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# THEMATIC PAPER

# GENDER EQUALITY IN LEGAL AID



EU  
JULE

**THEMATIC PAPER**  
**GENDER EQUALITY IN LEGAL AID**

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## **TABLE OF CONTENTS**

TABLE OF CONTENTS.....	4
LIST OF ABBREVIATIONS.....	6
EXECUTIVE SUMMARY .....	7
INTRODUCTION .....	13
PART I GENERAL AFFAIRS ON ENSURING GENDER EQUALITY IN LEGAL AID.....	15
I. Goals on ensuring gender equality in legal aid .....	15
II. Legal foundation for ensuring gender equality in legal aid .....	15
III. Contents on ensuring gender equality in legal aid.....	17
1. Ensuring gender equality in the organization of the provision of legal aid .....	17
2. Ensuring gender equality in legal aid. ....	18
PART II ASSESSMENT OF THE STATUS QUO OF ENSURING GENDER EQUALITY IN LEGAL AID.....	23
I. The status quo of ensuring gender equality in the organization of the provision of legal aid.....	23
1. Achievements in the implementation of gender equality in the personnel structure of LA-providing organizations, and LA-providing individuals .....	23
2. Achievements in the implementation of gender equality in increasing the quality of LA-providing human resources .....	24
II. The status quo of ensuring gender equality in legal aid.....	27
1. Achievements in ensuring the equal participation of LA-providing individuals in LA activities.....	27
2. Achievements in ensuring the equal participation of persons eligible for LA in the performance of their rights and obligations.....	27
3. Achievements in implementing protective and supportive measures for LA beneficiaries who are victims of gender-based violence .....	29
4. Funding for ensuring gender equality in legal aid.....	34
Part III PROPOSED GOALS AND PERFORMANCE INDICATORS OF LEGAL AID-RELATED GENDER EQUALITY, AND SOLUTIONS AND MANDATES .	37
I. Proposed goals and performance indicators of gender equality in legal aid.....	37

1. Goals and performance indicators in the 2021-2030 National Strategy of GE and the Justice Sector's Plan on implementing the Strategy.....	37
2. Proposed goals and performance indicators on gender equality in legal aid for the period of 2022-2025 .....	38
II. Recommendations on the implementation of proposed goals on GE in LA .....	39
1. Improvement of the policies, laws and regulations on ensuring GE in LA .....	39
2. Capacity building for LA-providing individuals .....	39
3. Strengthening the capacity of victims and perpetrators of gender-based violence to access LA .....	40
4. Including GE-related statistical criteria in the management system of LA activities .....	41
5. Increasing resources for LA .....	41
6. Strengthening international cooperation in LA .....	42
ANNEX.....	43
DEFINITIONS AND TERMS.....	43
Terms on gender and gender equality .....	43
Terms of legal aid .....	44
LIST OF REFERENCES .....	46

## **LIST OF ABBREVIATIONS**

GE	Gender equality
DV	Domestic violence
MOJ	Ministry of Justice
LGBT	Lesbian, Gay, Bisexual, Transgender
HT	Human trafficking
RE	Resolution
LA	Legal Aid
PC	People's Committee
SA	Sexual abuse

## **EXECUTIVE SUMMARY**

In implementing the National Strategy on Gender Equality (GE) for the 2021-2030 period (issued under the Government's Resolution No. 28-NQ/CP dated 3 March 2021), the Ministry of Justice assigned its Commission for the Advancement of Women in the Justice Sector to act as a focal point, in collaboration with the relevant affiliated units under the Ministry, in researching and preparing the Ministry's 2021-2030 Action Plan for the implementation of the Strategy to submit to the Minister of Justice for issuance.

The research process has shown that, in order to achieve the performance indicators and to implement the mandates on ensuring GE in family life, and on preventing and responding to gender-based violence (Goal 3), especially guaranteeing the equal beneficiary and access opportunities of victims of gender-based violence, there should be, first and foremost, a comprehensive assessment report of the implementation of GE and its achievements in the organization and provision of legal aid (LA). With the research results, specific mandates, solutions and roadmaps will be identified for the implementation of goals, mandates and solutions to ensure GE up to the year 2030 as assigned by the Government to the Ministry Justice and the Justice Sector.

Key findings of the study as follows:

### **A number of outstanding achievements in ensuring GE in LA**

1. LA-providing individuals have been developed in terms of quality and quantity, and have basically met the professional qualifications and requirements in the provision of LA to people in accordance with the Law on Legal Aid. As of October 2020, there are 645 LA officers nationwide, 365 of whom are female (accounting for 56.5%)<sup>1</sup>. In addition to LA officers as the main source, lawyers and legal aid collaborators have also proactively participated in the provision of LA, thereby meeting the needs of persons eligible for LA, including victims of gender-based violence, in a timely and sufficient manner.

2. Capacity building for LA-providing individuals and LA-providing organizations has been paid with proper attention from the National Legal Aid Agency, and Centers for Legal Aid. Training courses, some of which cover GE, prevention and fight against domestic violence, human trafficking and sexual abuse, have been held annually at central and local levels. A number of training materials on prevention and fight against domestic violence have been developed and used in the training for LA-providing individuals. The organized training courses have contributed to improving their skills in providing LA to victims of domestic violence, heightening their responsibility in the provision of LA, and protecting the rights and legitimate interests of LA beneficiaries to a greater extent in specific cases.

3. State management agencies of LA (the National Legal Aid Agency, and province-level Departments of Justice) and LA-providing organizations have promoted the dissemination on legal aid through different methods. Thanks to this effort, people's awareness of GE and the right to legal aid has been raised; people using legal aid services,

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<sup>1</sup> Source: The assessment report of the implementation of the Justice Sector's 2016-2020 Action Plan on Gender Equality.



including those at risk of and victims of gender-based violence, have been on the increase. From 2016 to date, 37 cities or provinces with poor districts, villages and/or hamlets have set up their LA hotlines<sup>2</sup>.

4. From 1 January 2014 to 30 June 2020, state-run Legal Aid Centers in cities/provinces provided legal aid to 544,578 cases with 544,578 legal aid beneficiaries. From 2016 to August 2020, LA-providing organizations provided legal aid to 727 cases with 727 legal aid beneficiaries who are victims of domestic violence.<sup>3</sup> In 2020 and the first 6 months of 2021, state-run LA Centers provided legal aid to victims of domestic violence in 110 cases, and legal aid was provided mainly in the form of legal advice (accounting for 87.2%). Most of the legal aid beneficiaries are women.<sup>4</sup> From 2015 to the end of 2018, there are nearly 200 legal aid cases with about 200 victims of human trafficking, most of whom are women and children; legal aid was provided in the form of legal advice in 50% of the cases, participation in litigation in 40.9% of the cases, and other forms in 8.5% of the cases.<sup>5</sup> In most of the legal aid cases, legal aid was provided with either quality or high quality as required by law.

### **Difficulties, challenges, and limitations in ensuring GE in LA**

*1. Existing laws and regulations haven't covered all gender-based violence victims who are in need of LA.* The Law on Gender Equality, 2016 does not have a definition of “gender-based violence”. Under the Law on Legal Aid, 2017, victims of gender-based violence are not treated as a separate category of persons eligible for legal aid. They are included in the category of victims of domestic violence or in the category of victims of human trafficking with financial difficulty, or in the other categories of persons eligible for LA. Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Ministry of Justice on ensuring GE in LA stipulates protective and supportive measures for persons eligible for LA who are *mothers, girls, victims of domestic violence, victims of human trafficking or victims of sexual abuse*. However, such stipulation hasn't covered all victims of gender-based violence, e.g. nulliparous women, male persons (fathers), male children, LGBT people. It just targets the provision of LA to victims of domestic violence while perpetrators of domestic violence are also in need of LA.

*2. The structure and quality of human resources to provide LA haven't well satisfied the needs of GE-related LA.* LA-providing individuals in some LA-providing organizations are still young, do not have much experience, and haven't been equipped with sufficient skills to

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<sup>2</sup> Source: Report No. 141/BC-BTP dated 17 July 2021 of the Ministry of Justice on 5-year assessment of the implementation of the 2015-2025 Project on Legal Aid Reform.

<sup>3</sup> Source: Report No. 182/BC-BTP dated 21 August 2020 of the Ministry of Justice on the assessment of the National Action Plan on Prevention and Fight against Domestic Violence up to the year 2020.

<sup>4</sup> Source: “Introduction to the gender mainstreaming in legal aid for victims of domestic violence – Achievements and shortcomings” prepared by the National Legal Aid Agency at the Seminar “Gender mainstreaming in the prevention and fight against domestic violence” held on 7 December 2021 in Ha Noi.

<sup>5</sup> Source: “Legal aid for returnee victims of human trafficking, and a number of recommendations and suggestions” uploaded in the web portal of the National Legal Aid Agency, available at the link: <https://tgpl.moj.gov.vn/Pages/hoi-nhap-phat-trien.aspx?ItemID=83&l=NghiencuuveTGPL>

work with victims of gender-based violence, especially victims of sexual abuse, victims of human trafficking, LGBT people, etc. Meanwhile, capacity building for them hasn't met their needs; there remain shortcomings and lacunae in the training method and organization. Training materials on knowledge and skills to provide LA, especially to victims of gender-based violence, have been neither well prepared nor consistent for LA-providing organizations' long-term use at a large scale.

*3. Dissemination on GE in LA hasn't been regularly carried out, especially in remote areas.* The dissemination aims at too many targets and thus, its efficiency hasn't been secured. Certain forms of dissemination are not really suitable for people as a whole and victims of gender-based violence. The dissemination content is neither really rich, attractive nor suitable for victims of gender-based violence, and it hasn't also attracted the attention of many people, especially victims of gender-based violence.

*4. Victims of gender-based violence have little access to LA services due to cognitive and psychological barriers, and have difficulty in traveling and filing documents and applications for LA.* Meanwhile, many LA-providing organizations haven't had an appropriate and effective approach to victims of gender-based violence. Many LA Centers haven't arranged convenient places where people can visit to ask for LA. LA hotlines are often provided by state-run LA Centers and their telephone numbers contain many digits that make it difficult for people to remember. Such hotlines only receive calls during work hours and haven't provided intensive counseling and guidance to people eligible for LA as a whole and victims of gender-based violence. There hasn't been an effective collaboration between LA-providing organizations and local authorities, mass organizations and reputable individuals in guiding people to visit and ask for LA.

*5. Funding for ensuring GE in LA is limited.* The Ministry of Justice (the National Legal Aid Agency), in addition to mobilizing funds from international organizations, such as UNDP, UNWOMEN, USAID, UNICEF, IOM, the Embassy of Canada, etc., has coordinated the provision of the state central budget for LA to local authorities for implementation of LA activities through the monitoring, assessment and synthesis of local funding proposals for implementation of the 2016-2020 LA policies for the poor and people of ethnic minorities living in districts, villages and hamlets that are poor or in extreme difficulty, and of local funding proposals for the provision of LA in the form of participation in litigation cases of complex or typical nature. However, the local budget for the provision of LA remains limited in some areas. It cannot cover remuneration for LA-providing individuals, and in-depth LA training for LA-providing individuals, especially training of skills to provide LA in gender-related matters.

## **PROPOSALS AND RECOMMENDATIONS**

### **Proposed gender equality goals and performance indicators in the LA field**

*a) Goals and performance indicators for ensuring GE in the organization of the provision of LA:*

*Goal 1: Ensuring GE in LA-providing organizations and LA-providing individuals*

+ Performance indicator 1: 100% of the state-run LA Centers each assign one staff to act as a focal point to advise on ensuring GE in LA.

