



GENDER EQUALITY IN GRASSROOTS MEDIATION

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Objectives

- ▶ Assessment of results and analysis of gender mainstreaming in grassroots reconciliation at levels.
- ▶ Contribution to capacity building and provision for officials of justice sector with gender sensitive and responsive skills in reconciliation
- ▶ Suggestions for recommendations and solutions to ensure gender equality in grassroots reconciliation, responding to requirements set in the National Strategy for Gender Equality in the period 2021-2030.

Methodology

- ▶ *Desk review*: The assessment of results and analysis of gender mainstreaming in grassroots reconciliation taken place owing to available data and related reports/documents.
- ▶ *Consultation workshop*: Initial findings from the assessment and analysis validated in the earlier technical meetings, serving for formal presentation at the consultation workshops.
- ▶ *Finalization*: Comments and inputs from the consultation workshop have been thoroughly taken into account, reviewed, considered and incorporated to finalize the report.

Limitations of the Report

The study is based on:

- secondary documents, e.g reports, documents and related legal provisions.
- practical experience of national specialist as well as empirical and relevant surveys/study that the consultant/specialist involved
- the content of the report is limited to some extent, which may not fully reflect a holistic practice of ensuring gender equality in grassroots reconciliation

Fundamental Concepts

- ▶ **Grassroots conciliation** presents a mediator instructs and helps involved parties reach an agreement and voluntarily resolve conflicts, disputes, or violations of the law in accordance with the Law on Grassroots Mediation.
- ▶ **Gender equality** means women and men, girls and boys have **equal conditions, treatment and opportunities for realizing their full potential**, human rights and dignity, and for contributing to (and benefitting from) economic, social, cultural and political development.

Viet Nam Legal Framework

Gender discrimination is prohibited

Constitution 2013

Article 26

Male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality.

The State, society and family shall create the conditions for women to develop comprehensively and to advance their role in society.

Gender discrimination is prohibited.

Viet Nam Legal Framework

Gender discrimination is prohibited

Gender Equality Law



Gender equality in the field of politics. Art. 11



Gender equality in the field of economy. Art. 12



Gender equality in the field of labor. Art. 13



Gender equality in the field of education & training. Art. 14

The The Law on Gender Equality stipulates that men and women are equal in all fields and that men and women are not discriminated against their gender

Viet Nam legal framework

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Gender equality in the field of science and technology. Art. 15



Gender equality in the fields of culture, information, physical exercises and sports. Art. 16



Gender equality in the field of public health. Art. 17



Gender equality in family. Art. 18

Viet Nam Legal Framework

Acts of violating the Gender equality Law

Decree 25/2021/NĐ-CP

Article 13. Administrative violations in the field of gender equality related to family

1. A fine of between VND 3,000,000 and 5,000,000 shall be imposed for one of the following acts:
 - a) Obstructing or preventing family members from performing income-generating activities or meeting other needs of the family for gender reasons;
 - b) Unequal treatment of family members for gender reasons.
2. A fine of between VND 5,000,000 and 7,000,000 shall be imposed for one of the following acts:
 - a) Threatening to use force or mental intimidation in order to prevent a family member having the conditions as prescribed by law from participating in the disposition of property under common ownership of the household for gender reasons;

- **Article 52.** Acts of infringing upon the health of family members
- **Article 53.** Acts of torturing and maltreating family members
- **Article 54.** Acts of offending the honor and dignity of family members
- **Article 55.** Acts of isolating, driving away or applying psychological pressure on a regular basis
- **Article 56.** Acts of preventing the exercise of rights and obligations in family relations between grandparents and grandchildren; between father, mother and child; between husband and wife; and between siblings
- **Article 57.** Violations against regulations on care, upbringing and nurturing
- **Article 58.** Economic violence
- **Article 59.** Illegal acts of forcing family members leaving from their lawful residence.

