



BỘ TƯ PHÁP



LIÊN MINH CHÂU ÂU



CHƯƠNG TRÌNH PHÁT TRIỂN
LIÊN HỢP QUỐC



THEMATIC PAPER
**GENDER EQUALITY IN
GRASSROOTS
MEDIATION**



EU
JULE

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National consultant

Nguyen Thi Kim Thoa

Technical support

1. Phan Thi Hong Ha, Deputy Head of the Committee for the Advancement of Women, Ministry of Justice.
2. Vu Kim Dung, Leader of the Secretariat to assist the Committee for the Advancement of Women, Ministry of Justice.
3. Nguyen Ngoc Thuy Duong, Member of the Secretariat to assist the Committee for the Advancement of Women, Ministry of Justice

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BDG	Gender equality
BLG	Gender-based violence
BVSTBPN	Committee for the Advancement of Women
CEDAW	Convention on the Elimination of All Forms of Violence against Women
DVTY	Essential services for women and girls experiencing violence
ICESCR	Convention on Economic, Social and Cultural Rights
HGCS	Grassroots mediation
UN	UN United Nations
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Program
ICESCR	Convention on Economic, Social and Cultural Rights

EXECUTIVE SUMMARY

Grassroots mediation plays an important role in social life, which can be said to be an effective method of dispute resolution. Because successful mediation will heal and restore good relationship between the parties in dispute, helping to maintain a solidarity and binding relationship in the community. Therefore, mediation at the grassroots is the basis for the organization of a solidarity, harmony and consensus society, the people believe in the leadership of the Party and the government, creating a prerequisite for political stability and promoting socio-economic development. Therefore, mediation at the grassroots level is not only an effective method of dispute resolution but also a method of disseminating practical legal education, in order to preserve and maintain solidarity within the people; prevent law violations and crime, ensure social order and safety, contribute to building and raising the sense of respect for the law in the community; towards building a consensus and solidarity society, jointly performing the revolutionary tasks set by the Party and the State¹.

In order to fulfill the targets and tasks of ensuring gender equality in the areas of social and family life, preventing and responding to gender-based violence, especially ensuring equal access to legal aid services and mediation activities at the grassroots level for victims of domestic violence, there should be an analysis and assessment of the situation and the results of mainstreaming gender equality in mediation activities. In that spirit, the report mainly focuses on the issue of gender mainstreaming in mediation for the general target groups, with special attention to vulnerable groups and groups subject to violence in particular.

This study findings will provide and identify specific tasks as well as solutions and pathways to achieve the goals, tasks and targets for gender equality by 2030 that the EU Justice and Legal Empowerment Programme in Viet Nam” (EU JULE), funded by the European Union, implemented by UNDP and UNICEF together with relevant State agencies, educational and academic institutions designed to strengthen the rule of law through the mediation mechanism; and through a more reliable and better accessible justice system and especially to increase access to justice for women, children and groups experiencing the greatest obstacles in the use of the mediation mechanism, the justice system, including ethnic minorities and the poor. Strengthening activities to promote gender equality in mediation, intervention in legal and judicial field is one of the key interventions to achieve the Programme's objectives

Key findings

1. Overall Assessment

1.1. Strength

- The implementation of the Law on grassroots mediation nationwide has a positive impact on social life, creating a comprehensive and solid legal basis for grassroots mediation activities to be in place, unified and effective, thereby affirming the position and important role of grassroots mediation in social life.
- The number of successful mediation cases from 2014 to the end of 2017 was 472,197/579,609 mediation cases, accounting for 81.45%, the mediation rate increased steadily between the years.
- According to incomplete statistics of 63 provinces and centrally run cities across the country, from 2014 to the end of 2018, mediators at the grassroots level have mediated 26,771 cases related to domestic violence and successfully mediated 22,293 cases.

1.2. Shortcomings and limitations

¹https://pbgdpl.bacgiang.gov.cschi-tiet-tin-tuc/-/asset_publisher/ctFINBWOJ3XS/content/lam-tot-cong-tac-hoa-giai-o-co-so-la-gop-phan-xay-dung-y-thuc-thuong-ton-phap-luat-trong-cong-ong-dan-cu

In addition to the benefits and advantages of grassroots mediation, there are some shortcomings and limitations in grassroots mediation, such as:

- **Governance of grassroots mediation.** Number of officers at commune level are small and taking different tasks concurrently, so they have not spent much time on grassroots mediation; the professional capacity of judicial - civil status civil servants at commune level and mediators is still limited due to lack of regular training, especially in mountainous, remote communes with difficult socio-economic conditions.

- **Organization of mediation (mediation teams) at the grassroots level and mediators.** The quality and effectiveness of mediation at the grassroots level is not high, uneven, not meeting the requirements of the practice; many conflicts, disputes and violations of the law in the scope of mediation at the grassroots level have not been detected ; or were detected but have not been mediated; untimely mediation; unsuccessful mediation; In the mediation process, there are cases where mediators violate the law on mediation at the grassroots level, causing negative impacts on the legitimate rights and interests of the parties, reducing the quality and effectiveness of mediation activities at the grassroots level and the strictness of the law. The level of education, legal knowledge, skills of the majority of mediators is still low (of 651,215 mediators, only 28,006 have law education grounds, accounting for 4.3%). The team of mediators rarely receive training materials and retraining to improve legal knowledge and mediation skills.

- **The lack of a female mediator.** According to statistical reports of 63 provinces and cities, by 2020, the country has 88,765 mediation organizations with 548,367 mediators, including 153,119 female mediators. Some localities have a high percentage of female mediators such as Ho Chi Minh City 43%, Hai Phong 39%, Quang Ninh 37.67%... However, as of 31.12.2020, the number of female mediators across the country only accounts for about 28% of mediators at the grassroots level, while according to the regulations, the Mediation Team must have female mediators.

- **Lack of gender sensitivity in mediation.** Not all mediators are interested in gender issues, gender equality and the rights of women and children in mediated cases. In mediation conferences, they often focus on conflict, disputes instead of comprehensively looking at the issues that govern the behavior of the parties such as gender, culture, religion and gender perceptions. The mediator mainly applies his/her own available experiences, mediating based on his/her own subjective will. In addition, members of the mediation team still lack basic knowledge about gender equality and lack of gender sensitivity in handling their work. According to the Report "Situation of dispute resolution through grassroots mediation", the people's feedback on how mediators ensure gender equality when working with specific target groups is assessed as follows:

- Understanding the awareness of mediators on the issue of ensuring gender equality and child protection, during the mediation process, the survey and interviews with the people being mediated showed that, only 57.4% of the people being mediated said that mediators have an interest in this issue, 10.9% said that grassroots mediators do not pay attention to these issues. It is noteworthy that this figure does not correspond to 79.5% of mediators who have been trained and guided on contents related to gender equality and child protection, which is much lower than the percentage of mediators who have been trained and guided.
- Many mediators still lack knowledge and skills, especially in mediating sensitive cases (such as domestic violence, cases involving women, children, elderly people, people with disabilities...), so the mediation has not achieved the desired results.

2. Assessment of the situation of gender-based violence

The results of the 2019 National Survey on Violence against Women have provided specific data on the incidence and types of violence.

- Of the 03 women, nearly 02 women (62.9%) were subjected to at least one or more forms of violence caused by their husbands in their lives and 31.6% experienced current violence (in the past 12 months).
- 4.4% of women said they had been sexually abused before the age of 15.
- Women are more violent by their husbands/partners than are by others. One in 10 women (11.4%) experienced physical violence since they were 15 years old. When women are subjected to physical violence caused by others other than their husbands, the main perpetrators of violence are male family members (60.6%).
- One out of every 10 women (9%) suffer from sexual violence perpetrated by another person since the age of 15. Most of the perpetrators of violence are men who are not members of the family (e.g., men who are unknown, friends or acquaintances; recent acquaintances; or co-workers/colleagues).
- A lot of violence against women is kept secret/untold. Half of the women with violent husbands have never told anyone. Most women (90.4%) who experience physical and/or sexual violence caused by their husbands do not seek any support from government agencies.
- Children are also victims when living in violent environments. Of the women who experienced physical violence, 61.4% reported that their children had seen or heard violence. Women who experience physical and/or sexual violence by their husbands say that their children (5-12 years old) often have behavioral problems.