+ Performance indicator 2: At least 50% of the LA-providing individuals (LA officers, LA collaborators, lawyers, and legal counselors) and other staff are female.

+ Performance indicator 3: 100% of the state-run LA Centers each have at least one female person in the management (Director, Vice Director, the Head or Deputy Head of an affiliated division or branch).

*Goal 2: Ensuring GE in the capacity building for LA-providing personnel*

+ Performance indicator 1: Annually, 100% of the persons assigned by state-run LA Centers to act as a focal point to advise on ensuring LA are invited to participate in training courses of GE and gender mainstreaming in the LA field that are organized by the National Legal Aid Agency, the Ministry of Justice.

+ Performance indicator 2: Annually, 90% of the LA-providing individuals of LA-providing organizations are trained and equipped with legal knowledge of GE, gender-based violence prevention and fight, and skills to provide LA in cases in connection with gender-based violence.

+ Performance indicator 3: 100% of the LA-providing organizations make available to the public their lists of LA-providing individuals, in which the gender, expertise and work experience of each LA-providing individual is stated.

*b) Goals and performance indicators for ensuring GE in the provision of LA:*

- *Goal 1: Ensuring the gender mainstreaming in the development and implementation of annual LA plans*

+ Performance indicator 1: Annually, 100% of the state-run LA Centers each have a plan on ensuring GE in LA

+ Performance indicator 2: Annually, 100% of the LA-providing organizations provide statistical reports of LA-providing individuals and LA beneficiaries disaggregated by sex, and the number of LA cases in connection with gender-based violence.

*- Goal 2: Gender-based violence prevention and response*

+ Performance indicator 1: Annually, 100% of applicants for LA in GE-related matters are provided with LA services.

+ Performance indicator 2: By the year 2025, 30% of the state-run LA Centers each carry out at least one model on support, prevention and response to gender-based violence.

**Recommendations on the implementation of proposed goals on GE in LA**

***1. Improvement of the policies, laws and regulations on ensuring GE in LA***

The definition “gender-based violence” must be included in the Law on Gender Equality. Accordingly, two new categories of persons eligible for LA, namely “*victims of gender violence*” (including male and female persons, women, boys, girls and LGBT persons) and

*“perpetrators of gender violence”* (with financial difficulty), must be included in the Law on Legal Aid.

## ***2. Capacity building for LA-providing individuals***

- Reviewing the capacity building needs of and making plans on capacity building for LA-providing individuals on GE-related matters, and on prevention and fight against gender-based violence, with specific performance indicators and roadmaps for each period.
- Developing digitalization-based (online) in-depth training courses of GE, gender-based violence prevention and fight and skills to provide LA in cases in connection with gender-based violence to help trainees have easy access thereto.
- Opening online forum to exchange LA knowledge and skills and provide LA guidance in the forms of Q&A with experts, theme-based workshops and discussions on problems encountered in the provision of LA in practice.
- Application of trainee-centered training methodology to training courses of LA knowledge and skills

## ***3. Strengthening the capacity of victims and perpetrators of gender-based violence to access LA***

- Setting up a 24/7 hotline on LA with a short and easy-to-remember telephone number for use nationwide to help persons in need of LA and related persons be able to call at any time when they are in need or witness or want to report acts of gender-based violence. At the same time, there should be a connection between the hotline and LA-providing organizations to ensure that applications for LA are promptly dealt with.
- Signing, monitoring and making assessment on arrangements on collaboration amongst related agencies and organizations in detecting and referring persons in need of LA in matters relating to gender-based violence, collaborating in verifying information, collecting evidence, and providing LA to persons eligible for LA.
- Renovating and diversifying means of dissemination on LA that suit different categories of persons at high risks of being victims or perpetrators of gender-based violence, with a focus on communication channels that the victims and perpetrators can easily access
- Promoting products of communication and/or dissemination on GE-related contents that are expressed in the languages of ethnic minority people.
- Making available to the public the addresses and telephone numbers of LA-providing individuals, and hotlines on LA in the web portals and social network accounts of agencies, organizations and social groups that work in the prevention and response to gender-based violence, and those of the LGBT community, etc.
- Building and developing user-friendly and accessible web portals and social networks on LA with a convenient search for people.
- Strengthening the capacity and improving the skills of reputable persons in communities (heads of population clusters, hamlets, and villages), their relatives and local

state employees (commune-level police officers, civil status-judicial officers) in the LA field to help them detect and refer persons in need of LA.

- LA-providing organizations should enhance their sense of proactiveness in detecting and approaching persons eligible for LA in order to provide LA services to them, instead of waiting for applications for LA.

- Building a gender-sensitive work environment to promote the proactive participation of LA-providing individuals, especially women, in providing free legal aid services to victims of gender-based violence, and at the same time, encouraging victims of gender-based violence to access and use legal aid services when they are in need.

#### ***4. Including GE-related statistical criteria in the management system of LA activities***

- Information disaggregated by gender, expertise and work experience of LA-providing individuals.

- Criterion on the sex of LA beneficiaries: in addition to the 2 statistical criteria, namely “male” and “female”, there should be another criterion on sex, namely “other” for people of the LGBT community who are eligible for LA.

- Criteria on persons eligible for LA: Victims of gender-based violence, including victims of sexual abuse, physical or mental abuse committed on cyberspace or in the community, etc., should be included in persons eligible for LA.

- Criteria on LA: Additional criteria should be included to determine whether or not a LA case is related to GE and/or gender-based violence.

#### ***5. Increasing resources for LA***

- State-run LA Centers must be located in places convenient for people to visit and present their requests/applications for LA.

- Funding for dissemination on LA, training of LA knowledge and skills for LA-providing individuals, and payment of remuneration in LA cases, must be ensured.

#### ***6. Strengthening international cooperation in LA***

- Strengthening cooperation with international and domestic organizations in the implementation of projects and activities on the protection of the rights of vulnerable persons and on the prevention and responses to gender-based violence in order to have additional technical and financial assistance and support for ensuring GE in LA.

- Expanding bilateral, multilateral and regional cooperation; joining in-depth LA cooperation forum; enhancing the exchange of information and experience of provision of LA, especially provision of LA to victims of gender-based violence.

## INTRODUCTION

Following the succession of the National Strategy on Gender Equality for the 2011-2020 period, the Government issued Resolution No. 28-NQ-CP dated 3 March 2021 promulgating the National Strategy on Gender Equality for the 2021-2030 period that aims at narrowing the gender gap and to create conditions and opportunities for women and men to participate and enjoy equally in all fields of social life, thereby contributing to the national sustainable development. In order to successfully implement 6 goals with a total of 20 performance indicators set out in the Strategy, the Government has proposed many solutions, and at the same time assigned ministries, state agencies and local government bodies, including the Ministry of Justice, to develop plans to implement the Resolution.

In implementing the assignment, the Ministry of Justice, right after the Government's promulgation of Resolution No. 28-NQ-CP, has assigned the Justice Sector's Commission for the Advancement of Women to act as a focal point, in collaboration with the functional affiliated units of the Ministry of Justice, in researching and developing an Action Plan for implementation of the 2021-2030 National Strategy on Gender Equality to submit to the Minister for issuance. The research process has shown that, in order to achieve the performance indicators and to implement the mandates on ensuring GE in family life, and on preventing and responding to gender-based violence (Goal 3), especially guaranteeing the equal beneficiary and access opportunities of victims of gender-based violence, there should be, first and foremost, a comprehensive assessment report of the implementation of GE and its achievements in the organization and provision of legal aid (LA). With the research results, specific mandates, solutions and roadmaps will be identified for the implementation of goals, mandates and solutions to ensure GE up to the year 2030 as assigned by the Government to the Ministry Justice and the Justice Sector.

To that effect, this report was prepared with a view to

- Making assessment on the achievements and the status quo of ensuring gender equality in legal aid.

- Proposing specific performance indicators, mandates and solutions to ensure gender equality in the organization and provision of legal aid, as required by the 2021-2030 National Strategy on Gender Equality.

Information, statistics, outcomes and recommendations in this report will be used as inputs for the issuance of an Action Plan for implementation of the 2021-2030 National Strategy on Gender Equality of the Justice Sector with specific and feasible goals, performance indicators, mandates included, thereby contributing to the successful implementation of the 2021-2030 National Strategy on Gender Equality promulgated by the Government.

***This report consists of:***

- Part 1: General affairs on ensuring EG in LA;

- Part 2: Analysis and assessment of the status quo of ensuring GE in LA: achievements, advantages, disadvantages and challenges in ensuring GE in LA under the Ministry of Justice's 2011-2020 Action Plan for implementation of the National Strategy on Gender Equality.

- Part 3: Proposed goals, performance indicators and mandates in the draft 2021 – 2030 Action Plan of the Ministry of Justice and the Justice Sector for achieving the national GE performance indicators stated in Resolution No. 28-NQ-CP, and proposed solutions to successfully achieve the performance indicators and mandates on ensuring GE in LA.

The report was prepared based on the review of pieces of legislation in the field of GE and LA; information in a number of published GE-related research reports and articles; the prevention and fight against women and children; the Ministry of Justice's and the National Legal Aid Agency's thematic and in-depth assessment reports of the GE implementation, the prevention and fight against gender-based violence, and the provision of LA to victims of domestic violence and human trafficking; and information uploaded in the web portals of the National Legal Aid Agency, and of the Departments of Justice in a number of cities/provinces. The draft report was prepared in consultation with the leaders and legal officials of the National Legal Aid Agency and the Personnel-Organization Department of the Ministry of Justice, a number of GE and gender-based violence prevention specialists, UNDP program officers and specialists, and participants in a consultative workshop held by the Ministry of Justice.

Due to that qualitative and quantitative surveys were not conducted, the status quo of ensuring GE in the organization and provision of LA, which is stated and analyzed in this report is based on information available in other relevant reports. The data in this report are neither sufficient nor consistent since they are quoted from the reports and articles on different subject matters in different periods. The authors team hope to receive the attention and comments of stakeholders so that this thematic report is further improved.

## **PART I**

### **GENERAL AFFAIRS ON ENSURING GENDER EQUALITY IN LEGAL AID**

#### **I. Goals on ensuring gender equality in legal aid**

Ensuring GE in LA aims at<sup>6</sup>:

- Ensuring equal opportunities between men and women in accessing legal aid activities to protect their rights and legitimate interests, and to improve legal understanding, sense of respect and law compliance.
- Eliminating gender discrimination and progressing towards substantive equality between men and women in legal aid.
- Establishing and strengthening cooperation and supportive relationships between men and women in implementing the right to legal aid and supervising the implementation of gender equality in legal aid.

#### **II. Legal foundation for ensuring gender equality in legal aid**

Ensuring GE in LA is a matter of great interest in the process of building and improving laws and regulations on LA. In 2011, the Ministry of Justice issued ***Circular No. 07/2011/TT-BTP dated 31 March 2011 guiding the assurance of GE in the organization and provision of LA***. This Circular provides guidelines to ensure GE in the personnel structure of LA-providing organizations, to strengthen the capacity of LA-providing individuals, and to develop and implement plans and reports on results of ensuring GE. The Circular also specifies measures and ways to ensure GE in LA, including ensuring the privacy of LA beneficiaries; information and communication on GE; provision of LA to protect the rights and legitimate interests of women; identifying people eligible for LA who belong to special groups; ensuring GE in legal advice, participation in legal proceedings, out-of-court representation, activities of LA clubs, and other legal aid activities.