Viet Nam Legal Framework

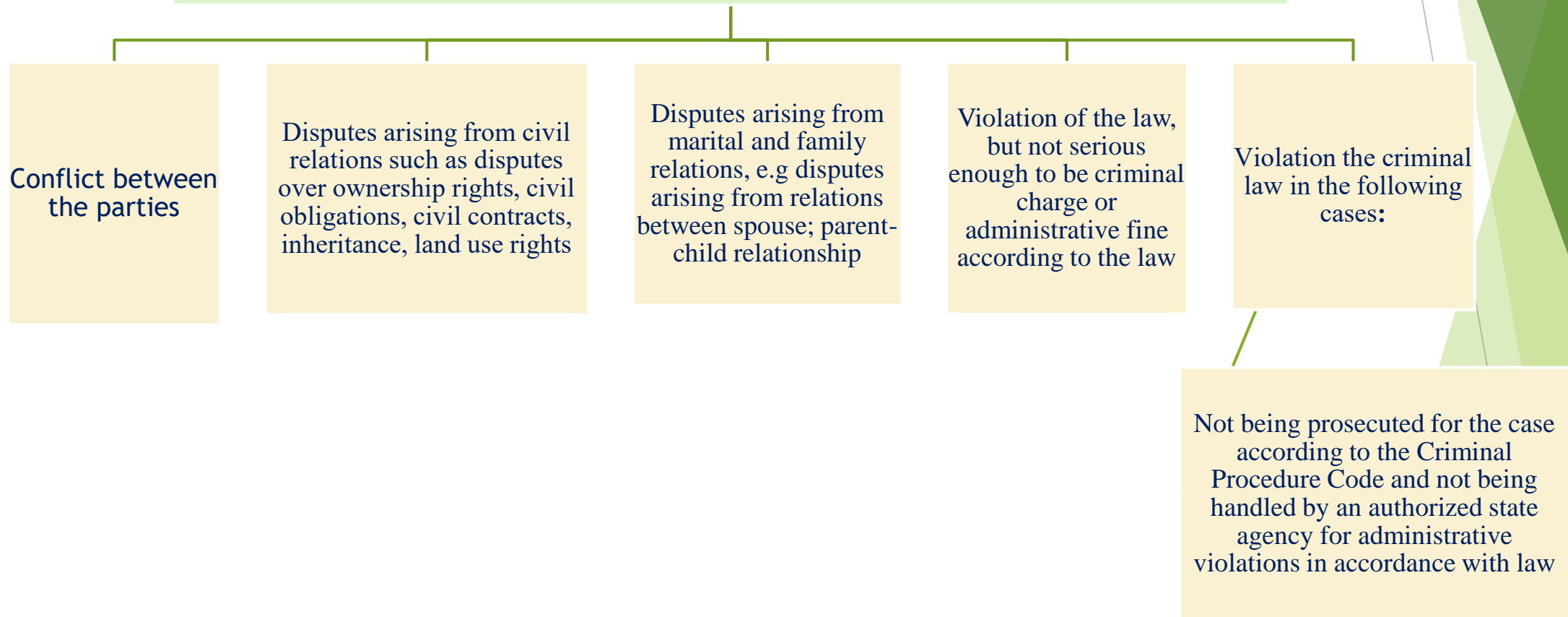
Acts of violating the Gender equality Law

Criminal Code

- ▶ Article 133: Threat of murder
- ▶ Article 134: Deliberate infliction of bodily harm upon another person;
- ▶ Article 155: Insults to another person;
- ▶ Article 164. Infringement upon the freedom of religion;
- ▶ Article 165: Infringement of gender equality

Viet Nam Legal Framework

Grassroots reconciliation taken place for resolving conflicts, disputes, and violation of the law



Viet Nam Legal Framework

Key characteristics of gender equality in grassroots reconciliation

- ▶ The principles of gender equality to be applied in all cases of mediations,
- ▶ However, conciliation mostly is applied to violations of the law (not subject to administrative violations or criminal charges).
- ▶ **Gender issues have not been really paid attention – especially to domestic and gender-based violence,**
- ▶ **The principles of gender equality are mainly applied to the mediation cases of violations of the laws**

Viet Nam Legal Framework

Law on Grassroots Mediation

Composition of the mediation team

Based on the characteristics: Grassroots mediations mainly deals with gender-based violations/violence,

- Provision 1, Art 12 of the 2013 Law on Grassroots Mediation : “...Each conciliation team has 3 or more mediators, including a female mediator”.

Principles of reconciliation in the Law on Grassroots mediation

- Respect for the voluntariness of parties who face no coercion and imposition in grassroots conciliation
- Impartiality, fairness, timeliness, reasonableness and sensibility; confidentiality of the privacy of parties
- Assurance of gender equity in organisation and mediation at grassroots level ...

