



BACKGROUND

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international bill of rights for women. The implementation of the Convention is monitored by the 'CEDAW Committee' which provides recommendations to assist Vietnam in ensuring women's access to justice. As part of the preparation of the 9th National Report on the implementation of CEDAW in Vietnam, a study on women's rights to access to justice was conducted. The main objective of the study is to assess the status quo of women's access to justice in Vietnam in accordance with the CEDAW requirements and the recommendations of CEDAW Committee and propose recommendations to surmount the limitations and inadequacies in law enforcement.



KEY FINDINGS

EXISTING SAFEGUARDS



LEGAL

The Constitution and the legal system of Viet Nam guarantee women's right of access to justice.

- 2013 Constitution recognizes the principle of gender equality, which then becomes one of the key principles for many other relevant laws including the Penal Code, the Civil Code, the Criminal Procedure Code, the Civil Procedure Code, the Administrative Procedure Code, and the Law on Legal Aid.
- The 2012 Law on Legal Dissemination and Education and the 2016 Law on Access to Information prescribe the obligation of the State to ensure that women have **equal right to access information** and have separate provisions to create favorable conditions for vulnerable groups which includes women.
- 2007 Law on Domestic Violence Prevention and the 2011 Law on Prevention and Combat of Human Trafficking provide that women victims of crime, gender-based violence, domestic violence, and human trafficking are entitled to **special care and protection measures**, taking into account the barriers to women's access to justice such as limited access to information and gender prejudice.



INSTITUTIONAL

Specialized judicial institutions, quasi-judicial and other institutions providing legal aid services are designed to protect the right to access to justice of women

- **Family and Minor Court** was established under the provisions of the 2014 Law on Organization of the People's Court, with special jurisdiction over cases dealing with women, children and minors. As of November 2019, Family and Minor Court has been established in 38 People's Courts and received 8,270 cases.
- **Procedures for receiving legal aid** have been simplified for victims of domestic violence and human trafficking. Court, Procuracy, and police have jointly issued a regulation (Joint Circular No.10/2018) on the coordination between procedural agencies and legal aid providers/organizations to ensure timely response to legal aid requests



CHALLENGES

- **Psychological barrier and gender prejudice prevalent in society:** In child physical and sexual abuse cases, victims' families are reluctant to report the abuse due to the fear that the record could negatively affect the child's future. These barriers also hinder women who are victims of violence from reporting the crime and freely exercising their rights.
- **Limited awareness** on women's rights and the availability of legal aid, especially for the vulnerable groups and those residing in remote areas. Many victims were not informed of their rights and the procedures for reporting incidents to authorities.
- **Lack of capacity** of women to exercise their rights including the ability to collect and preserve evidence, and participate in mediation, giving arguments and court proceedings.
- **Gender insensitivity of judicial agencies and officers** including investigators, procurators, and judges. Victims feel uncomfortable telling their stories to officers who lack gender awareness. Few investigators, procurators and judges have received specialized training in sexual and domestic violence or are experienced with these cases.
- **Quasi-judicial institutions and legal aid organizations** are not fully effective in performing their functions and protecting women's access to justice, especially women who are victims of domestic violence. The coverage of legal aid is still limited and legal aid services haven't been able to meet people's needs in general, and those of women, children, and vulnerable groups in particular.



RECOMMENDATIONS

- **Policy: develop** long-term goals, targets and strategies to ensure gender equality in access to justice as part of the legal reform, judicial reform and administrative reform in the period 2020-2030.
- **Legislative: integrate** gender into the review and amendment process of the existing legislation to create a common understanding and uniform application of key terms and concepts related to women's access to justice; **expand** the coverage of legal aid to all victims of domestic violence, gender-based violence, and human trafficking; **amend** and include provisions on the accountability of judicial agencies and officials.
- **Law enforcement: establish** a specialized monitoring mechanism for the implementation of CEDAW and the Committee's recommendations; **develop and implement** gender equality training programs for judicial agencies and officials as well as quasi-judicial institutions and legal aid organizations; **develop** a set of criteria and toolkits for monitoring and evaluating the implementation of law on women's rights and access to justice.
- **Investigating agencies: establish** a team of police officers and investigators specifically trained to prevent and combat violence against women and children; **create** a safe environment for victims to come forward and seek help.
- **Procurators:** develop special training programs to **increase** awareness of gender-based violence for both male and female procurators; **assign** People's Procuracy to establish statistical indicators and a system to collect gender-disaggregated data in legal proceedings.
- **Courts: ensure** a reasonable proportion of female judges involved in the adjudication of gender-related cases; **ensure** safety for victims of gender-based violence and keep their private information confidential; **establish** appropriate sanctions and penalties for offenders; **develop** case law related to gender equality and ensure uniform application of law in criminal and civil adjudication.
- **Legal Aid: provide** victims with free and reliable legal advice; **form** a team of legal aid assistants who are trained in domestic violence, sexual violence and human trafficking cases; **establish** an early warning system for child abuse and domestic violence cases; **improve** the grassroots mediation process for domestic violence cases and **expand** the coverage of legal aid to include more women and children.