***Circular No. 11/2014/TT-BTP dated 17 April 2014***, being effective as of 1 July 2014 and replacing Circular No. 07 above, provides for the assurance of GE in LA in a broader scope. It covers objectives and principles in ensuring GE in the organization and provision of LA; the responsibility of agencies, organizations and individuals to ensure GE in LA. In particular, this Circular has a dedicated article (Article 12) providing for the implementation of protective and supportive measures for mothers, girls, victims of domestic violence, victims of human trafficking, and victims of SA (they are victims of gender-based violence).

To ensure the access of special groups, including women and girls who are victims of gender-based violence, to legal aid services, the Ministry of Justice assumed the prime responsibility in developing and advising the Government to submit to the National Assembly to enact ***the Law on Legal Aid, 2017*** to replace the 2006 Law on Legal Aid. This marks an

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<sup>6</sup> Article 3 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Ministry of Justice providing guidelines on ensuring GE in the organization and provision of LA.



important milestone in the improvement of laws and regulations to ensure the implementation of human rights, the fundamental rights and obligations of citizens, the right to access to justice, and the right to equality before the law.

Under Article 7 of the 2017 Law on LA, victims of gender-based violence shall be eligible for LA if they are: (1) people with meritorious service to the revolution; (2) members of poor households; (3) children; (4) ethnic minority people residing in areas with extremely difficult socio-economic conditions; (5) the accused who are aged between full 16 years and under 18 years; or (7) people experiencing financial difficulties who fall into one of the following cases: (a) victims of domestic violence cases or matters; (b) victims of human trafficking; (c) victims in criminal cases who are aged between full 16 years and under 18 years; (d) people with disabilities; (dd) the elderly; (e) HIV-infected people; (g) agent orange victims; (h) birth parents, spouses or children of fallen heroes or persons nurturing fallen heroes during their childhood.

Victims of gender-based violence that fall under one of the categories of persons eligible for LA shall be provided with LA in law-related fields, except the fields of trade and commerce, in the forms of (1) participation in legal proceedings; (2) legal counseling; (3) out-of-court representation.

In order to effectively implement provisions on GE in the 2017 Law on Legal Aid, the Ministry of Justice took the lead in developing and submitting to competent authorities for promulgation, or promulgated within its competence a series of pieces of implementing legislation, such as:

- ***Decree No. 144/2017/ND-CP*** dated 15 December 2017 of the Government detailing a number of articles in the Law on LA;

- ***Circular No. 08/2017/TT-BTP*** dated 15 November 2017 of the Minister of Justice detailing a number of the Law on LA and providing guidance of papers in legal aid activities. It stipulates the types of papers proving that domestic violence victims have financial difficulties when they file applications for the provision of LA.

- ***Joint Circular No. 10/2018/TTLT-BTP-BCA-BQP-BTC-TANDTC-VKSNDTC*** dated 29 June 2018 providing for coordination in the provision of LA in legal proceedings.

- ***Circular No. 12/2018/TT-BTP*** dated - August 2018 of the Ministry of Justice guiding a number of legal aid activities and quality management of LA cases.

- ***Circular No. 03/2019/TT-BTP dated 20 March 2019 regulating statistical activities in the justice sector.*** This Circular replaces Circular No. 04/2016/TT-BTP, which stipulates *15 sex-disaggregated statistical indicators* in 05 areas including civil status, child adoption, mediation, legal aid, and criminal record.

- ***Circular No. 03/2020/TT-BTP*** dated 28 April 2020 of the Ministry of Justice promulgating the code of conducts in LA.

In order to protect the rights and legitimate interests of women in general and women who are victims of gender violence in particular, the Ministry of Justice and the Central

Committee of Vietnam Women's Union signed the Collaboration Program No. 60/CTPH-BTP-HLHPNVN dated 5 January 2018 on the implementation of law dissemination and education, provision of LA, legal counseling for women, grassroots mediation, and gender mainstreaming in the law development for the period of 2018-2022.

Recently, on 23 December 2021, the Ministry of Justice issued Official Letter 4878/BTP-TGPL providing guidance on the provision of legal aid to victims of gender-based violence under Decision No. 2232/QD-TTg dated 28 December 2020 of the Prime Minister approving the Program on prevention and response to gender-based violence for the period of 2021-2025.

### **III. Contents on ensuring gender equality in legal aid**

#### ***1. Ensuring gender equality in the organization of the provision of legal aid***

GE in the organization of the provision of LA is ensured from the following two perspectives:

*a) Ensuring GE in the personnel structure of LA-providing organizations and in LA-providing individuals<sup>7</sup>*

- LA-providing organizations each assign a unit or officer to act as a focal point to advise the assurance of gender equality in LA.

- LA-providing organizations regularly review and assess the current situation and propose competent agencies solutions to consolidate their organizational structure, develop their LA-providing individuals, and ensure the gender structure between men and women in the management (Director, Deputy Director, Head, Deputy Head of Division, Committee and Branch), amongst LA-providing individuals (legal aid officers, legal aid collaborators, lawyers, and legal counselors), and other employees.

- The building and development of LA collaborators must ensure the gender structure between men and women by geographical location and forms of LA, in accordance with law and local practice. Women of ethnic minorities, and people with knowledge and skills on gender, gender equality, prevention and fight against domestic violence, human trafficking and sexual abuse are encouraged and provided with favorable conditions to participate as collaborators in the provision of LA.

*b) Ensuring gender equality in improving the quality of LA-providing human resources<sup>8</sup>*

- Annually, LA-providing organizations integrate the training on legal knowledge of gender equality, and prevention and fight against DV, HT and SA into the training of professional knowledge for LA-providing individuals.

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<sup>7</sup> Article 6 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing for the assurance of GE in LA.

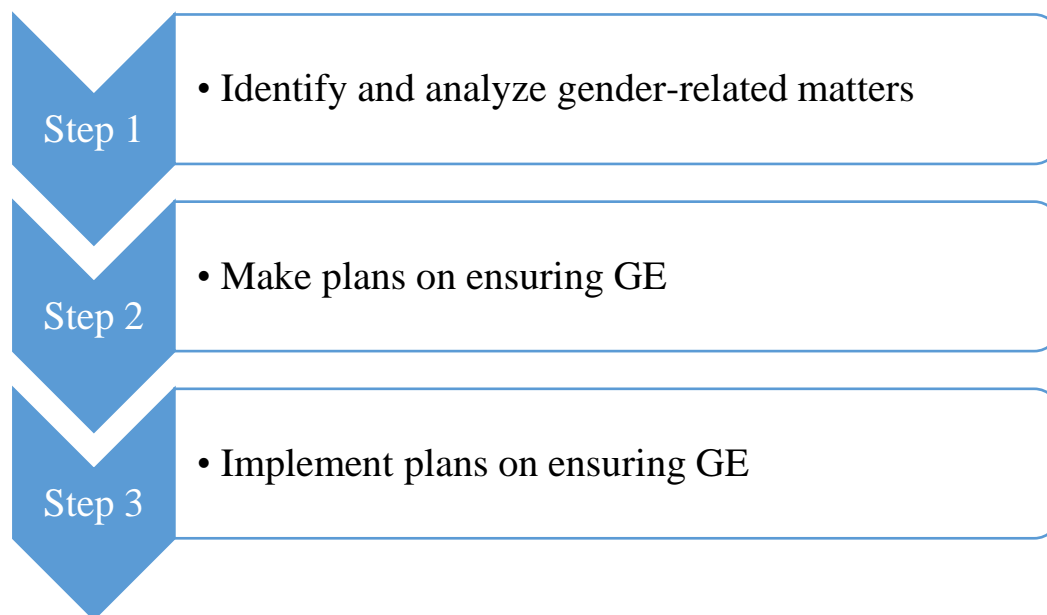
<sup>8</sup> Article 7 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing for the assurance of GE in LA.

- LA-providing organizations ensure equal participation of men and women in the training on knowledge and skills on the provision of LA; priority is given to sending LA-providing individuals to participate in the training on GE, DV prevention and fight, and prevention and fight against human trafficking and SA. In case women meet standards and requirements that are equivalent to those for men while the proportion of women is low, women shall be chosen.

- LA-providing organizations assign suitable jobs to women and allow them have sufficient time when they are raising children under 36 months old so that they can participate in training to improve their professional qualifications, and LA knowledge and skills.

## ***2. Ensuring gender equality in legal aid.***

GE in LA is ensured under the following process:



The steps are taken as follows:

### ***a) Identifying and analyzing gender-related matters<sup>9</sup>***

When developing and organizing the implementation of annual LA plans or implementing LA activities, LA-providing organizations are responsible for identifying and analyzing gender-related matters and proposing measures to ensure gender equality in legal aid.

Gender-related matters in LA are identified and analyzed as follows:

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<sup>9</sup> Article 8 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing for the assurance of GE in LA.

- Analyzing the structure of men and women in the LA-providing personnel and the quality of human resources to provide LA;

- Analyzing the structure of men and women in the total number of LA cases, in the total number of LA beneficiaries, and in LA cases and matters in which victims of gender-based violence are LA beneficiaries.<sup>10</sup>

- Analyzing the possibility of gender inequality or gender discrimination in LA or activities that prevent the implementation of the right to LA of men and women (if any);

- Identifying gender-related matters, the causes of gender inequality or gender discrimination in LA or activities that prevent the implementation of the right to LA of men and women.

*b) Developing and implementing plans on ensuring gender equality in legal aid<sup>11</sup>*

On the basis of the results of identifying and analyzing gender-related matters, LA-providing organizations develop and implement plans to ensure gender equality in legal aid through mainstreaming gender into their annual legal aid work plans, and other programs and plans.

Gender mainstreaming in the development and implementation of the plans includes:

- Dissemination on the rights of persons eligible for LA that are in connection with GE, the prevention and fight against DV, the prevention and fight against human trafficking, and the prevention and fight against SA;

- Developing personnel structure and LA-providing individuals in accordance with Article 6 of Circular No. 11/2014/TT-BTP.

- Organizing training courses to improve the quality of LA-providing human resources in LA-providing organizations.

- Engaging both men and women in developing legal aid plans and in monitoring, evaluating, monitoring and verifying the implementation of the plans.

- Developing and multiplying pilot models to ensure gender equality in legal aid in accordance with the characteristics of LA-providing organizations.

- Identifying the responsibilities of related agencies, organizations and individuals; the coordination between agencies, organizations and individuals in organizing the implementation of the plans and resources to ensure the implementation of the plans after they are approved.

*c) Ensuring the equal participation of LA-providing individuals in LA<sup>12</sup>*

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<sup>10</sup> The cases and matters are stipulated in Article 12 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing for the assurance of GE in LA.

<sup>11</sup> Article 9 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing for the assurance of GE in LA.

<sup>12</sup> Article 10 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA.

LA-providing organizations each assign LA-providing individuals to carry out legal aid cases that involve victims of gender-based violence in accordance with the needs of the victims and the capabilities of the organization.

LA-providing organizations each make available to the public the list of LA-providing individuals of their organizations so that persons eligible for LA can exercise their right to select or change LA-providing individuals. The list must clearly state their gender, fields of expertise and work experience in the assigned field of expertise

LA-providing individuals who are women nursing their children under 36 months of age shall be assigned with legal aid cases that suit their capabilities and conditions. LA-providing organizations are responsible for supporting and creating favorable conditions for such individuals in the process of implementing legal aid activities.