3. Specific rating

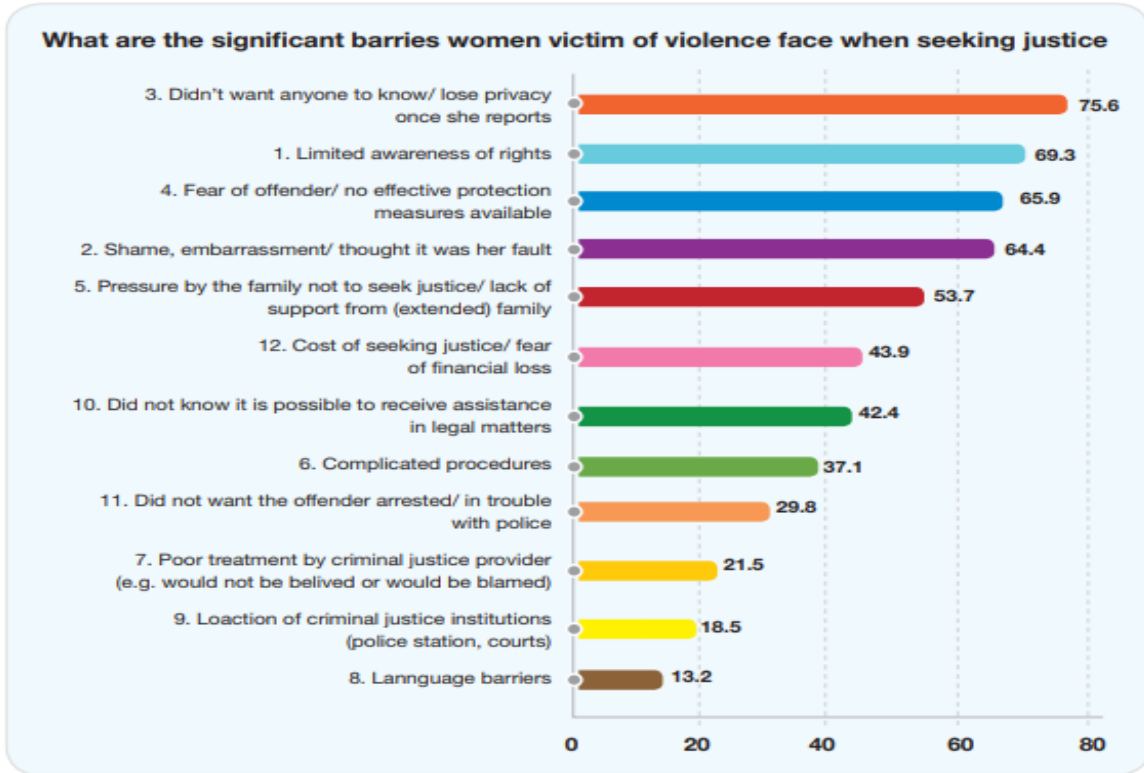
3.1 The organization and personnel have not been ensured. According to the provisions of the Law on Mediation at grassroots level, each mediation group has 03 or more mediators, including female mediators. However, according to the statistics of the Ministry of Justice, as of December 31, 2020, the number of female mediators nationwide only accounts for about 28% of mediators at grassroots level (different allocation in localities).

3.2 Attention has not been paid to the gender factor when mediating. It is worth noting that not all mediators are interested in gender issues, gender equality and the rights of women and children in mediated cases. In mediation conferences, they often focus on conflict, disputes instead of comprehensively looking at the issues that govern the behavior of the parties such as gender, culture, religion, and gender perceptions.

3.3 The violence against women case has not been fully reported. As stated, according to the National Survey on Violence against Women in Vietnam 2019, there are many cases of violence against women that are kept secret. Half of the women with violent husbands have never told anyone. Most women (90.4%) who experience physical and/or sexual violence caused by their husbands do not seek any support from government agencies. For one of these reasons, the number of mediation cases is not large.

3.4 Barriers that limit women's/victims' access to justice

According to the survey report on “Access to criminal justice of women suffering from violence in Vietnam. Women's concept of “access to justice”¹, even being subject to violence, mental and physical harm, they do not want to report the case because of the barriers below:



PROPOSED SOLUTIONS IN THE FUTURE

According to the National Strategy on Gender Equality for the period 2021 – 2030, related to gender equality, it is necessary to achieve the following objectives:

Goal 3: In family life and prevention and response to gender-based violence

- Target 2: By 2025, 80% and 90% of those who suffer from domestic violence and gender-based violence will be found to have access to at least one of the basic support services; by 2025, 50% and 70% of those who cause domestic and gender-based violence but not amount to be prosecuted for criminal responsibility will be consulted.”

To implement this Strategy, the Ministry of Justice issues a Justice Sector Plan, which sets out the following objectives:

Objective 2: To improve the effectiveness of dissemination and education of legal regulations on gender equality to all strata of the population in order to change the behavior on gender equality, eliminate gender stereotypes and prevent and control gender-based violence.

Target 2.1: Strive to have 100% legal education and dissemination programs and plans implemented by the Ministry and Departments of Justice to integrate gender equality from 2025.

Target 2.2: Strive to have 70% by 2025 and 100% of staff working in dissemination, legal education, grassroots mediation of the Department of Justice will be fostered in gender knowledge by 2030.”

Starting from the actual situation of assessing the situation of gender mainstreaming in grassroots mediation and achieving the objectives with the above indicators, specific objectives, tasks and solutions are proposed to contribute to ensuring gender equality in grassroots mediation activities as follows:

1. Strengthen communication and dissemination of the law on gender and gender equality

2. Strengthen the mediation teams in the direction that each mediation team has at least 1 female mediator.

3. Improve the legal knowledge for, train the team of mediators and officials in initial contact with victims on the identification of violations of gender equality; gender-based violence; identification of gender-based inequalities; scope of mediation; order, procedures and principles of mediation; responsibilities of mediation - especially the responsibility to keep confidential private information; information handling skills, skills to help victims overcome barriers.

4. Research, provide guidance, training and retraining on gender equality mainstreaming

5. Equip legal aid officers and mediators with some necessary skills.

FOREWORD

Viet Nam is one of the earliest ratifiers of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to encourage member countries to codify and achieve substantial gender equality in their countries. Viet Nam has always been highly committed to fulfilling its obligations as a State Party. Viet Nam has committed itself to fulfilling other international commitments on human rights, children's rights, the Beijing Declaration and Platform for Action (1995) as well as the United Nations 2030 Agenda with sustainable development goals, including promoting gender equality in all aspects of social life (Goal 5).

Grassroots mediation plays an important role in social life, which can be said to be an effective method of dispute resolution. Because successful mediation will heal and restore good relationship between the parties in dispute, helping to maintain a solidarity and binding relationship in the community. Therefore, mediation at the grassroots is the basis for the organization of a solidarity, harmony and consensus society, the people believe in the leadership of the Party and the Government, creating a prerequisite for political stability and promoting socio-economic development. Therefore, mediation at the grassroots level is not only an effective method of dispute resolution but also a method of disseminating practical legal education, in order to preserve and maintain solidarity within the people; prevent law violations and crime, ensure social order and safety, contribute to building and raising the sense of respect for the law in the community; towards building a consensus and solidarity society, jointly performing the revolutionary tasks set by the Party and the State².

In order to fulfill the targets and tasks of ensuring gender equality in the areas of social and family life, preventing and responding to gender-based violence, especially ensuring equal access to legal aid services and mediation activities at the grassroot level for victims of domestic violence, there should be an analysis and assessment of the situation and the results of mainstreaming gender equality in mediation activities. In that spirit, the report mainly focuses on the issue of gender mainstreaming in mediation for the general target groups, with special attention to vulnerable groups and groups subject to violence in particular.

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Within the framework of the EU JULE Program, UNDP, the Committee for the Advancement of Women of the Ministry of Justice leads the comprehensive assessment of the status of gender mainstreaming in grassroots mediation organizations and activities, to develop a Study on gender equality in grassroots mediation to provide a legal and practical basis for the development of a gender equality plan of the justice sector for the period 2021-2025.

Objectives

- Evaluate the results and analyze the situation of gender mainstreaming in grassroots mediation.
- Contribute to capacity development and guiding officials in the justice sector to have more gender-sensitive and gender-responsible mediation skills to support victims of gender-based violence to have equitable and equal access to justice.

²https://pbgdpl.bacgiang.gov.cschi-tiet-tin-tuc/-/asset_publisher/ctFINBWOJ3XS/content/lam-tot-cong-tac-hoa-giai-o-co-so-la-gop-phan-xay-dung-y-thuc-thuong-ton-phap-luat-trong-cong-ong-dan-cu

- Based on the results of the above analysis, this report will provide proposals for specific objectives, tasks and solutions to ensure gender equality in grassroots mediation as required by the National Strategy on Gender Equality 2021-2030.

