or obtaining civil protection order? How easy is it to access legal representation?
- Is the legal aid service organized in any way to respond to those special problems?
 - Have you received training on dealing with victims of VAW? Describe.

- Are there special units or designated legal aid providers? Describe.
- Availability of female legal aid providers for handling these cases?
- How do you cooperate or work with the other justice actors? With victim support services?
- If you knew a family member, a friend or a colleague who has experienced gender-based violence, would you recommend to her that she report and proceed with a criminal case?

4. For guidelines to assist legal aid or other justice providers in handling VAW cases, do you have any recommendations?

- What are some of the strategies and approaches that could be used to address the challenges that have been mentioned?
- Could prompt them by going through the steps of the justice chain, from initial contact, reporting, to investigation, bail hearing, prosecution and trial as well as civil protection orders.

5. Is there anything else on handling VAW cases that we have not discussed and that you want to mention?





ANNEX 3

**QUESTIONNAIRE FOR
SURVEY FOR WOMEN ON
WOMEN'S PERCEPTION OF
JUSTICE IN VIET NAM**

Instructions: Researchers to fill in before passing out the survey to participants

1. Date of survey / 2017

2. Survey site (circle the one that applies)

1. Hanoi

2. Lang Son Province:

Introduction

We are conducting a survey proposed by the United Nations and the Ministry of Justice of Viet Nam on women's perceptions and levels of awareness of the availability and function of the justice system, with a specific focus on the criminal justice services to victims of violence against women. It aims to improve criminal justice services to women subjected to violence.

Two hundred (200) women have been chosen, with the assistance of the Viet Nam Women's Union, to complete this survey. Your name will not be written down in the document. All of your answers will be treated as strictly confidential and none of the survey results will be reported in a way that you could be identified. Your participation is voluntary, but very important if the survey is to be successful. The aim of the research is to ensure better enforcement of the criminal laws and improve the legal system to enhance access to justice by women subjected to violence in Viet Nam.

Instructions

Please complete the following questions. For each question, chose one of the options and circle the corresponding number or tick the appropriate box in the given table. If you have any difficulties or need for clarification, please flag down one of the researchers in the room who can assist you.

PART 1: BACKGROUND INFORMATION

Q1. Do you live in

1. Urban (city, town, urban district)
2. Suburbs
3. Rural (village, hamlet)

Q2. What year were you born?

Q3. What is your ethnicity?

1. Kinh
2. Other
98. Don't know/can't remember
99. Do not want to answer

Q4. What is your highest level of education?

- | | |
|-------------------------|---|
| 0. Never went to school | 9. Grade 9 |
| 1. Grade 1 | 10. Grade 10 |
| 2. Grade 2 | 11. Grade 11 |
| 3. Grade 3 | 12. Grade 12 |
| 4. Grade 4 | 13. Primary, intermediate technical/vocational training |
| 5. Grade 5 | 14. College/university and higher |
| 6. Grade 6 | 98. Don't know/can't remember |
| 7. Grade 7 | 99. Do not want to answer |
| 8. Grade 8 | |

Q5. Are you at the moment

1. Married
2. Widowed
3. Divorced
4. Separated
5. Single
6. Living together with partner
7. Relationship with a man without living together (e.g. dating)
98. Don't know/can't remember
99. Do not want to answer

Q6. Have you had any source of income all the time or part of the time in the last 2 years?

1. Yes, all of the time
2. Yes, part of the time
3. No – go to Q8
98. Don't know/can't remember
99. Do not want to answer

Q7. Do you decide how to spend all or part of your income?

1. Yes, all of it
2. Yes, part of it
3. No
98. Don't know/can't remember
99. Do not want to answer

Q8. Is your household at the moment classified as a poor household?

1. Yes
2. No
98. Don't know/can't remember
99. Do not want to answer

Q9. Have you ever experienced any form of violence in your lifetime?

1. Yes
2. No – *if no please go to the next section, Part 2 (from Q13)*
98. Don't know/can't remember – *please go to Q10 for further details and change your answer if wanted*
99. Do not want to answer – *please go to the next section, Part 2 (from Q13)*

Q10. What form of violence have you experienced?