Legal aid officers who are on maternity leave are not required to attend compulsory training to improve knowledge and skills during the year.<sup>13</sup>

*d) Ensuring the equal participation of persons eligible for LA in the exercise of their rights and obligations<sup>14</sup>*

When implementing legal aid activities, LA-providing organizations and LA-providing individuals are responsible for:

- Closely collaborating with information and communication agencies, socio-political organizations, political, socio-professional organizations, socio-professional organizations and grassroots authorities to communicate and disseminate laws and regulations on gender equality and general information related to legal aid cases for victims of gender-based violence;

- Creating favorable conditions for persons eligible for LA to access and exercise their rights and obligations in accordance with the law without being discriminated against in terms of gender;

- Neither pressuring nor using the gender weaknesses of persons eligible for LA to force them to decide immediately on the direction of resolving the case;

- Information about the rights and legitimate interests of a person eligible for LA, the right to be protected, the right to fair treatment and respect, and other rights and obligations at the request of such person.

LA-providing organizations select time and methods of provision of legal aid that are suitable to the sex and psychology of persons eligible for LA and their local traditional custom so that men and women have equal access to LA and exercise their rights and obligations in accordance with the law.

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<sup>13</sup> Article 4(4)(c) of Circular No. 12/2018/TT-BTP dated 28 August 2018 of the Ministry of Justice guiding a number of legal aid activities and quality management of LA cases

<sup>14</sup> Article 11 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA

*e) Implementing supportive and protective measures for persons eligible for LA who are gender-based violence victims*

The victims of gender-based violence who are eligible for LA include: mothers, girls, domestic violence victims, victims of human trafficking, victims of SA<sup>15</sup>. When such victims request for LA, the LA-providing organization or the LA-providing individual shall carry out the following:

- If the victim requests for a private setting and does not want a third person to listen to them, then the LA-providing individual is responsible for arranging an appropriate venue, enabling them to present and provide information and/or documents about the case;
- Informing the victim of the right to be protected by law; not judging, blaming, pressuring, intimidating or psychologically hurting them;
- Encouraging and explaining to the victim so that they can provide information about the case in order to protect their rights and legitimate interests to the greatest extent;
- Providing legal counseling, explaining rights and obligations, ensuring the confidentiality of the LA case in accordance with the law; guiding the victim to access victim assistance and support facilities; guiding or requesting the application of measures to protect and assist the victim in accordance with the law;
- Assigning an LA-providing individual to help the victim in case the victim needs legal advice to prevent being trafficked again, or legal aid to apply for household or civil status registration or support, to claim for damages, to participate in legal proceedings, and to do other legal procedures related to human trafficking cases;
- Proposing the competent authority to apply safeguards to the victim and their relatives; guiding the victim to request for or requesting competent authorities to apply or cancel protective measures, to negotiate or mediate in order to protect their rights and legitimate interests to the greatest extent;
- Supporting and assisting the victim to gain psychological stability; if necessary, requesting the Court to appoint an assistant at the Court to attest the victim's testimony in order to avoid the connection between the victim and the offender in case the victim is agitated or have their honor or life threatened.

It is the responsibility of the LA-providing individual to provide the addresses of and information about assistance from the police, local authorities, associations, unions, victim support and assistance facilities and other social services to the person eligible for LA when needed.

When detecting that the person eligible for LA is a victim of domestic violence, human trafficking or sexual abuse, the LA-providing organization informs and collaborates with victim support and assistance facilities to implement supportive and protective measures and provide aid and assistance to the victim in accordance with the law.

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<sup>15</sup> Article 12 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA

In the process of providing LA to the victim, if detecting signs of violation of the law, the LA-providing organization shall transfer the case to a competent agency for handling or request the police to take measures to support and ensure safety for the victim.

*f) Funding for ensuring gender equality in legal aid<sup>16</sup>*

Funding for ensuring gender equality in legal aid of state-run LA Centers is provided by the state budget and is stated in the annual budget estimate of the Centers in accordance with the Law on State Budget and other related pieces of legislation.

Funding for ensuring gender equality in legal aid of organizations that participate in the provision of LA shall be provided in accordance with the law.

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<sup>16</sup> Article 13 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA.

## **PART II**

### **ASSESSMENT OF THE STATUS QUO OF ENSURING GENDER EQUALITY IN LEGAL AID**

#### **I. The status quo of ensuring gender equality in the organization of the provision of legal aid**

##### ***1. Achievements in the implementation of gender equality in the personnel structure of LA-providing organizations, and LA-providing individuals***

LA-providing individuals have been developed in terms of quality and quantity, and have basically met the professional qualifications and requirements in the provision of LA to people in accordance with the Law on Legal Aid. As of October 2020, there are 645 LA officers nationwide, 365 of whom are female (accounting for 56.5%)<sup>17</sup>.

In the National Legal Aid Agency, there are 2 female leaders (Deputy Director) out of the 3 leaders of the Agency. Most LA Centers in provinces/cities have female leaders (Director or Deputy Director). Most LA-providing organizations have at least 5-7 female staff with professional qualifications and experience to provide LA<sup>18</sup>.

In addition to LA officers as the main source, lawyers and legal aid collaborators have also proactively participated in the provision of LA, thereby meeting the needs of persons eligible for LA, including victims of gender-based violence, in a timely and sufficient manner. The Ministry of Justice and the Vietnam Bar Federation signed the Coordination Regulation No. 4617/QCPH/BTP-LDLSVN on 28 December 2016 on legal aid provided by lawyers. Many local government bodies have signed the Coordination Regulations with the Bar Associations at the provincial level. By 31 October 2021, nationwide, 36 organizations have signed contracts for provision of LA with 13 Departments of Justice (including 27 law-practicing organizations, and 9 legal counseling organizations); there are 181 organizations (145 law-practicing organizations, and 36 legal counseling organizations) that have registered with 23 Departments of Justice to participate in the provision of legal aid<sup>19</sup>.

Basically, a contingent of LA-providing individuals meet the professional standards, qualifications and skills to provide LA to people in accordance with the law on legal aid. In particular:

- LA officers appointed before 1 January 1 2018 must meet the criteria specified in Article 21(1) of the 2006 Law on Legal Aid and the Decrees detailing and guiding the implementation of a number of articles in the 2006 Law on Legal Aid (Article 19 of Decree No. 07/2017/ND-CP; Article 1(1) of Decree No. 14/2013/ND-CP; Article 1(1) of Decree No.

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<sup>17</sup> Source: The assessment report of the implementation of the Justice Sector's 2016-2020 Action Plan on Gender Equality.

<sup>18</sup> Source: The assessment report of the implementation of the Justice Sector's Action Plan on Gender Equality for the period of 2016-2020.

<sup>19</sup> Source: the Justice Sector's statistics, 2021, available at the web portal of the Ministry of Justice at the link: <https://moj.gov.vn/cttk/chuyenmuc/Pages/thong-tin-thong-ke.aspx>



80/2015/ND-CP). From 1 January 1 2018, a person must meet the criteria specified in Article 19 of the Law on Legal Aid 2017 in order to be appointed as an LA officer.

- LA-providing lawyers are: (1) a lawyer who provides LA under a contract with a state-run LA Center. In addition to the requirements set forth in Article 10 of the Law on Lawyers, he/she must also satisfy the requirements in Article 14(3) of the 2017 Law on Legal Aid; (2) a lawyer provides LA as assigned by the organization that participate in the provision of legal aid. The 2017 Law on Legal Aid and the other implementing legislations and regulations do not specify the standards for this type of lawyer, but only stipulate the requirements applicable to any organization that the Department of Justice selects to sign a contract or that has registered for participation in the provision of LA.

- In areas with extremely difficult socio-economic conditions, the state-run LA Center requests the Director of the Department of Justice to grant a card to and sign a contract for provision of LA with a qualified LA collaborator as stipulated in Article 24(2) of the 2017 Law on Legal.

- A legal counselor must meet the requirements under Article 19 of the Government's Decree No. 77/2008/ND-CP dated July 16, 2008 on legal counseling, and has 02 years of experience of providing legal counseling.

Under the 2017 Law on Legal Aid, the requirements and standards applicable to LA officers are currently equivalent to those applicable to lawyers, namely: law bachelor degree; being trained with law practicing, or being exempted from training of law practicing, etc.

## ***2.Achievements in the implementation of gender equality in increasing the quality of LA-providing human resources***

In response to the growing need of quality legal services for persons eligible for LA, including victims of gender-based violence (victims of domestic violence, discrimination or HT), the National LA Agency and state-run LA Centers have, in recent years, paid much attention to the capacity building for LA-providing organizations and LA-providing individuals.

At the central level, from 2016 to the end of the first 6 months of 2020, there were 59 training courses organized by the National LA Agency, the Ministry of Justice with nearly 5,000 participants, including some training courses of GE, prevention and fight against DV, HT and SA<sup>20</sup>. In 2018 and 2019, the National LA Agency held a number of training courses such as: (1) a UNODC-funded training course on legal aid for victims of gender violence; (2) a UNICEF-funded training course on the provision of friendly legal aid to people under the age of 18 (developing training materials, and organizing the training course); (3) an Irish Embassy-funded training course on skills to provide legal aid to children. From 2020 until now, under the EU Justice and Legal Empowerment Programme (EU JULE), the EU and UNDP have funded the development of training materials and the organization of training courses on legal aid skills for victims of domestic violence. In 2021, the National LA Agency

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<sup>20</sup> Source: The Ministry of Justice' Report No. 141/BC-BTP dated 14 July 2021 reviewing the 5-year implementation of the LA reform project for the period of 2015-2025.

held 05 training courses on skills to participate in legal proceedings for LA-providing individuals. The training courses have contributed to improving skills to provide legal aid to victims of domestic violence., and the responsibilities of LA-providing individuals in the process of providing LA, especially in cases related to domestic violence, thereby contributing to better protecting the rights and legitimate interests of persons eligible for LA in specific cases. The training contents emphasized on ensuring gender equality in the process of providing legal aid to victims of domestic violence<sup>21</sup>.

At the local level, state-run LA Centers have also integrated gender and GE into professional activities, ensuring the implementation of gender equality policies and laws as well as contributing to the implementation of the National Strategy on Gender Equality. In particular: integrating gender equality and domestic violence prevention into the dissemination on LA (developing leaflets on gender equality, domestic violence prevention as well as women's legally-prescribed rights and obligations); guaranteeing the rights and legitimate interests of women through specific legal aid cases; carrying out communication and dissemination activities, and seminars on legal awareness raising, gender equality and domestic violence prevention; ensuring the rights and legitimate interests of people as a whole, and women being victims of gender-based inequality, victims of domestic violence or victims of human trafficking.<sup>22</sup>

A number of training materials on prevention and fight against domestic violence have been developed and used in the training for LA-providing individuals, such as:

- *Guidance on provision of LA in DV-related cases* (for LA-providing individuals), Ha Noi, March 2012.

- *Prevention and fight against DV* for trainees of the judicial and executive sectors in Vietnam, Ha Noi, 2011 (2<sup>nd</sup> edition).

- *Training materials on skills to provide LA to victims of DV* (for LA-providing individuals), Ha Noi, 2020.

