



# NATIONAL LEGISLATIVE DEVELOPMENT PROJECT

## DỰ ÁN PHÁT TRIỂN LẬP PHÁP QUỐC GIA (NLD)

### Gender Equality Plan

#### Executive Summary

Over the last two decades, with support from international donors, the Government of Vietnam (GOV) developed and implemented a number of administrative and legislative initiatives to strengthen its legal institutions and improve its processes. One of the measures undertaken by the GOV in that context was to reform its legislative processes.

The NLD Project was designed in parallel with GOV and donor initiatives to support four core components of the law-making process: planning; policy analysis; legislative drafting; and the coherence and systematization of laws. During Phase 1 NLD has supported the Ministry of Justice with the development of policy and drafting of the new Law on the Promulgation of Legal Documents (LPLD). The draft LPLD was discussed in the National Assembly session in November 2014 and is expected to be adopted at the National Assembly session in May 2015.

The approach to Gender Equality in NLD is to integrate and mainstream gender equality throughout the project and to initiate some activities with project partners and other Vietnamese organisations mandated with gender equality responsibility. Activities are expected to support these organisations in their law-making work and thus respond to GOV legislative requirements for gender mainstreaming as set out in the Law on Gender Equality 2006 and the National Gender Strategy for Vietnam 2011-2020.

Over the last decade, Vietnam has developed a strong legislative framework for the mainstreaming of gender equality in the law-making process. The pillars of this framework are the Law on Promulgation of Legal Normative Documents 2008 and the Law on Gender Equality 2006 and its implementing documents. Decree No. 70/2008/ND-CP sets out general provisions and specific responsibilities of various State entities responsible for gender equality work. Decree No. 48/2009/ND-CP provides several measures for the proper implementation of gender equality and Circular 17/2014/TT-BTP provides for the mainstreaming of gender equality in the development of legal normative documents.

The NLD Project is aware that gender equality work is allocated to and coordinated among a number of Vietnamese State bodies that have different mandated roles. Failure to support activities that encourage cross ministry and agency cooperation and coordination will greatly reduce the chance for success in gender equality integration in law-making.

Currently, the following entities are responsible for different aspects of gender equality according to the legislation in force:

- The Ministry of Labour, Invalids and Social Affairs (MOLISA) is responsible for state management of gender equality throughout the country and to coordinate with ministries and ministerial-level agencies in performing this function.
- All ministries and ministerial level agencies are charged with scrutinizing current LNDs, and mainstreaming gender equality in any draft LNDs assigned to them.
- The Ministry of Justice has the prime responsibility, and must coordinate with MOLISA, in assessing the mainstreaming of gender equality issues in the elaboration of LNDs.

- The National Assembly Committee for Social Affairs is in charge of reviewing gender issues and ensuring the mainstreaming of gender equality in proposed draft laws, ordinances and resolutions for submission to the National Assembly or the Standing Committee of the National Assembly.
- The Vietnam's Women Union is responsible for studying policies on gender equality, participating in discussions and providing opinions and feedback on policies and draft laws affecting women.
- The Ministry of Planning and Investment is assigned the prime responsibility, and to coordinate with MOLISA, on matters related to statistical data on gender.

Although the gender equality work is shared among many State entities, the proportion of LNDs where gender equality is mainstreamed remains limited in comparison to the total number of promulgated LNDs. For instance in 2013, within 7 months, the Government promulgated 139 Decrees, the Prime Minister promulgated 47 Decisions among which only 19 Decrees (accounting for 13.66%) and 9 Decisions (accounting for 19.14%) mainstreamed gender equality. Also in 2013, the National Assembly adopted 17 laws and 2 ordinances among which only 5 laws (accounting for 26.31%) mainstreamed gender equality.

Careful analysis of the situation and validation during meetings with Vietnamese partners and state bodies responsible for gender work has identified a number of causes:

- (i) The drafting agency has not paid due attention and lacks the necessary understanding and skills for mainstreaming gender equality in accordance with the procedures prescribed in the Law on Gender Equality and its guiding documents during the drafting process.
- (ii) The agencies in charge of reviewing the mainstreaming of gender equality in draft LNDs do not have sufficient capacity and technical skill to fully implement the law-prescribed tasks.
- (iii) Tools and instruments geared and designed to technically support the policy makers and legislative drafters are almost non-existent and, when available, focus more on awareness-raising than actual techniques and methods to make laws and regulation conform to best practice and standards for gender equality.
- (iv) The current Law on Promulgation of Legal Normative Documents does not properly provide for mainstreaming gender equality in accordance with the provisions of the Law on Gender Equality. This leads to the absence of an adequate mechanism to integrate gender equality into processes and procedures prescribed under the said Law and to develop the competencies required within the various ministries and agencies involved. (The new proposed revised draft law may induce more clarity if the gender equality considerations are properly factored into the new prescribed law-making process.)
- (v) Mechanisms to implement the Law on Gender Equality 2006 were slow to develop and State bodies assigned with responsibility for implementation are under-resourced. To date much of the training has consisted of one-off workshops of a general awareness-raising nature and has been disconnected from daily work requirements of those tasked with responsibility. Moreover, progress on gender equality has been largely donor funded.