Methodology

- **Desk review:** The assessment of results and analysis of the situation of gender mainstreaming in mediation at the grassroots level is carried out based on the available data and related reports.
- **Consultation workshop:** Initial findings from the assessment and analysis are confirmed in a technical meeting prior to formal presentation during the consultation workshops.
- **Finalization:** Comments from the consultation workshop will be studied, reviewed and considered to finalize the report.

Limitations of the Report:

Within the framework of this activity, the study is based only on secondary documents such as reports, documents, and relevant legal provisions. Information on the actual situation in grassroots level such as the capacity, skills and experience of mediators, their gender sensitivity in mediation as well as the level of satisfaction of people being mediated is largely based on the reports and practical experience of consultants, and relevant surveys that consultants took part in. Therefore, the content of the report is somewhat limited and cannot fully reflect the practice of ensuring gender equality in grassroots mediation.

I. TERMINOLOGY AND CONCEPTS

Grassroot mediation: The mediator shall guide and assist the parties to reach an agreement, voluntarily resolve conflicts, disputes and law violations in accordance with the provisions of the Law on Mediation at the grassroots level³.

Gender equality⁴. Gender equality means that women and men, girls and boys are equal in terms of conditions, treatment and opportunities so that they can reach their full potential, realize their human rights and dignity, and contribute to, as well as benefit from, economic, social, cultural and political development.

Gender-sensitivity Gender sensitivity⁵ is the awareness of the differences in needs, roles and responsibilities between women and men leading to differences in access, control of resources and their level of participation and benefits in the development process. Therefore, policies and programs should take into account the specific needs of both women and men to equally allocate resources, create conditions and opportunities for women and men to have access to and fully enjoy their equal rights, and eliminate gender inequality in practice.

Gender discrimination⁶. Gender discrimination is the restriction, exclusion, non-recognition or disregard of the roles and positions of men and women, causing inequality between men and women in the areas of social and family life.

Bias and misconceptions about the abilities, roles and positions of women and men lead to different behaviors for women and men in social and family relationships, which prevent the promotion of the ability and full enjoyment of human rights of both women and men. Gender discrimination takes place in different forms and levels.

The misconception that men's roles are more important than women's has caused social inequality and is also a cause of increasing violence against women, because acts of violence perpetrated by men against women are often neglected or “forgiven” by society. Therefore, the elimination of gender discrimination should be clearly recognized and closely linked to the prevention and eradication of acts of discrimination and violence against women.

Gender mainstreaming: Gender mainstreaming is an approach or strategic measure that promotes the advancement of women's and girls' rights as well as equality with men and boys. This is the approach chosen by the United Nations system and the international community to realize the equal rights of women and girls. Gender mainstreaming is a process of assessing the implications of action plans, including laws, policies and programmes for girls and boys, women, and men⁷.

Domestic violence⁸. Domestic violence is an intentional act of a family member that causes or is likely to cause physical, mental or economic harm to another family member.

Domestic violence involves abusive behaviors (physical, sexual, mental, and emotional) that occur in the family's home space, often among people who are involved in a blood or sentimental relationship. In most cases, the form of domestic violence is mainly "violence caused by the husband/ partner", the violence is mainly caused by the husband's family. The term “domestic violence” should be used with caution to avoid misunderstandings, as (1) the term coincides with “spousal/ partner violence” and “gender-based violence” and (2) this type of violence does not only occur to women. Domestic violence includes both violence against children and the elderly in the family. The legal definition of domestic violence varies from country to country. These definitions often include violence against house maids living in the same household⁹.

³Clause 1 Article 2 of the Law on Mediation at the grassroots level in 2013.

⁴UNICEF Gender Equality- Terms and Concepts. UNICEF Regional Office for South Asia. 2017

⁵European Institute for Gender Equality (<https://eige.europa.eu/thesaurus/terms/1211>).

⁶Article 5 of the Law on Gender Equality

⁷UNICEF Gender Equality- Terms and Concepts. UNICEF Regional Office for South Asia. 2017

<https://www.unicef.org/rosa/media/1761/file/Gender%20glossary%20of%20terms%20and%20concepts%20.pdf>

⁸Article 1 of the Law on Domestic Violence Prevention and Control

⁹UNFPA - MOLISA. Journey to change. National Study on Violence against Women in Viet Nam. 2019

Gender-based violence. Gender-based violence, in its original meaning, is “violence against a person because she is a woman, or violence cause tremendous effect to against women. Gender-based violence includes behaviors that cause injury or pain, physical, mental, sexual, threatening behaviors that cause physical, mental, or other consequences at the “free” stage. (...) “Gender-based violence harms or destroys women's enjoyment of their rights. Human rights and fundamental freedom under general international law or under international human rights treaties, which are discriminatory acts as defined in Article 1, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against women is prohibited.”¹⁰

Initial contact¹¹ is the receipt of reports to the police, the filing of reports and case books related to crimes, the provision of counseling services by lawyers, the recording of civil, or administrative cases, the compensation mechanism of the State and the application of isolation, protective measures in emergency situations through mechanisms/criminal, civil agencies, family courts.

Positive experiences of initial contact with the justice system, support agencies, are critical for people experiencing violence. Services must be available and accessible to all women.¹² According to the United Nations Package of Essential Services for Women and Girls Subject to Violence, the most important element of initial contact is the ability of the contact officer to demonstrate to the victims that the assistance system (judicial, law enforcement, medical, social services) and other service providers are committed to protecting the health and safety of the victim, to take the victim's report seriously, to facilitate the victim's story to be heard and to ensure that the victim will receive good support throughout the case resolution process.¹³

One of the basic rules is to separate the victim and the violator to facilitate the victim to talk privately, in order for the staff to understand fully the incident. Violence victims often decide to take matters into their own hands by thinking that they will not be trusted by their families, support agencies, and the community. This is probably the most common reason for not contacting police or other service providers.

Research shows why women do not contact support services. For example, the *Organization for Security and Cooperation in Europe (OSCE)* provides detailed information on the typical barriers faced by women and girls and why they prefer to deal with violence on their own:

- **Shame:** shame related to some forms of violence and divorce.
- **Lack of trust in organizations:** women do not expect effective police response or fear that these organizations will not trust them.
- **Lack of awareness of specialized services:** women do not know where they can go for help.
- **Financial reasons:** concerns that they cannot financially support themselves and their children and will not receive support from their family.
- **Fear of retaliation:** women fear that violence may escalate.

Source: UNODC, UNWomen. *The Guiding Manual for responsible gender execution*

¹⁰Committee's general recommendations on the Elimination of All Forms of Discrimination against Women, 1992.

¹¹UNODC.Ausaid. UN Women. Handbook for Gender Responsible Law Enforcement Services for Women and Girls Experiencing Violence

¹²See Component 3: Justice and Law Enforcement, *Women and Girls Under Violence Service Package: Core Elements and Quality Principles* (2015), pp. 6-7.

¹³For essential services and guidance related to violence against girls, see *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime* (ECOSOC Resolution 2005/20).

II. INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK FOR GENDER EQUALITY

1. International legal framework

- The United Nations Universal Declaration of Human Rights 1948 (UDHR) recognizes that all people are born free and equal in dignity and that everyone has the rights and freedom, regardless of race, colour or sex. This is the original document that underlies the equality between human beings in general and gender equality in particular.
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) highlight women's equal rights in all aspects of cultural, political and economic life.
- The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)¹⁴ requires states parties to guarantee basic human rights and fundamental freedoms to women "on a basis of equality with men" through the "political, social, economic, and cultural fields; ensure that the Government adopts laws, policies, practices, and practices that are difficult for women to deal with.¹⁵
- General Recommendation No. 35 of the CEDAW Convention Committee *"Calls upon all States Parties to adopt effective education and public information programmes to contribute to the elimination of prejudices and practices that hinder the full implementation of the principle of women's social equality"*
- In its General Recommendation No. 28, the CEDAW Committee explains *in paragraph 15: "The issue of 'discrimination in all its forms' requires Member States to strictly prohibit all forms of discrimination, including forms that are not specifically stated in the Convention or newly appears.*
- Recommendations of the CEDAW Committee for Vietnam in 2015, the Committee welcomes Vietnam's efforts to build judicial capacity on gender equality. The Committee encourages Viet Nam to adopt comprehensive strategic measures to address the root causes of gender inequality in order to eradicate gender discrimination; Promote awareness-raising to eradicate gender stereotypes associated with traditional gender roles in the family and in society, the beneficiaries being officials at all levels, law enforcement and justice officials, teachers, parents and community leaders; Paragraph 19, subparagraph d, *"Review of the use of mediation and ensure that women victims of domestic violence have effective access to legal protection orders and remedies"*.
- General Recommendation No. 16, paragraph 20 of the ICESCR (International Covenant on Economic, Social and Cultural Rights) requires States parties to regulate the conduct of non-state actors to promote gender equality. It also requires States parties, governmental agencies, and non-governmental organizations to "step up efforts to protect and promote the human rights of women and girls."
- The UN Agenda for Sustainable Development Goals 2030 (SDGs) is implemented from 2015 to 2030 with 17 goals and 169 targets. "Gender equality" is number 5 of the 17 targets for sustainable development. This is one of the important contents showing that the United Nations is very interested in equality between men and women, to create the most favorable conditions for all people in society to have opportunities and conditions for development in an equitable environment.
- Beijing Action Plan 1995¹⁶, adopted at the 4th UN Conference on Women. The Plan recognizes mainstreaming is a global strategy to promote gender equality