***Besides the advantages and achievements mentioned above, there remain some shortcomings, limitations, difficulties, and challenges in ensuring gender equality in the organization of the provision of legal aid, as follows:***

*Firstly, the structure and quality of human resources to provide LA haven't well satisfied the needs of GE-related LA.* The LA-providing individuals of some LA-providing organizations are young, do not have much experience and skills in working with victims of gender violence (especially the elderly, LGBT people, trafficked women, HIV infected people, people with disabilities, etc.). Their skills are also limited in some fields, such as skills to provide legal aid, especially skills to participate in litigation and skills to contact people in sensitive cases (sexual abuse, human trafficking, etc.); skills to participate in interrogation and

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<sup>21</sup> Source: The article "Introduction of mainstreaming gender equality into legal aid activities for victims of domestic violence - achievements and some difficulties and problems" by the NLAA in Seminar on "Gender mainstreaming in domestic violence prevention" held in Hanoi, December 7, 2021.

<sup>22</sup> Source: The assessment report of the implementation of the Justice Sector's Action Plan on Gender Equality for the period of 2016-2020.

taking testimonies of the accused, criminal defendants, victims and litigants in criminal proceedings; skills in studying case files, and skills in collecting evidence, exchanging information, requesting for expert examination, or requesting for the application of provisional measures in legal proceedings that deal with civil, labor, land or administrative cases, etc. For persons eligible for LA, such as victims of sexual abuse, victims of human trafficking and LGBT people, LA-providing individuals should be equipped with knowledge related to the psychological and social characteristics of such people as well as their needs, especially knowledge to eliminate gender stereotypes and gender sensitivity in the process of meeting, working and providing legal aid services to them.

*Secondly, the training to strengthen the capacity of LA-providing individuals has not yet fully met their needs, especially skills to participate in litigation in different fields and for different litigants.* Although the National Legal Aid Agency has organized training courses on legal aid skills in different fields, such as criminal, civil, family and marriage, and administrative fields as well as skills to provide legal aid to victims of gender-based violence (DV, HT and SA victims), many lawyers and LA officers have not yet participated therein due to that training courses are not regularly held or due to duplication of work schedules. Funding, facilities and equipment for training activities in some localities are limited, thereby resulting in that training course are not organized regularly at both central and local levels. Some localities have not been allocated training funds, so they cannot organize training courses within the locality. Experienced and qualified lecturers of LA-providing skills, and experts on gender equality and gender-based violence prevention work mainly in two big cities, namely Hanoi and Ho Chi Minh. Thus, it is not so convenient to invite them to provide lectures regularly in other cities/provinces. In some localities, there hasn't been a close and effective coordination between litigation-conducting agencies and agencies performing the state management of LA at the central and local levels in organizing the training in different forms for LA-providing individuals as well as in helping them to draw experience in using skills to provide legal aid, especially skills to participate in legal proceedings to defend or protect the rights and legitimate interests of persons eligible for legal aid in general and victims of gender-based violence in particular.

*Thirdly, there remain shortcomings in the mode and method of organizing training courses to strengthen the capacity of LA-providing individuals.* The main training method is in-person training, thereby resulting in a limited number of participants. Many training courses have not used a learner-centered approach, have not promoted the active participation of trainees, but mainly focus on providing one-way lecturing. Few training courses have applied a two-way learning method or provided in-class exercises for trainees to exchange, discuss and apply learnt skills to handle specific cases. Information technology has been used more in training for and in providing information and reference materials to LA-providing individuals since the Covid-19 pandemic occurred. However, the combination between online training and in-person training is just a temporary solution, and has not been designed into formal courses that can cover different types of trainees, increase the number of LA-providing individuals to participate therein, and meet the growing training needs of LA-providing individuals.

*Fourthly, training materials on knowledge and skills to provide legal aid in general and skills to provide legal aid to victims of gender-based violence in particular have not been compiled in a methodical, comprehensive, synchronous and stable manner for long-term use by LA-providing organizations.* The compiled training materials only provide legal guidance to a number of target groups, such as domestic violence victims, disabled people and minors, but not yet covered all types of victims of gender-based violence, including victims of SA, HT, or victims of physical and emotional violence caused by acts of gender-based violence that occur in the community or in cyberspace...

## **II. The status quo of ensuring gender equality in legal aid**

### ***1. Achievements in ensuring the equal participation of LA-providing individuals in LA activities***

As mentioned above, in order to effectively provide LA to women, most LA-providing organizations have arranged at least 5-7 female staff with professional qualifications and enough experience to do so.<sup>23</sup> The list of state-run LC Centers and their branches, and the list of LA-providing individuals of the Centers with each individual's title and phone number/email are published on the websites of the National LA Agency<sup>24</sup> and the province-level Departments of Justice.

However, the list of LA-providing individuals currently posted on the websites of the National LA Agency and the province-level Departments of Justice does not state the sex, field of expertise and work experience of each LA-providing individual. This has partly affected the choice or request of persons eligible for LA for change of LA-providing individuals.

### ***2. Achievements in ensuring the equal participation of persons eligible for LA in the performance of their rights and obligations***

To raise people's awareness of the right to legal aid and the procedures for requesting legal aid, agencies conducting the state management of legal aid (the National LA Agency and the province-level Departments of Justice) and LA-providing organizations have focused on promoting communication on legal aid activities in different forms, including traditional forms of communication (community-based communication, newspapers, leaflets, etc.), modern media (the Internet, telephone hotlines, etc.) and other particular forms (message boards or boxes, LA newsletter at the procuratorial agencies, local

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<sup>23</sup> Source: The assessment report of the implementation of the Justice Sector's Action Plan on Gender Equality for the period of 2016-2020.

<sup>24</sup> <https://tgpl.moj.gov.vn/Pages/danh-ba-phap-ly.aspx>

government bodies, etc.)<sup>25</sup>. Some leaflets covering matters relating to GE and prevention and fight against domestic violence were compiled and published in 2013, 2017 and 2018<sup>26</sup>:

- Persons eligible for LA, and the procedures for requesting LA.
- You and the laws and regulations on prevention and fight against DV
- You and the laws and regulations on prevention and fight against HT
- You and the laws and regulations on female employees
- You and the laws and regulations on the registration of marriage for ethnic minority people
- A number of legal provisions on division of property upon divorce.

From 2020 up to now, the National LA Agency has cooperated with a number of news agencies and press agencies, such as Vietnam Television, Voice of Vietnam (VOV), to prepare and broadcast many messages and reports on legal aid activities, including the provision of LA to victims of DV.... At the same time, in the web portal of the Ministry of Justice and the website on Vietnam's Legal Aid, articles and information on legal aid, including legal aid for victims of DV, are regularly posted for the purpose of raising the awareness of people and LA-related agencies and organizations of victims of DV and their right to legal aid in case they are in financial difficulty.

At the local level, state-run LA Centers have strengthened their close collaboration with news and media agencies, socio-political organizations, political, socio-professional organizations, and socio-professional organizations. grassroots authorities to raise the awareness of persons eligible for LA. Communication and dissemination activities have been renewed with a variety of forms, such as through law-related leaflets, film footages on LA policies, and film footages on successfully-implemented LA cases. As a result, people's awareness of gender equality and the right to legal aid has been increasingly raised. Legal aid services have become more popular and used by many people, including those at risk of gender-based violence or victims of gender-based violence when needed.

From 2016 up to now, 37 cities/provinces with poor districts, poor communes and/or extremely difficult villages/hamlets have set up LA hotlines for people to contact when there is a need for LA. There have been around 7,000 calls to the hotlines for help<sup>27</sup>. The establishment of LA hotlines has contributed to creating favorable conditions for vulnerable groups, including victims of gender violence, to access the law, thereby creating fairness for

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<sup>25</sup> Source: The Ministry of Justice' Report No. 141/BC-BTP dated 14 July 2021 reviewing the 5-year implementation of the LA reform project for the period of 2015-2025.

<sup>26</sup> See the leaflets available at the web portal of the Ministry of Justice at the link: <https://tgpl.moj.gov.vn/Pages/hoi-nhap-phat-trien.aspx?ItemID=1&l=Toroitogapphapluat>

<sup>27</sup> Source: The Ministry of Justice' Report No. 141/BC-BTP dated 14 July 2021 reviewing the 5-year implementation of the LA reform project for the period of 2015-2025.

people to exercise their rights and obligations in accordance with the law and to save their time and effort.

However, there have remained some limitations in the communication and dissemination on gender equality. Communication and dissemination activities have not been carried out regularly, especially in remote areas. The communication is conducted in a scattered and ineffective manner, some forms of communication and dissemination are not very suitable for people as a whole and victims of gender violence. Mass media, such as law-related leaflets and brochures, message boards or boxes, are not really suitable for victims of gender-based violence. Especially, for victims of ethnic minorities, these forms of communication cannot be effective because the leaflets with few illustrative images and expressed mainly in the official Vietnamese language make it difficult for them to understand and remember. The time and duration for radio and television broadcasting about law and LA, and on-site communication in remote areas through specialized means, are limited and not suitable for people during their work time and daily life. There is a shortage of methods that enable people to remember and promptly use "hot" contact channels or 24/7 hotlines to communicate with LA-managing agencies, LA-providing organizations and LA-providing individuals. The communication content is neither really rich and attractive nor suitable for victims of gender-based violence, and has not attracted the attention of many people, especially victims of gender-based violence.

### ***3. Achievements in implementing protective and supportive measures for LA beneficiaries who are victims of gender-based violence***

In implementing legal aid policies for victims of gender-based violence, state-run LA Centers in recent years have provided free legal services in the forms of legal counseling, participation in legal proceedings, out-of-court representation, etc. thereby helping them solve legal problems in criminal, civil, land, marriage, family, and administrative law fields.

From 1 January 2014 to 30 June 2020, state-run Legal Aid Centers in cities/provinces provided legal aid to 544,578 cases with 544,578 legal aid beneficiaries. From 2016 to August 2020, LA-providing organizations provided legal aid to 727 cases with 727 legal aid beneficiaries who are victims of domestic violence.<sup>28</sup> In 2020 and the first 6 months of 2021, state-run LA Centers provided legal aid to victims of domestic violence in 110 cases, and legal aid was provided mainly in the form of legal advice (accounting for 87.2%). Most of the legal aid beneficiaries are women.<sup>29</sup> From 2015 to the end of 2018, there are nearly 200 legal aid cases with about 200 victims of human trafficking, most of whom are women and children;

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<sup>28</sup> Source: Report No. 182/BC-BTP dated 21 August 2020 of the Ministry of Justice on the assessment of the National Action Plan on Prevention and Fight against Domestic Violence up to the year 2020.

<sup>29</sup> Source: "Introduction to the gender mainstreaming in legal aid for victims of domestic violence – Achievements and shortcomings" prepared by the National Legal Aid Agency at the Seminar "Gender mainstreaming in the prevention and fight against domestic violence" held on 7 December 2021 in Ha Noi.

legal aid was provided in the form of legal advice in 50% of the cases, participation in litigation in 40.9% of the cases, and other forms in 8.5% of the cases.<sup>30</sup>

According to the assessment made by the National Legal Aid Agency, through the inspection and assessment of the quality of LA cases every year, it is found that in most of the legal aid cases, legal aid has been provided with either quality or high quality as required by law. Especially, in the cases in which LA is provided in the form of participating in legal proceedings, the state-run LA Centers have assigned LA officers or lawyers with lots of practical experience and understanding of the psychology of women, and domestic violence victims. As provided for by the law, for LA cases conducted in the forms of participation in legal proceedings and out-of-court representation, opinions of LA beneficiaries or their relatives must be consulted (opinion-taking form is used, and the filled one must be kept in the case file). Through the reports made by local governments and the monitoring by the Agency, most of the opinions collected said good, and dissatisfaction about the provision of LA by LA-providing individuals hasn't been found.