MARK DOWN ALL THAT DESCRIBES YOUR EXPERIENCE

1. Rape (including attempted rape)
2. Other forms of sexual violence (sexual assault, unwanted sexual touching, sexual harassment)
3. Physical violence (being hit, beaten, bitten...) caused by intimate partner
4. Psychological violence (humiliating, deliberately doing something to make you feel diminished or embarrassed, isolating you from friends and family...) caused by intimate partner
5. Sexual violence caused by intimate partner
6. Economic violence caused by intimate partner
7. Physical violence caused by family members other than intimate partner
8. Psychological caused by family members other than intimate partner

9. Sexual violence caused by family members other than intimate partner
10. Economic violence caused by family members other than intimate partner
11. Human trafficking
12. Forced marriage
13. Early marriage
14. Forced prostitution
15. Other.

Q11. Have you ever reported or tried to report an incident of violence?

1. Yes
2. No – *go to the next section, Part 2 (from Q13)*
98. Don't know/can't remember – *please go to Q12 for further details and change your answer if want*
99. Do not want to answer - *go to the next section, Part 2 (from Q13)*

Q12. What stage in the criminal justice system did you get to?

MARK DOWN ALL THAT DESCRIBES YOUR EXPERIENCE

1. Report to authorities who were not the police (e.g. head of cluster/village; VWU, reconciliation team)
2. Initial contact with police / referral to police
3. Filing an official report / formal denunciation
4. Commencement a criminal investigation
5. Criminal charges
6. Pre-trial detention hearing
7. Trial
8. Conviction and sentencing



PART 2. UNDERSTANDING YOUR RIGHTS AROUND ACCESS TO JUSTICE AND LEVELS OF AWARENESS OF THE AVAILABILITY AND FUNCTION OF POLICING AND JUSTICE SERVICES

This next set of questions is about your personal understanding of your rights, particularly the right to access justice. This also corresponds to your knowledge about available policing and justice services. Some of the questions may be difficult to answer and you are under no obligation to respond. However, your answers are very important. They help us to better understand women's perception about their rights to justice and available justice services in Viet Nam. If you need any clarification as to the meaning of any question, please ask one of the researchers in the room. They are there to help.

Q13. How well do you know your rights to access justice?

1. Very well informed
2. Well informed
3. Somewhat informed
4. Little informed
5. Not informed

Q14. Do you believe you have the following rights in Viet Nam?

	1 = Yes	2 = No	98 = Don't know
1. The right to live free of violence and from the fear of violence	1	2	98
2. The right to be treated with compassion and dignity by justice providers	1	2	98
3. The right to easy access to policing and justice services	1	2	98
4. The right to be kept informed of the criminal justice proceedings	1	2	98
5. The right to voice your concerns and views at all stages of the criminal justice proceedings	1	2	98
6. The right to privacy as victims involved in the criminal justice system	1	2	98
7. The right to necessary assistance as victims in the criminal justice system, such as legal, social and psychological assistance	1	2	98
8. The right to prompt remedy for harm suffered	1	2	98

Q15. Please provide your opinion on the following forms of violence if they happen to an adult women in Viet Nam:

	1 = a crime	2 = wrong, but not a crime	3 = something that just happens	98 = Don't know
1. Rape	1	2	3	98
2. Attempted rape	1	2	3	98
3. Sexual assault (unwanted sexual touching)	1	2	3	98
4. Sexual harassment	1	2	3	98
5. Physical violence caused by intimate partner	1	2	3	98
6. Psychological violence caused by intimate partner	1	2	3	98
7. Sexual violence caused by intimate partner	1	2	3	98
8. Economic violence caused by intimate partner	1	2	3	98
9. Physical violence caused by family members other than intimate partner	1	2	3	98
10. Psychological violence caused by family members other than intimate partner	1	2	3	98
11. Sexual violence caused by family members other than intimate partner	1	2	3	98
12. Economic violence caused by family members other than intimate partner	1	2	3	98
13. Human trafficking	1	2	3	98
14. Forced marriage	1	2	3	98
15. Early marriage	1	2	3	98
16. Force prostitution	1	2	3	98

Q16. Would you know where to go to file a complaint in a case of violence against women?

1. Yes
2. No – *go to Q18*
98. Don't know/can't remember - *go to Q18*
99. Do not want to answer

Q17. And specifically, where would you go?

1. Head of the living cluster (urban / village (rural))
2. Police
3. Women's Union
4. Legal aid/ legal office
5. People's Committee (other than police)
6. Fatherland Front
7. Farmer's Association
8. Other authorities. Specify?

.....