2. The domestic legal framework

¹⁴<https://thuvienphapluat.csvn-ban/Linh-vuc-khac/Cong-uoc-ve-xoa-bo-moi-hinh-thuc-phan-biet-doi-xu-chong-lai-phu-nu-1979-269872.aspx>

¹⁵UNFPA - MOLISA. 10-year independent review report on the implementation of the Law on Gender Equality. 2020

¹⁶https://nature.org.csvn/wp-content/uploads/2018/12/131218_TOT_Khung-phap-ly-quoc-te.pdf

2.1. Human rights

Constitution 2013

According to the Constitution, human rights, civil, political, economic, cultural and social rights in the Socialist Republic of Vietnam are recognized, respected, protected and guaranteed under the Constitution and the law¹⁷. In that spirit, Article 26 provides that:

1. *Male and female citizens are equal in all aspects. The State shall adopt policies to ensure gender equality.*
2. *The State, society and family shall create the conditions for women to develop comprehensively and to advance their role in society.*
3. *Sex discrimination is strictly prohibited.*

2.2.1. Law on Gender Equality

The Law on Gender Equality stipulates that men and women are equal in all fields and that men and women are not subject to gender discrimination.

+ *Contents of gender equality*

- Gender equality in the politics. Gender equality in the political sphere is stipulated under Article 11 of the Law on Gender Equality
- Gender equality in the economic field. Gender equality in the economic sphere is stipulated under Article 12 of the Law on Gender Equality
- Gender equality in the labour field. Gender equality in the labor sector is stipulated under Article 13 of the Law on Labor Law
- Gender equality in the field of education and training. Gender equality in the field of education and training is stipulated under Article 14 of the Law on Education and Training
- Gender equality in the field of science and technology. Gender equality in the field of science and technology is stipulated in Article 15 of the Law on Education
- Gender equality in the field of culture, information, fitness and sports. Gender equality in the field of culture, information, fitness and sports is stipulated under Article 16 of the Law on Education
- Gender equality in the health field. Gender equality in the health sector is stipulated under Article 17 of the Law on Health
- Gender equality within and within the family. Gender equality in the family is stipulated in Article 18 of the Law on Labor Law on Legal Basis of ensuring the Board of Directors

+ *Prohibited acts in the field of gender equality*

Prohibited acts in the field of gender equality include: Obstructing men and women from exercising gender equality; Gender discrimination in all its forms; Gender-based violence; other acts prohibited by law¹⁸.

According to the provisions of Article 39 of the Law on Gender Equality, all violations of the law on gender equality must be promptly detected and prevented. The handling of violations of the law on gender equality must be carried out quickly, fairly, and thoroughly in accordance with the provisions of law.

+ *Violations of the Law on Gender Equality*

According to the Law on Gender Equality, violations of the law on gender equality include: Violations of the law on gender equality in the field of politics, economics, labor, education and training, science and technology, culture, information, education, sports, health.

2.2.2. Violations of legal regulations on gender equality according to Decree 25/2021/ND-CP

Basically, administrative violation acts, sanctions, sanction levels, remedial measures for each administrative violation act, competence to make minutes, sanctioning competence, fines levels in the field of gender equality

¹⁷K1, D.14 Constitution 2013

¹⁸Article 10 of the Law on Education

are specified in Decree 25/2021/ND-CP. However, in practice, there are still some other administrative violation acts in the field of gender equality that are not specified in this Decree, but in other relevant Decrees of the Government on sanctioning administrative violations.

2.2.3. Violations on gender equality according to Decree 144/2021/ND-CP

Decree 144/2021/ND-CP regulates administrative violations of gender equality as follows:

Article 52. Abusing the health of family members

Article 53: Torturing and mistreating family members

Article 54: offending the honor and dignity of family members

Article 55: Isolating, repulsive, or psychologically stressful behaviors

Article 56: Preventing the exercise of rights and obligations in family relations between grandparents and grandchildren; between parents and children; between husband and wife; between brothers and sisters

Article 57. Violating regulations on care, upbringing, and support

Article 58. Acts of economic violence

Article 59. Unlawfully forcing family members to move out of their legal accommodation.

2.2.4. Violations of the Penal Code's provisions on gender equality

The Penal Code provides for the following offences related to gender equality:

Article 141-Rape; Article 142-Rape of a person under 16; Article 143 - Rape; Article 144 – Sexual abuse ; Article 145- Sexual intercourse or other acts of sexual intercourse with persons aged from 13 to under 16; Article 146- Molestation of persons under 16; Article 150- Trafficking in persons; Article 151- Trafficking in persons under 16; Article 147- Use of persons under 16 for pornographic purposes; Article 133: Threat of murder; Article 134: Deliberate infliction of bodily harm on others; Article 155: Crime of humiliating others; Article 157: Illegal arrest, detention or imprisonment of a person; Article 158: Infringement upon the whereabouts of other persons; Article 164. Infringement upon other people's right to freedom of belief and religion; Article 165: Infringement upon gender equality.

III. GENERAL ISSUES OF ENSURING GENDER EQUALITY IN GRASSROOTS MEDIATION

1. Grassroots mediation

1.1 Definition

According to Article 2 of the Law on Grassroots Mediation, mediation at the grassroots level means that the mediator guides and helps the parties reach an agreement, voluntarily resolves conflicts, disputes and violations of the law in accordance with the provisions of the Law.

1.2 Scope of mediation



Article 3 of the Law on grassroots mediation stipulates that grassroots mediation shall be conducted for conflicts, disputes and law violations. In order to specify and detail the scope of mediation at the grassroots level, the Government's Decree No. 15/2014/ND-CP dated February 27, 2014 detailing a number of articles and measures to implement the Law on Mediation at the grassroots level stipulates that conflicts, disputes and violations of the law shall be mediated at the grassroots level.

According to the provisions of Article 42 of this Law, depending on the nature and severity of violations, handling measures shall be discipline, administrative sanction or penal liability. However, in accordance with the relevant laws, in some cases, violations will be resolved by mediation in accordance with the law on mediation.

It should be noted that, the scope of mediation at the grassroots level includes only:

The mediation at the grassroots level shall be conducted for conflicts, disputes or law violations, except the following cases:

- a) Conflicts and disputes that infringe upon the interests of the State or the public interest.
- b) Violation of the law on marriage and family, civil transactions which are not mediated in accordance with the civil procedure law.
- c) Violation of the law which must be examined for penal liability or administratively handled.

d) Conflicts and other disputes are not resolved at the grassroots level in accordance with the law."¹⁹

To provide detailed provisions of this Article, the Government promulgates Decree 15/2014/ND-CP, according to which, in the spirit of the Criminal Procedure Code in 2015 amending and supplementing in 2021, the scope of mediation at the grassroots level includes:

Mediation at the grassroots level shall be conducted for the following conflicts, disputes and law violations

- a) Conflicts between the parties (due to differences in life point of view, in lifestyle, inappropriate or conflicting situation in the use of passageways, shared passageways, use of electricity, water, auxiliary works, living hours, causing general unsanitary or other reasons).
- b) Disputes arising from civil relations such as disputes over ownership rights, civil obligations, civil contracts, inheritance and land use rights.
- c) Disputes arising from marriage and family relations such as disputes arising from relations between husband and wife; relations between parents and children; relations between paternal grandparents, paternal grandparents, and grandchildren, between brothers and sisters and other family members; support; identification of parents and children; adoption; divorce.
- d) Violation of the law, which is not amount to criminal prosecution and handling of administrative violations.
- e) Criminal law violations in the following cases:

Not being prosecuted under the provisions of Article 157 of the Criminal Procedure Code and not being handled by competent state agencies for administrative violations.