***There have remained some limitations, shortcomings and difficulty in the provision of LA services to victims of gender-based violence, as follows:***

*Firstly, existing laws and regulations haven't covered all gender-based violence victims who are in need of LA.*

The Law on Gender Equality, 2016 does not have a definition of “gender-based violence”. This has resulted in certain limitations in providing legal aid services to victims of gender-based violence. Under the Law on Legal Aid, legal aid is provided only to victims of gender-based violence if they are victims of domestic violence or human trafficking with financial difficulties, or they fall under the other categories of persons eligible for LA set forth in Article 7 of the Law.

Article 12 of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA stipulates the implementation of measures to protect and support persons eligible for LA who are *mothers, girls, domestic violence victims, human trafficking victims, or victims of sexual abuse*. However, such regulations do not cover all types of victims of gender-based violence, and at the same time give priority to victims who are child-raising women (mothers) and girls while unmarried women, men (fathers), boys and LGBT people are also victims of gender-based violence and also need help.

The above legal provisions just aim at providing LA only to victims of domestic violence, while the perpetrators of domestic violence also need LA. Under Article 17 of the draft Law on Domestic Violence Prevention and Control, which is expected to be submitted to the National Assembly for approval by the end of 2022, counseling on DV prevention and control covers “*counseling by the provision of law, information and knowledge of marriage, family, DV prevention and control and gender equivalence in family*”. Also under Article

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<sup>30</sup> Source: “*Legal aid for returnee victims of human trafficking, and a number of recommendations and suggestions*” uploaded in the web portal of the National Legal Aid Agency, available at the link: <https://tgpl.moj.gov.vn/Pages/hoi-nhap-phat-trien.aspx?ItemID=83&l=NghiencuuveTGPL>

27(2) of this draft Law, “*legal knowledge of domestic violence prevention and control*” is one of the contents that need to be provided to people committing domestic violence acts. Article 19 of this draft Law stipulates that the state-run LA Centers are one of the addresses responsible for the above-mentioned counseling. Thus, if Article 12 of Circular No. 11/2014/TT-BTP is applied, legal aid shall be provided only to victims of domestic violence, but not to the perpetrators of domestic violence. Meanwhile, helping the perpetrators of domestic violence understand legal provisions on domestic violence prevention and control means helping them to be aware of their behavior that is wrong or in violation of the law, and to avoid their recommitment.

The guarantee of gender equality in legal aid aims at “*ensuring equal opportunities between men and women in accessing legal aid to protect their rights and legitimate interests, improve their understanding of law, and heighten their sense of respect for and compliance with law*”<sup>31</sup>. As a result, third sex, bisexual, or transgender people will not be in the category of targeted persons. Although in principle, LGBT people themselves can be eligible for LA, but not all. Under the existing law, free legal aid shall be provided only to LGBT people who are female, as mentioned above. Therefore, LGBT people who are victims of DV are not eligible for LA.

*Secondly, victims of gender-based violence have little access to LA services due to their cognitive and psychological problems*

Despite suffering from violence and trauma both mentally and physically, victims of gender-based violence, especially women and girls suffering from DV, SA and HT, and LGBT people, for many different reasons, often want to keep things hidden or do not want to share information when an incident occurs. They only ask for help when things have become serious or are discovered by others.

According to *the National Study on Violence against Women in Vietnam in 2019*, 62.9% of women have experienced at least one form of violence in their lives. However, up to 50% of women who experienced violence never told anyone about their violence and most of women (90.4%) who experienced physical and/or sexual violence from their husbands have never sought any assistance from authorities or service providers.<sup>32</sup>

According to the study on “*Access to Criminal Justice by Women Subjected to Violence in Vietnam*” conducted by UN Women in 2017, up to 91.7% of victims face many challenges when seeking a help. the top five most significant barriers for women were: privacy concerns; limited awareness of rights; protection concerns; shame and embarrassment; and pressure by family.<sup>33</sup> Most domestic violence victims expressed concern about unclear reporting

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<sup>31</sup> Article 3(1) of Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Minister of Justice providing the assurance of GE in LA

<sup>32</sup> Source: *The report of the National Study on Violence against Women in Vietnam in 2019 – Journey for Change*, the Ministry of Labor – War Invalids and Social Affairs, the General Statistics Office, and the United Nations Population Fund, Vietnam (2020).

<sup>33</sup> Source: “*Access to Criminal Justice by Women Subjected to Violence in Vietnam, Women’s Justice Perception Study*”, UN Women (2018), page 15.



procedures, some reported that they had to report the same incident to 4 different agencies: head of residential cluster, People's Committee, Women's Union and the police.<sup>34</sup> With the fear of contacting the authorities, many victims did not really trust the authorities or mass organizations to support them. In some cases, victims of domestic violence were also prevented or threatened by the perpetrators or family members if they reported in writing or denounced the violent acts to authorities. Therefore, it is very difficult for concerned agencies and organizations to detect and take appropriate supportive measures; it is difficult for LA-providing individuals to approach and provide LA to them.

During the Covid-19 pandemic, social distancing measures were introduced nationwide, leaving people at home for days, even weeks. Women lost their jobs more than men and spent more time taking care of the family without generating income. That resulted in increased gender inequality and domestic violence. Some study reports have shown that during the Covid-19 pandemic, there was an increase of domestic violence against women who had been victims of domestic violence. Violence against women occurred more frequently, including physical, emotional and financial violence<sup>35</sup>. Gender-based violence against children during the social distancing period also increased compared to the previous time, including controlling, and physical and emotional violence in most of the cases. Gender-based violence against children have the biggest impact on children's emotion - causing many negative feelings to them (being sad, full of repressed anger, unfair, depressed...). Girls are often quiet, thoughtful, and boys are gullible.<sup>36</sup> Gender-based violence has increased, especially against women and children, but it is difficult for victims to go to LA-providing organizations to ask for help. LA-providing individuals themselves could not meet persons in need of LA in person because they had to comply with the social distancing and travel restriction measures.

Another group of persons at high risk of being victims of gender-based violence is LGBT people.<sup>37</sup> They also face many obstacles in accessing LA services. Although current understanding and perceptions about the LGBT community have opened up and made a lot of progress, there still remain misunderstandings and misconceptions from heterosexual people and even some LGBT people about the LGBT community. Therefore, although LGBT people are vulnerable to stigmatization, discrimination, assault or violence, and in need of legal assistance in dealing with conflict in social relationships, they have little access to legal aid

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<sup>34</sup> Source: "Access to Criminal Justice by Women Subjected to Violence in Vietnam, Women's Justice Perception Study", UN Women (2018), page 13.

<sup>35</sup> According to information on page 12 of "Gender mainstreaming in advocacy plans on the prevention and response to Covid-19" (Editorial team: Pham Thu Hien, Khuat Thu Hong), the call center for response to gender-based violence (1900969680) received about 350 calls from women in need of support, an increase of 7 times over the same period in 2019. The Counseling Division of the Center for Women and Development – the Central Committee of Vietnam Women's Union reported an increase of 48% of women who came to visit the Division for advice on domestic violence in April 2020. The number of women seeking temporary shelter in Peace Houses during this period increased by 80% compared to the same period in 2019.

<sup>36</sup> Main findings 1 and 4 in the survey report "*Gender-Based Violence against Girls during the Social Distancing Period*", Vietnam Association for Protection of Children's Rights, October 2020.

<sup>37</sup> According to the study conducted by the Institute for Social, Economic and Environmental Study (iSEE), Vietnam has about 1.6 LGBT people aged between 15 and 59 (accounting for approximately 3-5% of the total population).

services due to their fear of being stigmatized when they reveal their gender and sexual orientation.<sup>38</sup>

*Thirdly, many LA-providing organizations haven't had an effective and suitable approach to victims of gender-based violence*

Under the current law, when applying for legal aid, the applicant must file a dossier of application for legal aid with a state-run LA Center, the branch of a state-run LA Center, or an organization participating in the provision of legal aid (a law practicing organization or legal counseling organization that is in the list announced by the Department of Justice). The dossier includes 3 main types of papers: 1) a written application for legal aid; 2) paper(s) proving that the applicant is eligible for legal aid; 3) paper(s) and document(s) related to the legal aid case/matter<sup>39</sup>. The dossier shall be either filed directly with the head office of the LA-providing organization, or sent via postal service, fax or electronic form. Among the required documents in the dossier, the document proving that the applicant is eligible for LA is a prerequisite for acceptance of the case. However, for victims of gender-based violence, it is not easy for them to obtain document(s) proving their eligibility for legal aid. However, victims of gender-based violence rarely contact LA-providing organizations by themselves to ask for help due to the cognitive and psychological barriers mentioned above.

For people in mountainous or remote areas, they find it difficult to access and use legal aid services due to difficult terrain and difficulties of traveling, especially during the wet season. It takes many hours to go from remote villages to commune-level People's Committee, and even longer if going to state-run LA Centers or their branches in districts to apply for legal aid. The reduction in the number of LA branches during the implementation of the legal aid reform project for the period of 2015-2025 makes it more difficult for people to access legal aid services<sup>40</sup>. Many state-run LA Centers have not yet arranged a convenient location for people to visit because they do not have their own head offices, have to share their head offices with other state agencies, or do not have a separate room to receive applicants for LA. For victims of gender-based violence who already have many psychological barriers, they feel anxious, or even fearful when stepping into the head office of a state agency to ask for legal aid. In addition, given the private and sensitive nature of legal aid cases that are related to gender-based violence, victims of the violence who come to visit LA-providing organizations to apply for LA feel hesitant and uncomfortable to share their case with LA-providing persons if the place of reception does not guarantee privacy (no private or separated rooms).

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<sup>38</sup> Source: Article "Difficulty in access to law and legal aid by LGBT people", available at the link: <https://bitly.com.vn/u7lo9m>.

<sup>39</sup> Article 29(1) of the Law on Legal Aid.

<sup>40</sup> According to the Ministry of Justice' Report No. 141/BC-BTP dated 14 July 2021 reviewing the 5-year implementation of the LA reform project for the period of 2015-2025, there are, by 30 June 2020, 123 branches (a reduction of 74 branches as compared with the period before the implementation of the Project).

In implementing the legal aid reform project for the period of 2015-2025, many local governments in the areas that have poor districts, communes or villages, and/or villages/hamlets with special difficulties each have set up a hotline on legal aid for people to contact when in need of LA. However, each province has its own hotline on LA, instead of using the same hotline on LA that can be used nationwide. The "hotline" is usually the phone number of a state-run LA Center, which contains many digits that make it difficult to remember, and only receives information during office hours. Information received through the "hotline" on legal aid includes: information on application for legal aid from citizens; information on the coordination in the provision of legal aid by litigation-conducting agencies and related agencies and organizations; information about the responsibility, attitude, professional ethics of civil servants or public employees and LA collaborators in state-run LA Center in the process of performing their duties<sup>41</sup>. Thus, most of the current hotlines are "channels" to receive information, guide and provide simple information to people, but have not provided in-depth counseling and guidance for persons eligible for legal aid as a whole, and victims of gender-based violence when they call.