**Q18. Women have different levels of knowledge about the criminal justice system.
How much do you feel you know about the following:**

	1 = Very well informed	2 = Well informed	3 = Somewhat informed	4 = Little informed	5 = Not informed
1. Procedures for reporting a case of violence against women	1	2	3	4	5
2. The bail system (i.e. when people are released before their trial)	1	2	3	4	5
3. Procedures involved in forensic examination	1	2	3	4	5
4. How a prosecutor decides when to commence a prosecution (i.e. lay a charge)	1	2	3	4	5
5. Court procedures and evidentiary rules in a criminal trial	1	2	3	4	5
6. Sentencing	1	2	3	4	5
7. Support services to victims of violence against women	1	2	3	4	5

Q19. Do you know where the nearest criminal justice institution is for you?

	1 = Yes	2 = No	3 = Don't know
1. Local police station	1	2	3
2. Prosecution office	1	2	3
3. Criminal Court	1	2	3
4. Legal aid office	1	2	3
5. Lawyers	1	2	3
6. VWU office	1	2	3
7. Other social organizations' offices (e.g. Farmer's Association, Youth Union, etc)	1	2	3



PART 3. PERCEPTIONS OF AND CONFIDENCE LEVELS IN EXISTING POLICING AND JUSTICE SERVICES

This next set of questions is about your personal opinions on how the current criminal justice system is working for women, and particularly for women who experience violence. You do not have to have been a victim yourself or had personal experience with the criminal justice system to share your opinions. Your personal opinions can come from your own experiences, experiences of other family and friends, or from the media or other sources. Some of the questions may be difficult to answer and you are under no obligation to respond. However, your answers are very important. They help us to better understand women's perceptions on accessing the criminal justice system. If you need any clarification as to the meaning of any question, please ask one of the researchers in the room. They are there to help.

Q20. Please describe your level of agreement to the following statements about the criminal justice system in Viet Nam (which number would you use to express your level of agreement if 0 = “totally disagree”, 10 = “totally agree”.

	0 (totally disagree)	1	2	3	4	5	6	7	8	9	10 (totally agree)
1. It is something that doesn't bother me	0	1	2	3	4	5	6	7	8	9	10
2. It is fair	0	1	2	3	4	5	6	7	8	9	10
3. It is helpful	0	1	2	3	4	5	6	7	8	9	10
4. It is accessible	0	1	2	3	4	5	6	7	8	9	10
5. It is for people like me	0	1	2	3	4	5	6	7	8	9	10
6. It serves everyone, rather than only the rich	0	1	2	3	4	5	6	7	8	9	10
7. It is representative of all Vietnamese	0	1	2	3	4	5	6	7	8	9	10
8. It works well	0	1	2	3	4	5	6	7	8	9	10
9. It is efficient	0	1	2	3	4	5	6	7	8	9	10
10. It treats victims of violence against women with respect rather than places the responsibility of the violence on the women victims	0	1	2	3	4	5	6	7	8	9	10
11. It is understandable rather than confusing	0	1	2	3	4	5	6	7	8	9	10
12. It is approachable rather than intimidating	0	1	2	3	4	5	6	7	8	9	10

Q21. How strongly do you agree or disagree with the following statement: All women living in Viet Nam have equal and fair access to the criminal justice system (which number would you use to express your level of agreement if 0 = “totally disagree”, 10 = “totally agree”)

0 (totally disagree)	1	2	3	4	5	6	7	8	9	10 (totally agree)
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Q22. How strongly do you agree or disagree with the following statement: All women who have experienced domestic violence living in Viet Nam have equal and fair access to the criminal justice system(which number would you use to express your level of agreement if 0 = “totally disagree”, 10 = “totally agree”)

0 (totally disagree)	1	2	3	4	5	6	7	8	9	10 (totally agree)
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Q23. How strongly do you agree or disagree with the following statement: All women who have experienced sexual violence living in Viet Nam have equal and fair access to the criminal justice system (which number would you use to express your level of agreement if 0 = “totally disagree”, 10 = “totally agree”)

0 (totally disagree)	1	2	3	4	5	6	7	8	9	10 (totally agree)
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Q24. Thinking of women who have experienced violence, do you think they face any barriers when seeking justice?

1. Yes
2. No – go to Q26
98. Don't know – go to Q25 for further details and change your answer if wanted
99. Do not want to answer

Q25. What are the more significant barriers women victims of violence face when seeking justice?