The law provides for the institution of criminal cases only at the request of the victims, but the victims do not request the institution of criminal cases as prescribed in Clause 1, Article 155 of the Criminal Procedure Code and are not handled by competent state agencies in accordance with law.

The case has been instituted, but then there is a decision of the procedure-conducting agency to terminate the investigation as prescribed in Clause 2, Article 230 of the Criminal Procedure Code or to terminate the case as prescribed in Clause 1, Article 248 of the Criminal Procedure Code and not be handled by a competent state agency in accordance with law.

- f) To violate the law on application of educational measures in communes, wards or townships as prescribed in the Government's Decree No. 111/2013/ND-CP of September 30, 2013, stipulating the regime for application of administrative measures on education in communes, wards or townships or having sufficient conditions to apply alternative measures to handle administrative violations as prescribed in Chapter II, Part Five of the Law on Handling Administrative Violations.
- g) Other cases that the law does not prohibit.

Mediation shall not be conducted in the following cases:

- a) Conflicts or disputes that infringe upon the interests of the State or the public interest.
- b) Violations of the law on marriage and family which must be settled by competent state agencies, civil transactions which violate law prohibitions or contravene social morality.
- c) Violations against law which must be examined for penal liability, except the cases specified at Point đ, Clause 1 of this Article.
- d) Violations against law which must be handled in accordance with law, except the cases specified at Point e, Clause 1 of this Article.
- dd) Conflicts and other disputes are not resolved at the establishments specified at Point d, Clause 1, Article 3 of the Law on Grassroots Mediation, including:

¹⁹Article 3 of Law on Grassroots Mediation

Commercial dispute mediation shall comply with the provisions of the Commercial Law and guiding documents.

Mediation of labor disputes shall comply with the provisions of the Labor Code and guiding documents."²⁰

2. Characteristics of gender equality in grassroots mediation

2.1. *Grassroots mediation mainly conducted for violations*

Clause 5, Article 4 of the Law on grassroots mediation stipulates the principle of "Ensuring gender equality in organization and mediation activities at grassroots level". Accordingly, the Law on Grassroots Mediation has gender equality objectives and general regulations on gender equality for mediators, family members or individuals participating in mediation, without gender discrimination. Everyone can participate in mediation and be reconciled.

- The principle of gender equality is manifested in the regulations for mediators and mediation team leaders. Article 7 to Article 15 of the Law shows gender neutrality, ensuring gender equality in the selection and election of mediators, in the rights and obligations of mediators as well as in the election of mediation team leader.

Article 7 and 8 of the Law on Grassroots Mediation specifies the general qualifications for both male and female mediators, without discrimination. According to the Article 9 and Article 10 of the Law, all mediators regardless of gender shall have the right to carry out mediation activities, to be fostered with legal and professional knowledge

Female mediators participate in the mediation team not only as representatives of women in the community but also as people who understand the psychology of women. They can easily access to women when mediating, contribute to protecting women's legitimate rights and interests, preventing gender discrimination and gender stereotypes.

- The principle of gender equality is embodied in the regulations for the parties to be mediated.²¹ According to the provisions of the Law on Grassroots Mediation, the parties as family members or individuals to be mediated have the same rights and responsibilities in the mediation process, without discrimination between men and women. The parties have the right to request, select, propose a mediator, place and time to conduct the mediation; agree or reject the mediation; request the suspension or termination of the mediation; they can express the will and decide on the content of the mediation settlement, etc...This principle is fully consistent with the CEDAW Committee's General Recommendation No. 28 to member states that "condemn all forms of discrimination, including those not specifically listed in the Convention or may newly appear".

The provisions of the Law on Mediation at the grassroots level on the place and time of mediation, the conduct of mediation, the mediation between the parties in different villages and ethnic groups, the conclusion of mediation, the implementation of the agreement on successful mediation, the monitoring and urging the implementation of the agreement on successful mediation, the unsuccessful mediation show gender neutrality, without any discrimination or preference on the basis of the gender of the parties to be mediated. Accordingly, the place of mediation is the place where the case occurs, or the place decided by the parties or the mediator, ensuring the convenience for the parties; the regulations on the assignment of mediators, the person invited to participate in the mediation, the time and place of mediation are very flexible, ensuring the suitability for the circumstances of the parties in the case, helping the mediation activities to ensure compliance with the principles of gender equality and protection of women's rights.

The principles of gender equality in the grassroots mediation are applied to all mediation cases, however, the study shows that majority of mediation cases were conducted to law violations (which is not administrative or

²⁰Article 5, Decree 15/2014/ND-CP

²¹Thao Anh. Ensure gender equality in the Law on grassroots mediation. <https://pbgdpl.moj.gov.csqt/tintuc/Pages/trao-doi-kinh-nghiem.aspx?ItemID=119>

criminal handling measure in accordance with the law) but the gender issue is not really much paid attention to – especially for domestic violence, gender-based violence. Therefore, it can be concluded that the principle of gender equality is mainly applied to mediation cases of violations.

2.2. Composition of the mediation team

Since grassroots mediation mainly apply to gender-based violations/violence, Clause 1, Article 12 of the Law on Mediation at grassroots level stipulates that "... Each mediation team shall have 03 or more mediators, including female mediators". To implement this regulation, the establishment and consolidation of the whole mediation teams should ensure that all mediation teams have at least 01 female mediator. The process of reviewing qualifications, selecting and electing mediators; electing the mediation team leader, etc...must comply with the law and does not discriminate between men and women, ensure fairness and gender equality.

2.3. Handling gender-based violence through mediation

2.3.1. General notes

One of the options for immediate initial resolution is to refer the case to the grassroots mediation team. However, it should be noted that mediation will only be conducted if the case is not amount to criminal prosecution or administrative handling, commenting and criticizing in the community. According to the 2013 Law on grassroots mediation, mediation can only be conducted with the agreement of both parties, mediation in the location chosen by the victim. Mediation shall not be conducted in cases of repeated violence and causing injuries. Mediators shall not impose their own will (subjective experience) in mediation process. They must base on the principles of the Law on Grassroots Mediation.

In practice, mediation usually only applies to gender-based violations. Mediation shall not be conducted in cases of sexual violence, rape, and human trafficking.

2.3.2 Mediation principles in the Law on Grassroots Mediation

When conducting mediation activities, attention should be paid to the following principles of organization and mediation activities at the following bases:

- Respect the will of the parties; do not force, impose the parties in the mediation.
- To ensure conformity with the policies and laws of the State, social ethics, good customs and practices of the people; to promote the spirit of solidarity, mutual assistance among family members, families and communities; to pay attention to the legitimate rights and interests of children, women, persons with disabilities and the elderly people.
- Be objective, fair, timely, reasonable and affectionate; keep confidential information of the private life of the parties, except the cases specified in Clauses 4 and 5, Article 10 of this Law.
- Respect the will, rights and legitimate interests of the parties, the rights and legitimate interests of other people; do not infringe upon the interests of the State or the public interest.
- Ensure gender equality in organization and mediation activities at grassroots level.
- Do not take advantage of mediation at the grassroots level to prevent related parties from protecting their rights in accordance with the law or avoiding the handling of administrative violations and criminal handling²².

2.3.3. Rights and obligations of the parties in mediation

The following rights and obligations of the parties in the mediation must be respected, especially not to request the party requesting the mediation to continue the mediation in case they request the suspension, refuse the mediation or terminate the mediation:

- Selecting and proposing mediators, location and time to conduct mediation.
- To agree to or reject mediation; to request the suspension or termination of mediation.
- Request that the mediation be conducted publicly or non-publicly.

²²Article 4 of the Law on Mediation

- To express his/her will and decide on the contents of amicable settlement.
- To present truthfully the circumstances of the case; to provide relevant documents and evidences.
- Respect the mediator, the rights of the parties involved.
- Do not affect security and order at the mediation venue²³.

²³Article 17 of the Law on Mediation

IV. THE STATUS OF GENDER EQUALITY IN GRASSROOTS MEDIATION

1. Overall Assessment

In March 3, 2021, the Government issued Resolution No. 28-NQ/CP promulgating the National Strategy on Gender Equality for the period 2021-2030, which assigns ministries, agencies and provinces to develop plans to implement the Resolution. In the field of justice, the Committee for the Advancement of Women under the Ministry of Justice was assigned as the focal point to develop the Action Plan on Gender Equality for the period 2021-2025. Grassroots mediation is governed by the 2013 Law on Grassroot Mediation, Decree No. 15/2014/ND-CP dated February 27, 2014, detailing and guiding the implementation of a number of articles of the Law on grassroots mediation.

The promulgation of the Law on grassroots mediation in 2013 and the guiding documents marked an important new development in grassroots mediation work, meeting the requirements of the practice when conflicts, disputes and law violations in the communities are increasing in number and having complex conflicts and disputes.