While the LA-providing personnel are limited and show certain limitations in detecting and approaching people who are in need of legal aid, LA-providing organizations do not have an effective mechanism to mobilize and coordinate with authorities, organizations and reputable persons at grassroots level to guide people to apply for legal aid. It can be seen that reputable people in the community (village heads, heads of residential clusters, grassroots mediators, etc.), local government bodies and socio-political organizations play a big role in providing guidance and explanation on how to deal with legal issues that people challenge. These are addresses that are easily accessible and convenient in terms of transportation, and do not impose psychological, language and custom barriers. This has made people, especially those in mountainous and remote areas, feel trustful. This is also the fastest method to detect people's need of legal aid, thereby promptly informing and transferring cases to LA-providing organizations, and at the same time explain to people about the right to legal aid. Thanks to this method, grassroots officials understand whether or not people in the area having legal issues or disputes are eligible for the legal aid policy. However, the limited awareness and understanding of local agencies, organizations and individuals about legal aid has made it difficult for themselves in guiding and referring people eligible for legal to LA-providing organizations. In some areas with extremely difficult socio-economic conditions, some local authorities and committees have not really paid attention to legal aid because what they are concerned most are economic development matters and how to improve the living standards of people in the areas.

#### ***4. Funding for ensuring gender equality in legal aid***

Since Vietnam is no longer on the list of low-income countries, the source of funding

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<sup>41</sup> Example: Information about the legal aid hotline of Quang Binh province at the link:  
<https://stp.quangbinh.gov.vn/3cms/duong-day-nong-ve-tro-giup-phap-ly.htm>

has decreased significantly and the budget for legal aid is low, the Ministry of Justice has discussed with foreign partners to support legal aid activities, with a focus on the needs of capacity building for LA-providing individuals, improving laws and regulations and conducting communication and dissemination on legal aid. From 2016 to the end of 2020, the Ministry of Justice mobilized nearly VND 5 billion from international organizations to support LA. The Ministry of Justice advised the Prime Minister to promulgate Decision No. 32/2016/QĐ-TTg dated 8 August 8 2016 promulgating legal aid policy for the poor and ethnic minorities in poor rural districts and communes, especially difficult villages and hamlets, for the 2016 - 2020 period and providing support to cases of typical or complex nature in the form of participating in legal proceedings. Under this Decision, the central budget provides financial support of VND 97,161,174,238 for a number of activities (including financial support of VND 81,186,592,238 for cases of typical or complex nature in the form of participating in legal proceedings; VND 10,391,470,000 for training; VND 4,783,412,000 for training of persons to become lawyers and to be appointed as legal aid officers; VND 800,000,000 for establishing LA hotlines).<sup>42</sup>

The Ministry of Justice (the National LA Agency) has coordinated the provided central state budget to support local legal aid activities through monitoring, evaluating and synthesizing local funding proposals for the implementation of legal aid policy for the poor, ethnic minorities in poor rural districts, poor communes/villages and extremely difficult villages for the 2016-2020 period, and to support cases of complex or typical nature in the form of participating in legal proceedings. From 2017 to 2020, the central budget supported the provision of LA to 13,391 cases of complex or typical nature in the form of participating in legal proceedings.

Along with the state budget, legal aid activities for women who are victims of gender violence over the past years have received great support from foreign partners, such as UNWOMEN, UNDP, USAID, Canadian Embassy, etc. through projects, namely: Project *"Support to the Legal Aid System in Vietnam, 2005-2009"* funded by Sida, SDC, Oxfam Novib and SCS; *"Project to Prevent and Combat Trafficking in Women and Children and Enhancing the Protection of Victims of Human Trafficking"* funded by the Asia Foundation, and a component of the Project funded by the International Organization for Migration (IOM); international cooperation projects on legal aid for poor women funded by UNWOMEN, UNDP, USAID, UNICEF, Embassy of Canada, etc.

The support and coordination of stakeholders, especially grassroots agencies, organizations and international organizations, help LA-providing organizations attract more resources for providing supportive services for victims of gender violence. However, funding for legal aid activities in some localities is limited, not covering all remunerations for the provision of LA. Local governments have not proactively allocated funds for the training of in-depth skills and knowledge, especially knowledge of GE and skills to provide LA in gender-based violence matters, for LA-providing individuals.

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<sup>42</sup> Source: The Ministry of Justice' Report No. 141/BC-BTP dated 14 July 2021 reviewing the 5-year implementation of the LA reform project for the period of 2015-2025.



### **Part III**

## **PROPOSED GOALS AND PERFORMANCE INDICATORS OF LEGAL AID-RELATED GENDER EQUALITY, AND SOLUTIONS AND MANDATES**

### **I. Proposed goals and performance indicators of gender equality in legal aid**

#### ***1. Goals and performance indicators in the 2021-2030 National Strategy of GE and the Justice Sector's Plan on implementing the Strategy***

The National Strategy on Gender Equality for the period 2021-2030 was issued together with the Government's Resolution No. 28/NQ-CP dated 3 March 2021. To achieve the overall goal “*continue to narrow the gender gap, create conditions and opportunities for women and men to participate and enjoy equally in all fields of social life, contributing to the national sustainable development*”, the Strategy has specific goals in the fields: politics (goal 1 and 1 performance indicator), economy - labor (goal 2 and 3 performance indicators), family life and prevention and response to gender-based violence (goal 3 and 4 performance indicators), health (performance indicator 4 and 4 performance indicators), education and training (performance indicator 5 and 4 performance indicators), communication (performance indicator 6 and 4 performance indicators).

Among the 5 goals set out in the National Strategy on Gender Equality for the period 2021-2030, legal aid contributes directly to Goal 3 with 3 related performance indicators:

- *Performance indicator 2*: By 2025, 80% and by 2030, 90% of people suffering from domestic violence and gender-based violence are found and have access to at least one of the basic supportive services; by 2025, 50% and 70% of perpetrators of domestic violence or gender-based violence not to the extent of being criminally prosecuted are detected, advised and consulted.

- *Performance indicator 3*: From 2025 onwards, 100% of returnee victims of human trafficking are found to be in need of support enjoy supportive and community reintegration services.

- *Performance indicator 4*: By 2025, 70% and by 2030, 100% of state-run social protection establishments will implement supportive activities, and activities to prevent and respond to gender-based violence.

In addition, there are other goals and performance indicators which legal aid can also contribute to, including:

- *Goal 1*: In the political field. Performance indicator: By 2025, 60% and by 2030, 75% of state management agencies, local governments at all levels have key female leaders.

- *Goal 2*: In the economic and labor fields. Performance indicator 1: Increase the percentage of paid female employees by 50% by 2025 and around 60% by 2030.

The Justice Sector's Plan on implementing the National Strategy on Gender Equality for the period 2021 - 2030 issued together with Decision No. 1895/QĐ-BTP dated 20 December 2021 of the Minister of Justice aims at: “*Strengthening the mainstreaming of gender equality into the fields under the state management of the Ministry and the Justice sector in order to*

*fulfill the national goals and performance indicators on gender equality for the 2021-2030 period set by the Government, thereby contributing to narrowing the gender gap, creating conditions and opportunities for women and men to enjoy equal enjoyment in all fields of social life, contributing to the national sustainable development". Among the 5 specific goals set out in this Plan, legal aid directly contributes to Goal 3 (Strengthen the mainstreaming of gender equality in legal aid) with 2 performance indicators:*

Performance indicator 3.1: To ensure that women and men eligible for legal aid have equal access to legal aid activities; 100% of victims of domestic violence cases with financial difficulties shall be provided with legal when requesting LA in accordance with the Law on Legal Aid.

Performance indicator 3.2: Ensuring that from 2025, 100% of LA officers are equipped with knowledge about gender, prevention and response to gender-based violence, and skills to provide legal aid in cases of violence against women and girls.

## ***2. Proposed goals and performance indicators on gender equality in legal aid for the period of 2022-2025***

In order to contribute to the achievement of the above-mentioned goals and performance indicators of the National Strategy on Gender Equality for the period 2021 - 2030 and the Justice Sector's Plan on implementation of the National Strategy on Gender Equality for the period 2021 - 2030, a number of goals and corresponding performance indicators for the period 2021 - 2025 can be set as follows:

*b) Goals and performance indicators for ensuring GE in the organization of the provision of LA:*

*Goal 1: Ensuring GE in LA-providing organizations and LA-providing individuals*

+ Performance indicator 1: 100% of the state-run LA Centers each assign one staff to act as a focal point to advise on ensuring GE in LA.

+ Performance indicator 2: At least 50% of the LA-providing individuals (LA officers, LA collaborators, lawyers, and legal counselors) and other staff are female.

+ Performance indicator 3: 100% of the state-run LA Centers each have at least one female person in the management (Director, Vice Director, the Head or Deputy Head of an affiliated division or branch).

*Goal 2: Ensuring GE in the capacity building for LA-providing personnel*

+ Performance indicator 1: Annually, 100% of the persons assigned by state-run LA Centers to act as a focal point to advise on ensuring LA are invited to participate in training courses of GE and gender mainstreaming in the LA field that are organized by the National Legal Aid Agency, the Ministry of Justice.

+ Performance indicator 2: Annually, 90% of the LA-providing individuals of LA-providing organizations are trained and equipped with legal knowledge of GE, gender-based violence prevention and fight, and skills to provide LA in cases in connection with gender-based violence.

+ Performance indicator 3: 100% of the LA-providing organizations make available to the public their lists of LA-providing individuals, in which the gender, expertise and work experience of each LA-providing individual is stated.

*b) Goals and performance indicators for ensuring GE in the provision of LA:*

*- Goal 1: Ensuring the gender mainstreaming in the development and implementation of annual LA plans*

+ Performance indicator 1: Annually, 100% of the state-run LA Centers each have a plan on ensuring GE in LA

+ Performance indicator 2: Annually, 100% of the LA-providing organizations provide statistical reports of LA-providing individuals and LA beneficiaries disaggregated by sex, and the number of LA cases in connection with gender-based violence.

*- Goal 2: Gender-based violence prevention and response*

+ Performance indicator 1: Annually, 100% of applicants for LA in GE-related matters are provided with LA services.

+ Performance indicator 2: By the year 2025, 30% of the state-run LA Centers each carry out at least one model on support, prevention and response to gender-based violence.

## **II. Recommendations on the implementation of proposed goals on GE in LA**

### ***1. Improvement of the policies, laws and regulations on ensuring GE in LA***

Under the 2017 Law on Legal Aid and Circular No. 11/2014/TT-BTP dated 17 April 2014 of the Ministry of Justice on ensuring gender equality in legal aid, victim of gender-based violence who neither fall into one of the categories of persons eligible for legal aid provided for in Article 7 of the Law on Legal Aid nor being a mother, girl, or a victim of domestic violence, human trafficking or sexual abuse shall not be provided with free legal aid.

In order to comprehensively deal with the issue of gender-based violence, first of all, with the definitions of "gender-based violence" and "LGBT" must be stipulated in the Law on Gender Equality. Accordingly, two new categories of persons eligible for LA, namely "*victims of gender violence*" (including male and female persons, women, boys, girls and LGBT persons) and "*perpetrators of gender violence*" (with financial difficulty), must be included in the Law on Legal Aid.

### ***2. Capacity building for LA-providing individuals***

- Reviewing the capacity building needs of and making plans on capacity building for LA-providing individuals on GE-related matters, and on prevention and fight against gender-based violence, with specific targets and roadmaps for each period.