MARK UP TO THREE YOU THINK ARE THE GREATEST BARRIERS

1. Limited awareness of rights
2. Shame, embarrassment / thought it was her fault
3. Didn't want anyone to know / lose privacy once she reports
4. Fear of offender / no effective protection measures available
5. Pressure by the family not to seek justice / lack of support from (extended) family
6. Complicated procedures
7. Poor treatment by criminal justice provider (e.g. would not be believed or would be blamed)
8. Language barriers
9. Location of criminal justice institutions (police station, courts)
10. Did not know it is possible to receive assistance in legal matters
11. Did not want the offender arrested / in trouble with police
12. Cost of seeking justice / fear of financial loss

Q26. Based on what you know about the police, if you were a victim of violence against women how much confidence do you have in the following matters (which number would you use to express your level of confidence if 0 = “no confidence at all”, 10 = “a great deal of confidence”)

	0 (no confidence at all)	1	2	3	4	5	6	7	8	9	10 (a great deal of confidence)
1. You would report a case of violence to the police	0	1	2	3	4	5	6	7	8	9	
2. The police will make sure that you can tell your story comfortably by giving you enough time to tell your story	0	1	2	3	4	5	6	7	8	9	10
3. The police will take care of your privacy	0	1	2	3	4	5	6	7	8	9	10
4. The police will show sympathy	0	1	2	3	4	5	6	7	8	9	10
5. The police will act politely	0	1	2	3	4	5	6	7	8	9	10
6. The police will ask you about your concerns about further violence	0	1	2	3	4	5	6	7	8	9	10
7. The police will take care of your protection needs	0	1	2	3	4	5	6	7	8	9	10
8. The police will adequately explain to you what will happen next and when it will happen	0	1	2	3	4	5	6	7	8	9	10
9. The police will arrest the perpetrator	0	1	2	3	4	5	6	7	8	9	10
10. The police will help you find information about available victim support services, such as shelters and counselling	0	1	2	3	4	5	6	7	8	9	10
11. The police will conduct a thorough investigation	0	1	2	3	4	5	6	7	8	9	10
12. The police are interested in holding the perpetrator accountable	0	1	2	3	4	5	6	7	8	9	10
13. You will be satisfied with the work of the police	0	1	2	3	4	5	6	7	8	9	10

Q27. Based on what you know about the procuracy, if you were a victim of violence against women how much confidence do you have in the following matters (which number would you use to express your level of confidence if 0 = “no confidence at all”, 10 = “a great deal of confidence”)

	0 (no confidence at all)	1	2	3	4	5	6	7	8	9	10 (a great deal of confidence)
1. The prosecutor will consider the case seriously when deciding on what charges to bring against the perpetrator	0	1	2	3	4	5	6	7	8	9	
2. The prosecutor will bring the case to court	0	1	2	3	4	5	6	7	8	9	10
3. The prosecutor will listen to your concerns and represent you at the criminal trial	0	1	2	3	4	5	6	7	8	9	10
4. The prosecutor will ask for protection measures on your behalf if you need them	0	1	2	3	4	5	6	7	8	9	10
5. The prosecutor will take care of your privacy	0	1	2	3	4	5	6	7	8	9	10
6. The prosecutor will show sympathy	0	1	2	3	4	5	6	7	8	9	10
7. The prosecutor will act politely	0	1	2	3	4	5	6	7	8	9	10
8. The prosecutor will adequately explain to you what will happen next and when it will happen	0	1	2	3	4	5	6	7	8	9	10
9. The prosecutor is interested in holding the perpetrator accountable	0	1	2	3	4	5	6	7	8	9	10
10. You will be satisfied with the work of the prosecutor	0	1	2	3	4	5	6	7	8	9	10

Q28. Based on what you know about the courts and judges, if you were a victim of violence against women how much confidence do you have in the following matters (which number would you use to express your level of confidence if 0 = “no confidence at all”, 10 = “a great deal of confidence”)