The implementation of the Law on grassroots mediation nationwide has a positive impact on social life, creating a comprehensive and solid legal basis for grassroots mediation activities to be unified and effective, thereby affirming the position and important role of grassroots mediation in social life. By the end of December 2017, in the whole country, there were 107,561 mediation teams established in villages and neighborhoods with 651,215 mediators, of which 183,004 were female mediators (accounting for 28.1%); 165,146 were ethnic minority mediators (accounting for 25.4%). Most of the mediation teams have sufficient composition and structure as stipulated by the Law. The number of successful mediation cases from 2014 to the end of 2017 was 472,197 out of 579,609 mediation cases, reaching 81.45%, the mediation rate increased steadily between the years²⁴.

The criteria and number of mediators and the composition of the mediation team must comply with the provisions of the Law on mediation at grassroots level, gather core forces, have prestige and experience in the community, ensure high efficiency of mediation activities; at the same time, ensure the close coordination of socio-political organizations, and mass organizations of the people in the mediation at grassroots level. The mediators have an active sense of researching and understanding the legal regulations, mediation skills to perform the mediation work at the grassroots level better, the rate of successful mediation is higher, contributing to the appreciation of human values, high significance of mediation at the grassroots level. Some localities have paid attention and allocated funds to serve the mediation at the grassroots level, creating favorable conditions for the mediation activities at the grassroots level, so they encouraged the mediators to mediate and promote a sense of responsibility for the community.

Every year, the cadres and civil servants assigned to advise and manage the state on mediation at the grassroots level from central to local level are reviewed, strengthened, and improved their capacity to create conditions for the state management of mediation at the grassroots level to come into play, directing, governing and implementing activities from the central to the local level are smooth. Many localities have had good initiatives, models, effective ways of conducting mediation work, mobilizing other resources in society.

For example: The good mediator contest in Ha Tinh province in 2018, the model of the Mediation Club was established in Dong Thap to facilitate the mediators to access and update new legal knowledge in a timely manner and exchange experiences in mediation, contributing to improving the quality of mediation at grassroots level; in Lang Son, when building mediation teams, evaluation criteria was issued at the same time (The mediation team 5 or more member organizations, with sufficient representatives of organizations, associations and unions at the grassroots level); Mediators who meet the criteria prescribed by the Law on Mediation at the grassroots level; successful mediation cases of 90% or more; No cases of unauthorized mediation; flexible and effective application of mediation methods combined with law education and dissemination to the dispute parties; Actively invite and promote the role of reputable persons in the people's

²⁴Yu Yuan. Status of grassroots mediation and socialization. <https://pbgdpl.moj.gov.hk/tintuc/Pages/trao-doi-kinh-nghiem.aspx?ItemID=88>

community residents, families...to participate in grassroots mediation work); in Hanoi city, many district units still actively maintain the model of “5 good” mediation organizations (timely case detection, good coordination with departments/unions; good mediation work (successful mediation case reaches 80% or more); good mediator training and retraining, periodic briefings, preliminary and final reports)²⁵.

In 2020, mediators at the grassroots level received 128,977 cases, of which 101,899 were mediated. In particular, the number of conflicting cases and disputes arising from marriage and family relations accounts for 1/3 of the total number of mediation cases. Unsuccessful mediation cases involving disputes arising from civil, marriage and family relations accounted for only about 6% (8,261 cases). According to the current study on the quality of criminal justice services for domestic violence victims in Vietnam, the majority of domestic violence cases in Vietnam are handled by mediation. At the same time, through mediation activities at grassroots level, mediators have actively propagated and encouraged family members to constantly promote traditional moral values such as love, care, mutual encroachment, faithfulness, filial piety, respect, fair treatment, equality, regardless of gender, etc.

Besides the benefits and advantages of grassroots mediation, there are yet some shortcomings, such as:

- **Governance of grassroots mediation.** Some localities are not fully aware of the importance of grassroots mediation, so the direction and investment of funds and resources for grassroots mediation is still limited, not fully promoting the responsibility of implementing the state management of grassroots mediation in the locality; commune-level staff are still thin and concurrent, so they have not spent adequate time on grassroots mediation; the professional capacity of a section of justice civil servants at commune level and mediators is still limited due to lack of regular appointment and training, especially in mountainous, remote communes with difficult socio-economic conditions.
- **Coordination between agencies in grassroots mediation** has not been done on a regular basis and there is a lack of initiative.
- **Organization of mediation at the grassroots level and mediators.** The quality and effectiveness of mediation at the grassroots level is not high, uneven, not meeting the requirements of the practice; many conflicts, disputes and violations of the law in the scope of mediation at the grassroots level have not been detected but have not been mediated, untimely mediation, unsuccessful mediation; In the mediation process, there are cases where mediators violate the law on mediation at the grassroots level, causing negative impacts on the legitimate rights and interests of the parties, reducing the quality and effectiveness of mediation activities. The level of education, legal knowledge, skills of most mediators is still low (of 651,215 mediators, only 28,006 are qualified in Law, accounting for 4.3%)²⁶. Mediators receive few materials, training and retraining to improve legal knowledge and mediation skills²⁷.
- **Shortage of female mediators.** According to statistical reports of 63 provinces and cities, by 2020, there are 88,765 mediation teams with 548,367 mediators nationwide, including 153,119 female mediators; In every mediation team in all provinces, there are female mediators. Some localities have a high percentage of female mediators such as Ho Chi Minh City (43%), Hai Phong (39%), Quang Ninh (37.67%) ... However, as of 31.12.2020, the number of female mediators across the country only accounts for about 28% of mediators at the grassroots level, while according to the regulations, the Mediation Teams must have female mediators²⁸.
- **Lack of gender sensitivity in mediation.** Not all mediators are interested in gender issues, gender equality and the rights of women and children in mediation cases. In mediation conferences, mediators

²⁵Yu Yuan. Status of grassroots mediation and socialization. <https://pbgdpl.moj.gov.vn/Husqt/tintuc/Pages/trao-doi-kinh-nghiem.aspx?ItemID=88>

²⁶Yu Yuan. Status of grassroots mediation and socialization. <https://pbgdpl.moj.gov.vn/Husqt/tintuc/Pages/trao-doi-kinh-nghiem.aspx?ItemID=88>

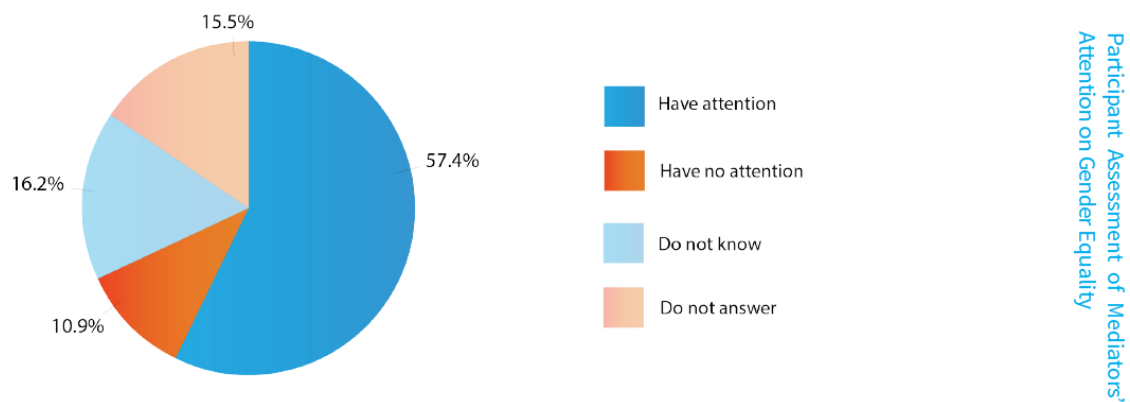
²⁷Yu Yuan. Status of grassroots mediation and socialization. <https://pbgdpl.moj.gov.vn/Husqt/tintuc/Pages/trao-doi-kinh-nghiem.aspx?ItemID=88>

²⁸<https://daibieunhandan.cslong-ghep-gioi-vao-hoa-giai-o-co-so-a4qcq6pmss-67398>

often focus on conflict, disputes instead of comprehensively looking at the issues that govern the behavior of the parties such as gender, culture, religion and gender perceptions²⁹.