SITUATION OF GEDER EQUALITY IN GRASSROOTS RECONCILIATION

- ▶ Successful conciliation (2014 - 2017): 472,197/579,609 cases, reaching the rate of 81.45%,
- ▶ The rate of successful mediation increased steadily
- ▶ According to incomplete statistics of 63 provinces and centrally-run cities across the country, from 2014 - 2018
- ✓ *grassroots mediators have mediated 26,771 related domestic violence cases*
- ✓ *Successful conciliation for 22,293 cases.*

Limitations and Shortcomings

Staffing:

- ▶ Small number of commune staff vs multi-functions, leading less time to pay attention to grassroots mediation;
- ▶ Limited capacity of legal officers, civil officials, mediators due to lack of regular training, particularly those who live in mountainous, remote, difficult geographical and economic circumstances

Lack of a female mediator

- by 2020, the country has 88,765 mediation organizations with 548,367 mediators, including 153,119 female mediators (accounting for 28% of the grassroots mediators).
- Only some areas like Ho Chi Minh & Hai Phong cities and Quang Ninh province have higher percentage of female mediators, about 43%, 39%, and 37,67% respectively
- while according to the regulations, the Mediation Team must have female mediators

Organizing grassroots mediation and mediators.

- Many conflicts, disputes and violations of the law under the scope of grassroots conciliation have not been detected or if yes, have not been reconciled
- There still a number of mediators violated the Law leading to adverse impacts on the legitimate rights and interests of the parties; reducing quality, effectiveness of mediation and losing strictness of the law
- The level of education, legal knowledge, **skills of the majority of mediators is still low** (of 651,215 mediators, only 28,006 have law education grounds, **accounting for 4.3%**).
- The mediators occasionally received training materials or being refreshed with training to improve legal knowledge and mediation skills.

Limitations and Shortcomings

Lack of gender sensitivity in mediation

Not all mediators pay attention to gender issues, gender equality and women and children's rights in reconciliation

- ▶ In the mediation, they often focus on conflict, disputes rather than on the issues governing the behavior of the parties such as gender, culture, religion and gender perceptions. The mediator mainly applies his/her own available experiences, mediating based on his/her own subjective will.
- ▶ Mediators lack basic knowledge on gender equality and gender sensitivity in handling their work.

Gender Based Violence

- ▶ Of the 03 women, nearly 02 women (62.9%) were subjected to at least one or more forms of violence caused by their husbands in their lives and 31.6% experienced current violence
- ▶ Violence against women is still under reported/hidden.
- ▶ Half of the women survivors have never told anyone about their situation.
- ▶ Most women (90.4%) who experience physical and/or sexual violence caused by their husbands do not seek any support from government agencies.

Source: MOLISA. GSOs. UNFPA. Journey for change : National survey on violence against women in Viet Nam. 2019

Barriers Limit Women Survivors in Accessing Justice

- ▶ Although being subjected to psychological and physical violence, the survivors **unlikely want to report their cases due to the following barriers:**
 - Cultural and social barriers (stigma, family pressure, concerns of being divorced, or adverse impact on future jobs of children).
 - Lack of gender sensitive attitudes and non-victim centred approaches of practitioners/advocates with ensuring confidentiality etc.

Source: UN Women. Access to Criminal Justice by Women Subjected to Violence in Viet Nam. Women Justice Perception study. 2017

<https://vietnam.un.org/sites/default/files/2019-08/Research%20Report%200905.pdf>

Recommendations

1. ***Strengthen communication and dissemination of the law on gender and gender equality***
2. Strengthen the mediation teams that having at least one female mediator
3. ***Improve the legal knowledge and provide training for mediators and frontline staff in recognizing violations of gender equality; gender-based violence; behaviors of gender inequalities; scope of mediation; operational procedures and principles of mediation; accountability of mediation - especially in keeping confidentiality; skills on handling information and support the survivor to overcome the barriers.***
4. Study, ***provide guidance, training and refreshing knowledge on gender equality. And mainstreaming***
5. ***Equip legal aid officers and mediators with necessary skills.***

Some communication skills to build up a good relationship with the targeted parties of mediation

- All meeting should be taken place in private space, no interruption by others and enable the survivors to feel comfortable, trustful and safety.
- Raise questions that the survivors have an opportunity to share incident and build up their trust
- Demonstrate respectful attitudes and patiently listen to targeted person of mediation; not judge and comments based on subjective manners
- Demonstrate attention and concerns to survivors and provide appropriate supports based on specific needs of each survivor