- Developing digitalization-based (online) in-depth training courses of GE, gender-based violence prevention and fight and skills to provide LA in cases in connection with gender-based violence to help trainees have easy access thereto.



- Opening online forum to exchange LA knowledge and skills and provide LA guidance in the forms of Q&A with experts, theme-based workshops and discussions on problems encountered in the provision of LA in practice.

- Application of trainee-centered training methodology to training courses of LA knowledge and skills.

### ***3. Strengthening the capacity of victims and perpetrators of gender-based violence to access LA***

- Setting up a 24/7 hotline on LA with a short and easy-to-remember telephone number for use nationwide to help persons in need of LA and related persons be able to call at any time when they are in need or witness or want to report acts of gender-based violence. At the same time, there should be a connection between the hotline and LA-providing organizations to ensure that applications for LA are promptly dealt with.

- Signing, monitoring and making assessment on arrangements on collaboration amongst related agencies and organizations (litigation-conducting agencies, province-level Departments of Labor-War Invalids and Social Affairs, Women's Unions, Farmers' Unions, Youth Unions, and the network of organizations operating in the prevention and response to gender-based violence, etc.) in detecting and referring persons in need of LA in matters relating to gender-based violence; collaborating in verifying information, collecting evidence, and providing LA to persons eligible for LA.

- Renovating and diversifying means of dissemination on LA that suit different categories of persons at high risks of being victims or perpetrators of gender-based violence, with a focus on communication channels that the victims and perpetrators can easily access such as installed information boards and message boxes on LA at places convenient for people to access (community houses, cultural houses, People's Committee offices, schools, markets, or message boards in residential areas...); small-group communication and dissemination in the community; one-one communication (in person or over the phone), communication and dissemination on popular, multi-user social networking platforms (Facebook, Zalo, Tiktok, YouTube,...)

- Promoting products of communication and/or dissemination on GE-related contents that are expressed in the languages of ethnic minority people.

- Making available to the public the addresses and telephone numbers of LA-providing individuals, and hotlines on LA in the web portals and social network accounts (Zalo, Facebook, Tiktok, YouTube, etc.) of agencies, organizations and social groups that work in the prevention and response to gender-based violence, and those of the LGBT community, etc.

- Building and developing user-friendly and accessible web portals and social networks on LA with a convenient search for people.

- Capacity building for and improving skills for reputable people in the community (village chiefs, heads of hamlets and heads of residential clusters), relatives and grassroots officers (commune-level police, civil-state and judicial officers) in the legal aid sector: a guide

to using LA hotline; training, equipping with knowledge and information about legal aid to help them understand what LA is, who is a LA-providing individual, the protocol and procedures that people need to follow to enjoy legal aid... With the knowledge equipped through training, these staff can help local people understand legal aid, know people's LA needs and refer them to LA-providing organizations because they are the very persons who know who are eligible for LA and who are not.

- LA-providing organizations should enhance their sense of proactiveness in detecting and approaching persons eligible for LA in order to provide LA services to them, instead of waiting for applications for LA.

- Building a gender-sensitive work environment to promote the proactive participation of LA-providing individuals, especially women, in providing free legal aid services to victims of gender-based violence, and at the same time, encouraging victims of gender-based violence to access and use legal aid services when they are in need.

#### ***4. Including GE-related statistical criteria in the management system of LA activities***

The LA management system has officially been put into operation since January 2019, helping to update and store information about LA-providing organizations, LA-providing individuals, information of LA cases and matters, and extract reporting statistics for the quick and time-saving management, monitoring and provision of legal aid operations quickly. However, this system needs to be supplemented with a number of statistical criteria related to ensuring GE in the organization and provision of LA, including:

- Information disaggregated by gender, expertise and work experience of LA-providing individuals. List of LA-providing individuals is posted publicly on the websites of the National LA Agency and the province-level Departments of Justice and it should clearly state their gender, fields of expertise and work experience.

- Criterion on the sex of LA beneficiaries: in addition to the 2 statistical criteria, namely “male” and “female”, there should be another criterion on sex, namely “other” for people of the LGBT community who are eligible for LA.

- Criteria on persons eligible for LA: Victims of gender-based violence, including victims of sexual abuse, physical or mental abuse committed on cyberspace or in the community, etc., should be included in persons eligible for LA.

- Criteria on LA: Additional criteria should be included to determine whether or not a LA case is related to GE and/or gender-based violence.

#### ***5. Increasing resources for LA***

- State-run LA Centers must be located in places convenient for people to visit and present their requests/applications for LA (the address is easy to find and near the road; the reception area to receive applications for LA is near the entrance to the head office; private rooms or places for receiving people who come to apply for free legal aid, etc.).

- Ensuring funding for the communication and dissemination on legal aid: giving priority to providing cars to areas where many ethnic minorities live and traveling takes much time to

carry out grassroots communication and dissemination; funding for translation from Vietnamese into ethnic languages and translation from ethnic languages into Vietnamese in LA cases in which the LA beneficiary does not know Vietnamese and the LA-providing individual does not know the language of the ethnic minorities; funding for the establishment and maintenance of hotlines, etc.

- Ensuring funding for the training of persons to be appointed as LA officers and for the capacity building, especially legal aid skills for victims of gender-based violence, for LA-providing individuals.

- Ensuring funding to pay remunerations for the provision of LA to timely meet people's legal aid needs when they apply for, and at the same time encouraging LA-providing individuals to do their job.

## ***6. Strengthening international cooperation in LA***

- Strengthening cooperation with international and domestic organizations in the implementation of projects and activities on the protection of the rights of vulnerable persons and on the prevention and responses to gender-based violence in order to have additional technical and financial assistance and support for ensuring GE in LA.

- Expanding bilateral, multilateral and regional cooperation; joining in-depth LA cooperation forum; enhancing the exchange of information and experience of provision of LA, especially provision of LA to victims of gender-based violence. More specific cooperation activities are needed to support the capacity building for LA-providing individuals; to develop measures to mobilize resources and to improve the LA management and provision efficiency in the coming time.

## ANNEX

### DEFINITIONS AND TERMS

#### Terms on gender and gender equality

**Gender:** indicates the characteristics, positions and roles of man and woman in all social relationships<sup>43</sup>

**Gender-based violence:** violence that is directed against a person based on their gender. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.<sup>44</sup>

“*Gender-based violence*” is used to distinguish between normal violence and violence aimed at individuals or a group of individuals based on gender differences.

Gender-based violence shall be understood to encompass, but not limited to, the following:

a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

c) Physical, sexual and psychological violence perpetrated or condoned by the State and organizations wherever it occurs, for example preventing women from voting, driving or working in labor market.

**Gender equality** indicates that man and woman have equal position and role; are given equal conditions and opportunities to develop their capacities for the development of the community, family and equally enjoy the achievement of that development.<sup>45</sup>

**Gender preconception** is negative and partial attitude, acknowledgement and assessment of the characteristics, position, role and capacity of man or woman.<sup>46</sup>

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<sup>43</sup> Article 5(1) of the 2006 Law on Gender Equality.

<sup>44</sup> United Nations High Commissioner for Refugees (UNHCR 2003) uses the term “gender-based violence” pursuant to Articles 1 and 2 of the Declaration of the United Nations General Assembly on the Elimination of Violence against Women, 1993, and paragraph 6 of General Recommendation No. 19 of the 11<sup>th</sup> Session of the CEDAW Committee.

<sup>45</sup> Article 5(3) of the 2006 Law on Gender Equality.

<sup>46</sup> Article 5(4) of the 2006 Law on Gender Equality.

***Gender mainstreaming*** is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality (July 1997, the United Nations Economic and Social Council).

Gender mainstreaming is not purely about broadening women's participation, but means recognizing and integrating the experiences, knowledge and interests of women and men in the decision-making process.

Accordingly, the ultimate goal of gender mainstreaming is to create positive changes in social and institutional structures for a fair society in which interests and the decision-making process are not discriminated for both genders.

***LGBT+ or LGBTQ+*** are abbreviations, namely **Lesbian, Gay, Bisexual, Transgender** and **Queer** (describes any sexual orientation or gender identity, or does not identify oneself under any labels) or **Questioning** (in the process of exploring by themselves). The plus sign represents the diverse existence of other groups in the community such as **N** (non-binary), **I** (intersex), **A** Asexual (no sexual attraction to others)<sup>47</sup>.

## **Terms of legal aid**

***Legal aid*** means the provision of “pro bono” legal services to legal aid beneficiaries in legal aid cases or matters in accordance with this Law, contributing to guaranteeing humans’ and citizens’ right of access to justice and equality before law<sup>48</sup>.

***LA-providing organizations*** include state-run LA Centers and organizations participating in the provision of legal aid<sup>49</sup>.

***Organizations participating in the provision of legal aid*** include organizations signing legal aid contracts and organizations registering to participate in the provision of legal aid<sup>50</sup>.

***Organizations signing legal aid contracts*** include law-practicing organizations and legal counseling organizations that sign legal aid contracts with provincial-level Justice Departments in accordance with this Law<sup>51</sup>.

***Organizations registering to participate in the provision of legal aid*** include law-practicing organizations and legal counseling organizations that register to participate in legal

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<sup>47</sup> Source: Wikipedia, available at the link: <https://vi.wikipedia.org/wiki/LGBT>.

<sup>48</sup> Article 2, the 2017 Law on Legal Aid

<sup>49</sup> Article 10 (1) of the 2017 Law on Legal Aid

<sup>50</sup> Article 12(1) of the 2017 Law on Legal Aid

<sup>51</sup> Article 12(2) of the 2017 Law on Legal Aid

aid provision in accordance with this Law<sup>52</sup>.

*Legal aid-providing persons include:* (a) Legal aid officers; (b) Lawyers providing legal aid under contracts signed with state legal aid centers; and lawyers providing legal aid as assigned by organizations participating in legal aid provision; (c) Legal counselors with at least 2 years' experience in legal counseling in organizations participating in legal aid provision; (d) legal aid collaborators<sup>53</sup>.

***Legal aid*** beneficiaries include 1. People with meritorious service to the revolution; 2. Members of poor households; 3. Children; 4. Ethnic minority people residing in areas with extremely difficult socio-economic conditions; 5. The accused who are aged between full 16 years and under 18 years; 6. The accused who are members of households living just above the poverty line; 7. People experiencing financial difficulties who fall into one of the following cases: (a) Natural parents, spouses or children of fallen heroes or persons nurturing fallen heroes during their childhood; (b) Agent orange victims; c) The elderly; d) People with disabilities; dd) Victims in criminal cases who are aged between full 16 years and under 18 years; e) Victims of domestic violence cases or matters; g) Victims of human trafficking under the Law on Human Trafficking Prevention and Combat; h) HIV-infected people<sup>54</sup>

***Fields of legal aid provision:*** Legal aid shall be provided in law-related fields, except the fields of trade and commerce<sup>55</sup>.

***Forms of LA provision:*** Participation in legal proceedings, legal counseling, and out-of-court representation<sup>56</sup>.

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<sup>52</sup> Article 12(3) of the 2017 Law on Legal Aid

<sup>53</sup> Article 17(1) of the 2017 Law on Legal Aid

<sup>54</sup> Article 7 of the 2017 Law on Legal Aid.

<sup>55</sup> Article 27(1) of the 2017 Law on Legal Aid

<sup>56</sup> Article 27(2) of the 2017 Law on Legal Aid

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