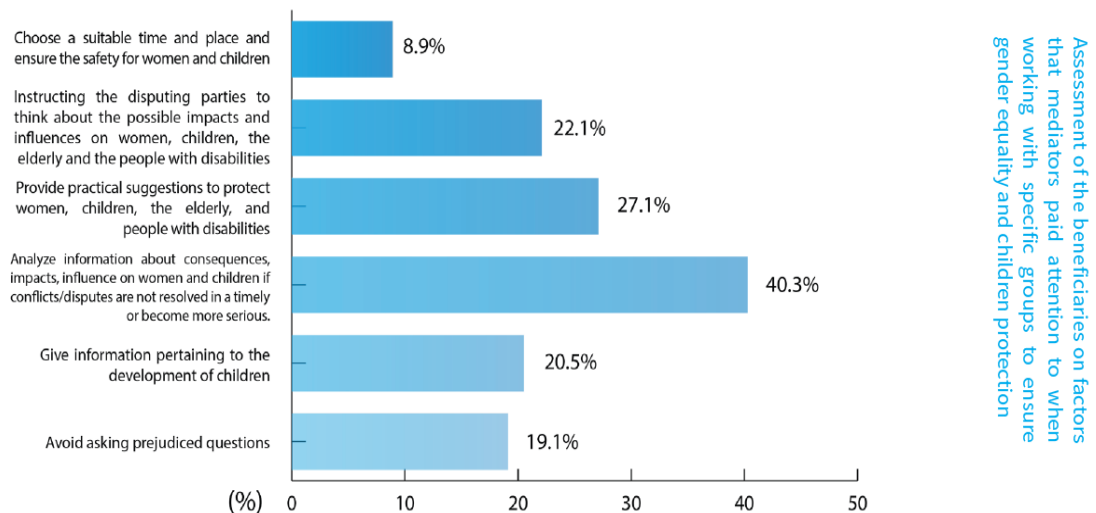
The mediators mainly applies their own experiences, mediating based on their own subjective will. In addition, members of the mediation team still lack basic knowledge about gender equality and lack of gender sensitivity in handling their work.

According to the Report "Situation of dispute resolution through grassroots mediation", people's feedback on how mediators ensure gender equality when working with specific target groups is assessed as follows: Understanding the awareness of mediators on the issue of ensuring gender equality and child protection, in the process of mediation, survey and interview of mediated persons shows that only 57.4% think that mediators have an interest in this issue, 10.9% think that grassroots mediators do not pay attention to these issues. It is noteworthy that this figure does not correspond to 79.5% of mediators who have been trained and guided on contents related to gender equality and child protection, which is much lower than the percentage of mediators who have been trained and guided. Thus, the training and application of knowledge and skills in practice still have a large gap: People's assessment of the interest of mediators in ensuring gender equality when working with specific subjects; People's assessment of the factors that mediators care about when working with specific subjects to ensure gender equality and child protection.

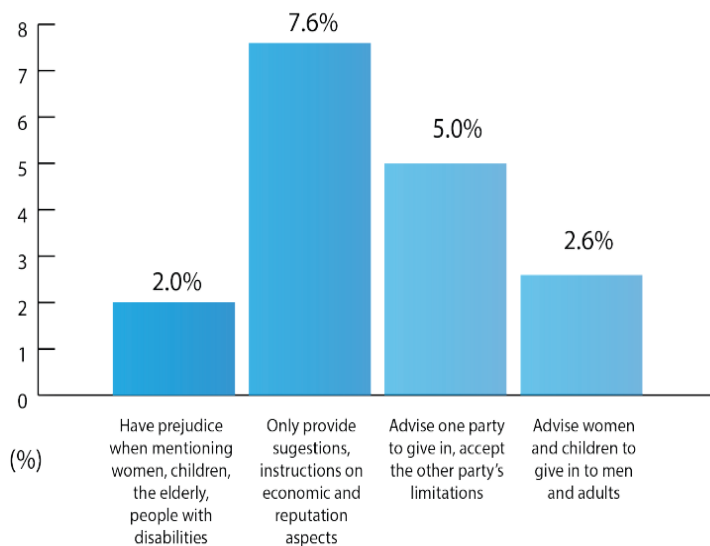


Comparing the contents on ensuring gender equality and child protection when working with specific subjects that mediators have been trained with the evaluation of the people being mediated, it shows that the application of these contents is significantly lower than the percentage of mediators who have been trained and guided. Thus, the training and the application of knowledge and skills in practice still have a large gap, as shown in the following two tables:

²⁹<https://daibieunhandan.cslong-ghep-gioi-vao-hoa-giai-o-co-so-a4qcq6pmss-67398>



Assessment of the beneficiaries on factors that mediators paid attention to when working with specific groups to ensure gender equality and children protection



Assessment of the beneficiaries on mediators' expression of lacking attention to ensuring gender equality and children protection

The mediation team leaders at the grassroots are also of the opinion that many mediators still lack knowledge and skills, especially in mediating sensitive cases (such as domestic violence, cases related to women, children, elderly people, people with disabilities...), so the mediation has not achieved the desired results.

2. Assessment of gender-based violence situation

According to the Law on grassroots mediation and Decree No. 15/2014/ND-CP dated February 27, 2014 of the Government detailing a number of articles and measures to implement the Law on grassroots mediation (Decree No. 15/2014/ND-CP), the scope of mediation includes civil, family marriage, administrative violations, criminal violations but not criminally handled. Accordingly, the issue of gender equality in mediation needs to be focused on all areas. However, the current problem is the issue of mediating gender-based violence, so this report shall focus on this aspect.

The results of the 2019 National Survey on Violence against Women³⁰ have provided specific data on the ratio and types of violence. Specifically, of 03 women, nearly 02 women (62.9%) were subjected to at least one or

³⁰MOLISA-Statistic General Department-UNFPA. *Journey to change: Report on the study on violence against Vietnamese women.* 2019

more forms of violence caused by their husbands in their lives and 31.6% experienced on-going violence (in the past 12 months). Except for sexual violence, the rate of violence against women caused by husbands in 2019 was lower than in 2010. For example, women suffered less physical violence in 2019 (26.1%) than in 2010 (31.5%). This is clearer for the younger group of women. However, the proportion of women who experienced sexual violence in their lives in 2019 (13.3%) was higher than in 2010 (9.9%). This is especially true among young women aged 18-24 (13.9% in 2019 compared to 5.3% in 2010). While this reflects an increase in violence, it may also be the result of a change in social perceptions in which women are more open to talking about sex and sexual violence.

Women with disabilities experience more forms of violence caused by their husbands than women without disabilities. 4.4% of women said they had been sexually abused before the age of 15.

Women suffers more violence by their husbands/partners than they are by others. One in 10 women (11.4%) experienced physical violence since they were 15 years old. When women are subjected to physical violence caused by others other than their husbands, the main perpetrators of violence are male family members (60.6%).

One out of every 10 women (9%) suffers from sexual violence perpetrated by another person since the age of 15. The majority of the perpetrators of violence are men who are not members of the family (e.g., men who are strangers, friends or acquaintances; recent acquaintances; or co-worker).

A lot of violence cases against women are unreported. Half of the women with violent husbands have never told anyone. Most women (90.4%) who experience physical and/or sexual violence caused by their husbands do not seek any support from government agencies.

Children are also victims when living in violent environments. Of the women who experienced physical violence, 61.4% reported that their children had seen or heard violence. Women who experience physical and/or sexual violence by their husbands say that their children (5-12 years old) often have behavioural problems.

In addition, incomplete statistics of 63 provinces and centrally run cities across the country (mainly domestic violence mediation is only part of the general criteria of marriage and family affairs of the statistical form on grassroots mediation, the recording of the tracking of grassroots mediation is not complete...), from 2014 to the end of 2018, mediators at the grassroots level have conducted 26,771 mediation cases related to domestic violence, successfully mediating 22,293 cases.

According to the results of the evaluation report on the availability and accessibility of essential services to support women and children suffering from gender-based violence (CARE and CSAGA, 2020), people, especially women in the community lack information about support services and do not know how to seek assistance when experiencing violence: about 10% of survey participants know the Peaceful Home; 17% of survey respondents know where to come for psychological counseling and 35% think they know legal aid and legal information services when experiencing violence. The results of the review also pointed out that 3 services that women's representatives in the community think are the most necessary services for women when suffering from violence are reliable address to report (with a rate of nearly 72% of comments), medical care and shelter in the community (with an opinion rate of about 47%). This was followed by a psychological counselling service (with approximately 42% of participants). The report has shown that the percentage of people who are knowledgeable about these services is too low. Here it can be explained that the information about the types of services has not really reached the people due to the inadequacy of communication activities.