	0 (no confidence at all)	1	2	3	4	5	6	7	8	9	10 (a great deal of confidence)
1. You will be treated fairly by the criminal courts	0	1	2	3	4	5	6	7	8	9	10
2. You will be taken seriously by the courts	0	1	2	3	4	5	6	7	8	9	10
3. Your safety will be secured	0	1	2	3	4	5	6	7	8	9	10
4. The judge will make sure that you can tell your story comfortably and not be intimidated by the process, the judge or the perpetrator	0	1	2	3	4	5	6	7	8	9	10
5. The judge will take care of your privacy	0	1	2	3	4	5	6	7	8	9	10
6. The judge will ban the public in court	0	1	2	3	4	5	6	7	8	9	10
7. The judge will show sympathy	0	1	2	3	4	5	6	7	8	9	10
8. The judge will act politely	0	1	2	3	4	5	6	7	8	9	10
9. The judge will hold the perpetrator accountable	0	1	2	3	4	5	6	7	8	9	10
10. The punishment will be strict enough	0	1	2	3	4	5	6	7	8	9	10
11. You will be satisfied with the criminal trial	0	1	2	3	4	5	6	7	8	9	10

Q29. Based on what you know about lawyers and legal aid, if you were a victim of violence against women how much confidence do you have in the following matters (which number would you use to express your level of confidence if 0 = “no confidence at all”, 10 = “a great deal of confidence”)

	0 (no confidence at all)	1	2	3	4	5	6	7	8	9	10 (a great deal of confidence)
1. You can find a lawyer or legal aid provider when you need one	0	1	2	3	4	5	6	7	8	9	10
2. You will receive useful legal advice from a lawyer or legal aid provider	0	1	2	3	4	5	6	7	8	9	10
3. You can find helpful legal information when you need it	0	1	2	3	4	5	6	7	8	9	10
4. You can afford the services of a lawyer	0	1	2	3	4	5	6	7	8	9	10
5. You would qualify for legal aid	0	1	2	3	4	5	6	7	8	9	10
6. You will be satisfied with the services provided by a lawyer /legal aid	0	1	2	3	4	5	6	7	8	9	10

Q30. In general, how much do you trust the police? Do you trust the police:

1. Very much
2. Rather much
3. Not much, nor little
4. Rather little
5. Very little

Q31. In general, how much do you trust the prosecutor? Do you trust the prosecutor:

1. Very much
2. Rather much
3. Not much, nor little
4. Rather little
5. Very little

Q32. In general, how much do you trust the judges and courts? Do you trust the judges and courts:

1. Very much
2. Rather much
3. Not much, nor little
4. Rather little
5. Very little

Q33. In general, how much do you trust legal aid? Do you trust legal aid:

1. Very much
2. Rather much
3. Not much, nor little
4. Rather little
5. Very little

PART 4. SUGGESTIONS FOR JUSTICE GUIDELINES TO ENHANCE WOMEN'S ACCESS TO JUSTICE

This next set of questions is about your personal opinions on how the criminal justice system could improve for victims of violence against women. If you need any clarification as to the meaning of any question, please ask one of the researchers in the room. They are there to help.

Q34. Please read carefully the following initiatives that could be under taken by the police and choose the three most important that in your opinion could enhance access to justice for women victims of violence

1. Being able to speak to a female police officer
2. Dealing with police officers who are specially trained in understanding violence against women
3. Being made to feel comfortable, safe and secure and be treated with dignity and respect
4. Having a friendly space in the police station that allows for privacy where the victim can give her statement
5. Having her statement video-taped so she doesn't have to repeat her story many times
6. Having a support person / victim advocate with her when dealing with the police
7. Having a legal aid provider or lawyer with her when dealing with the police
8. Having the choice of undergoing a forensic examination without having to formally report to the police
9. Being able to report the violence at another location, such as hospital or One Stop Centre, where the police come to see her
10. Being guaranteed a priority police response
11. Being believed / being listened to by the police
12. Having her protection needs addressed immediately by the police conducting a formal risk assessment
13. Being referred to other services, such as health, shelters, counselling

14. Being informed of the criminal justice system and kept informed of the progress of the case
15. Not being forced to mediation

Q35. Please read carefully the following initiatives that could be under taken by the prosecution and choose the three most important that in your opinion could enhance access to justice for women victims of violence

MARK UP TO THREE YOU THINK ARE THE MOST IMPORTANT INITIATIVES

1. Being able to speak to a female prosecutor
2. Dealing with prosecutors who are specially trained in understanding violence against women
3. Having prosecutors who are non-judgmental and supportive
4. Being made to feel comfortable, safe and secure and be treated with dignity and respect
5. Having a support person / victim advocate with her when dealing with the prosecutor
6. Having a legal aid provider or lawyer with her when dealing with the prosecutor
7. Having her case given priority in terms of case building and approving charges
8. Being able to participate in the bail hearing
9. Having information to prepare her for court, such as explanation of the court procedures and everyone's roles

Q36. Please read carefully the following initiatives that could be under taken by the courts and judges and choose the three most important that in your opinion could enhance access to justice for women victims of violence

MARK UP TO THREE YOU THINK ARE THE MOST IMPORTANT INITIATIVES

1. Having her case heard by a female judge
2. Having her case heard by a judge who is specially trained in understanding violence against women

3. Having a safe and friendly court room environment
4. Being able to wait in a separate waiting room at the court house so she does not have to meet the accused
5. Having a support person with her during the trial process
6. Having a legal aid provider or lawyer with her during the trial
7. Being able to limit or ban public present at the trial
8. Being able to limit or restrict media publishing personal information about the victim
9. Being able to give her evidence where she does not have to face the accused, such as screen, behind closed doors or via closed circuit television
10. Having her evidence limited to relevant evidence, not allow for questions about her past sexual history

Q37. Please read carefully the following initiatives that could be under taken by legal aid and choose the three most important that in your opinion could enhance access to justice for women victims of violence

MARK UP TO THREE YOU THINK ARE THE MOST IMPORTANT INITIATIVES

1. Having free and competent legal advice and counselling about her legal rights and remedies
2. Being able to speak to a female legal aid officer
3. Dealing with a legal aid provider who is specially trained in understanding violence against women
4. Having legal aid providers who are non-judgmental and supportive
5. Being made to feel comfortable, safe and secure and be treated with dignity and respect
6. Having assistance in obtaining protection orders

REFERENCES

1. ActionAid International Viet Nam “Policy Brief” “Safe Cities for Women and Girls: Can Dreams Come True?” (ActionAid, Irish Aid, Safe Cities for Women).
2. From Domestic Violence to Gender-Based Violence: Connecting the Dots in Viet Nam (2014: UNFPA).
3. Gardsbane, D., Vu, H.S., Taylor, K., Chanthavysouk, K. (2010) Gender-based Violence: Issue Paper. Ha Noi: United Nations Viet Nam.
4. The 2006 Law on Gender Equality; the 2007 Law on Domestic Violence Prevention and Control; the 2011 Law on Human Trafficking Prevention and Combat; and the 2012 Labour Code.
5. Viet Nam 2015 Penal Code.
6. Viet Nam 2017 Legal Aid Law.
7. UN interagency Essential Services Package for Women and Girls Subject to Violence, Module 3 “Justice and Policing”, see <http://www.unwomen.org/en/digitallibrary/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>.
8. UN Women and Ho Chi Minh National Political Academy “Study Report: Access to Justice in the Plural Legal System in Viet Nam: A Case Study of Women Domestic Violence Survivors.” Ha Noi. 2015.
9. UN Women, UNODC, UNDP, UNITE, The Trial of Rape: Understanding the Criminal Justice Systems Response to Sexual Violence in Thailand and Viet Nam.
10. United Nations Population Fund, United Nations Development Fund for Women and Office of the Special Adviser on Gender Issues and Advancement of Women (2005) Combating Gender-Based Violence: A Key to Achieving the MDGs.
11. UNODC and UN Women “Assessment of the Situation of Women in the Criminal Justice System in Viet Nam: In support of the Government’s Efforts towards Effective Gender Equality in the Criminal Justice System” (Hanoi: July 2013).

12. UNODC, HEUNI, Research Centre for Gender and Development (2010) Research on the Quality of Criminal Justice Services available to Victims of Domestic Violence.
13. UNODC, Research on Law Enforcement Practices and Legal Support to Female Victims of Domestic Violence in Viet Nam, 2011.
14. UN and Viet Nam General Statistics Office (2010) Results from the National Study on Domestic Violence against Women in Viet Nam: “Keeping silent is dying.”

Table 1: Key international human rights and legal instruments

15. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), CEDAW General Recommendations No 19 and No 33.
16. Beijing Declaration and Platform for Action.
17. UN Declaration on the Elimination of Violence against Women.
18. Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN.
19. UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.
20. Commission on the Status of Women 57th Session Agreed Conclusions.
21. 2030 Agenda for Sustainable Development and the inclusion of Sustainable Development Goal (SDG) 5, Target 5.2, to eliminate all forms of violence against women in public and private spheres.



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