Moreover, information on support services in Vietnam is quite modest. People subject to violence often go to relatives, acquaintances or just ask no one for help. Failure to seek help may be due to a lack of habitual access to services, due to stereotypes and prejudices, and due to the absence or presence of these services. In addition, some victims had access to support services, but they did not want to return for various reasons. Some reasons are:

- **Legal aid is not equally provided:** there are many inadequate procedures for being able to receive the legal aid. According to the Law on Legal Aid 2017, only victims of violence (victims of gender-based violence, domestic violence, victims of trafficking) who are in near- poor groups are entitled to legal aid, while this verification is not easy, so it is difficult for them to access this service.

- **Shelter Homes:** Usually, each commune has a shelter home. It is usually the home of the village leader, or the home of the village women's group leader. These people register their homes as shelters voluntarily. They themselves lack the knowledge and ability to assist victims. When being subjected to violence, victims often run to shelters of villages and communes. When cases of violence occur, they often use personal experience to deal with. They often advise victims to be patient, reconcile and preserve the 'home' of their family. Most of them have not been properly trained in the minimum knowledge and skills to assist victims. They lack basic knowledge in handling cases.

- **Psychological support services are quite diverse** with different levels of psychological support. At the commune level, psychological support is largely handled by representatives of the Women Association Branch, often focusing on comfort, encouragement, and reconciliation. Some studies show that victims are not comfortable, because they are also afraid that violence may continue in the future. In general, psychological support at the village and commune levels is simple, lacking basic skills because of limited human resources in terms of quantity and quality, so it does not meet the needs of victims.

- **Quality of services:** In most cases, mediation measures shall be applied first, followed by warning and reminding. Some mediators lack sensitivity, sometimes they are indifferent and have stereotypical attitudes toward victims or they blame victims. The members in mediation team do not have basic knowledge in this area to handle cases with higher quality and better victim support. For example:

- Gender equality, gender stereotypes, gender inequality, causes of gender-based violence.
- Necessity of essential services for victims of violence.
- Required skills to support victims of violence (psychological counseling, providing information, guiding victims on how to respond to violence, etc.).
- Teamwork, presentation skills, interdisciplinary coordination skills and methods to support victims' access to essential services, including access to justice, especially in the context of Covid 19.

V. PROPOSED SOLUTIONS IN THE COMING TIME

According to the National Strategy on Gender Equality for the period 2021 – 2030, it is necessary to achieve the following objectives regarding gender equality:

Goal 3: In family life and prevention and response to gender-based violence

- Indicator 1: Reduce the average number of hours of unpaid housework and family care for women to 1.7 times in 2025 and 1.4 times in 2030 compared to men.
- Target 2: By 2025, achieve 80% and reach 90% by 2030 of those who suffer from domestic violence and gender-based violence will be found to have access to at least one of the basic support services; by 2025, 50% and by 2030, 70% of those who cause domestic violence and gender-based violence will be detected at the level where it does not amount to criminal responsibility will receive consultation.
- Indicator 3: From 2025 onwards, 100% of victims of trafficking who in need of support will receive support and reintegration services.
- Indicator 4: By 2025, there will be 70% and by 2030, there will be 100% public social assistance institutions implementing activities to support, prevent and respond to gender-based violence.”

To implement this Strategy, the Ministry of Justice shall issue a Justice Sector Plan, which sets out the following objectives:

2.2. Objective 2: To improve the effectiveness of dissemination and education of the law on gender equality to all strata of the population to change the behavior on gender equality, eliminate gender stereotypes and prevent and control gender-based violence.

Target 2.1: Strive to have 100% legal education and dissemination programs and plans implemented by the Ministry/Department of Justice to integrate gender equality from 2025.

Target 2.2: Strive to have 70% by 2025 and 100% of staff working in dissemination, legal education, grassroots mediation of the Department of Justice will be fostered in gender knowledge by 2030.”

Basing on the assessment of the situation of gender mainstreaming in the grassroots mediation and in order to achieve the above objectives and indicators, some specific objectives, tasks and solutions are proposed to ensure gender equality in mediation activities at grassroots level as follows:

1. Strengthen communication and dissemination of the law on gender and gender equality

In fact, very few violations were brought to light, because the victims do not understand the law and know their rights...Therefore, it is necessary to continue to strengthen communication and dissemination of the law on gender and gender equality in various forms, suitable for each target group and locality in order to raise the awareness of all levels, sectors and people about the importance and role of gender equality in general and gender equality in mediation activities at grassroots level.

2. To consolidate the mediation team in the way that each team shall have at least 1 female mediator.

It is necessary to consolidate the structure of each mediation team in which at least one mediator is female.

3. Improve the legal knowledge and training capacity for the team of mediators and officials having initial contact with victims on the identification of violations of gender equality; gender-based violence; identification of gender-based inequalities; scope of mediation; order, procedures, and principles of mediation; responsibilities of mediation - especially the responsibility to ensure privacy; information handling skills, skills to help victims overcome barriers.

Diversify training materials for mediators on mainstreaming gender equality in mediation activities with easy-to-understand, easy to remember, easy to apply methods such as training materials, handbooks, electronic lecture videos, sample mediation situations... to improve the knowledge and guidance on mediation skills to ensure gender equality for localities to train, foster or distribute to mediators.

4. Researching and introducing contents of direction, guidance, training and retraining on gender equality mainstreaming in mediation activities at grassroots level is one of the criteria for annual evaluation of Department of Justice. Strengthen state management, monitor, inspect and supervise the implementation of this task in localities³¹.

In fact, for many years, we have not invested in bringing gender issues into grassroots mediation comprehensively (however, it was done well in legal aid area), so this is also an opportunity for us to focus more on gender issue into grassroots mediation. In addition to developing guidance materials as the Ministry has done in the past, it is necessary to continue to organize trainings to raise gender awareness and gender mainstreaming capacity for staff doing this work so that they are more gender sensitive and gender responsible when performing tasks.

5. Equip legal aid officers and mediators with some of the following necessary skills:

5.1 Establish a good relationship with the person to be reconciled

Establishing good relationships with victims/mediated persons is the first step that support staff and mediators need to do to be able to support victims effectively in the judicial process. Support staff should trust and share feelings, avoid prejudice to victims. Only by so doing, the victim will be willing to cooperate and share the most accurate information with the support staff.

5.2 Some communication skills to build a good relationship with the person being reconciled

- All meetings should be conducted in private room, free from interference and make the victim feel comfortable, trusted, and safe.
- ✓ Do not ask closed questions (which the answer is just YES or NO). Questions should be asked to give the victim a chance to share in order to strengthen the victim's trust.
- ✓ Show a respectful and patient attitude to listen to the victim being reconciled, not judging and making right or wrong comments
- ✓ For child victims, victims of rape, victims of human trafficking, support staff should avoid asking constantly, not try to force the victim to continue sharing when the victim is tired and unfocused. The staff should stop and arrange for further interviews at the appropriate time.
- ✓ Be friends with a minor victim, be able to play with the child so that the child does not feel afraid, the child will share more comfortably.
- ✓ Express care in the victim and learn the wishes of the victim, so that effective victim support can be provided.

5.3 Some necessary notes

- Expression of the person to be reconciled/the victim of violence. During talk with victims, support staff shall pay special attention to the victim's expression through the emotions of his/her face, eyes, voice, etc. to understand the victim's mentality, thereby having appropriate working methods.
- Together with the victims to identify the relevant issue. The mediator should identify information about identity, relationships with family, society, health information, family history and mental status. The exploration of this information not only helps the staff identify the problem but also helps the victim understand himself/herself.
- Having appropriate and easy-to-understand instructions, helping victims/mediated persons access support services. When the victims identify the problems that they need to solve or face difficulties, the support staffs provide solutions and choose solutions suitable to the wishes and circumstances of the victims. Then the support staff will conduct the selected solutions based on the victim's consent.
- Expressing empathy for the person being reconciled. When officers/staff who interact with the victim have empathy for their feelings, they will see that their situation is understood and heard. Support staff should place themselves in the position of the person being mediated to understand their feelings,

³¹Refer to Phan Hong Nguyen's article, Topic: Integrating gender equality into grassroots mediation - Situation and solutions

understand the victim's circumstances, and understand the difficulties they face in the mediation process. As a result, the victim will have more trust in the support staff and be willing to share their thoughts.

- ✓ Support staff need to pay attention to the feelings of the person being reconciled and the causes of those feelings, so that the mediated person feels that he/she is listened to and that the support staff has understood their situation correctly.
- ✓ During the contact, the support staff should discuss with the one being mediated, to make sure to understand what they really mean.

5.4 Some skills needed

- Listening Skills
- Questioning skills
- Emotional management skills
- Silence handling skills
- Some points to keep in mind when interacting with victims

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