- (vi) State bodies mandated to ensure gender equality in law-making are poorly resourced, operate as silos and activities are not well coordinated. There is very little effective communication among bodies responsible for gender mainstreaming.

### **1.1. GEP methodology and criteria for selecting activities**

In various meetings with NLD partners, the partners explained the shortcomings and issues that affected their implementation of gender equality mainstreaming in LNDs (See Appendix 1 for list of individuals and organisations consulted.) Almost all reported that they understood gender mainstreaming to be non-discrimination against women and that they lacked knowledge and skills to go further on this question. They also stressed the need for specific types of gender training related directly to their day-to-day work and pointed out that, although there has been a lot of general gender equality training in Vietnam for more than a decade, none of it really helped them to understand how to apply it to their specific day to day responsibilities in the law making process.

To address these challenges and gaps GEP activities with NLD partners will focus on knowledge and skills development in policy making and legislative drafting with a view to mainstreaming gender equality in all NLD project activities. NLD GEP will be promoting an approach to policy development that ensures that policy is developed at the front end of the legislative process, in advance of drafting, and that gender impact assessments and analysis should be part of the process for all draft laws and detailing documents, not just those with an obvious gender consideration. Special initiatives will also be developed to assist key players in the Vietnamese law-making system, especially NLD partners, to effectively coordinate the gender equality work in the law-making process.

A series of activities have been conducted in Phase 1 of the NLD Project to develop the GEP and contribute to the planning of gender-related activities in Phase 2. In keeping with the approach of fully integrating Gender in the Project, it is expected that, in the selection of all NLD activities, consideration will be given to the gender equality impact, regardless of whether there is an obvious gender implication or not. However, NLD will propose and include some activities that are explicitly directed at addressing gender imbalances or constraints within the law-making system that affect women's full participation in the law-making process itself or that have a direct or indirect effect on how women and men are differently impacted by a law or set of laws. NLD will work with its partners to equip policy makers and drafters with the tools and training to effectively implement gender mainstreaming in the law-making process.

The following criteria will be applied in the approval of gender specific activities proposed by NLD partners:

- The proposal should indicate that, in selecting and planning for the activity, gender analysis has been done and the results should be included in the justification.
- Proposals for the development of training materials and programs should include an assessment of the gender equality implications or deficits. This assessment may be either made specifically for the purpose of designing the activity or be taken from credible recent reports that include gender analysis on the subject matter or target group for the training.

- Activities that clearly fit with the Project's overall purpose, intended outcomes and scope of work and with the Gender Equality outcomes as set out in the Logic Model, PMF and WBS will be given priority.
- Activities that support the mainstreaming of gender equality into the LPLD and subsequent supporting legislation and that focus on ensuring that the transition from the current to the new law-making process (to be adopted under the new law) should be gender sensitive and fully integrate the mainstreaming provisions of the Gender Equality Law (2006) and the National Gender Equality Strategy for Vietnam 2011-2020.
- Activities that address issues related to engendering the law-making process itself and that take a cross ministry or cross agency coordinating approach will be given priority.
- Only activities that have a direct impact on engendering the law-making process will be considered (e.g. gender analysis and gender sensitive policy making in the law, gender neutral drafting). Gender equality training events of a general nature will not be considered.
- Target groups may include female and male participants where it can be demonstrated that there is a describable gender equality outcome or impact, but may also be targeted solely to women where it can be demonstrated that there is unequal participation or access to knowledge and skill between women and men.
- Activities with respect to an individual LND may only be considered when the LND is both regulatory on the economic, trade or investment environment in Vietnam and also addresses an economic issue related to women's participation as workers, business owners or legislators.
- Where deemed advisable by the CEA to provide a greater gender equality impact, proposed activities may be included in or merged with other activities.
- All the general criteria for all NLD activities will apply to gender specific initiatives.

**1.2.NLD Work Breakdown Structure outputs and proposed scope of activities and special initiatives under the GEP (See appendix 2 for complete WBS)**

The following outputs in the WBS relate directly to the implementation of the Gender Equality Plan:

**Component 1:**

Output 1140: Support for integration of provisions on gender mainstreaming in the new LPLD and implementing documents in compliance with the existing Gender Equality Law 2006

Output 1270: Validation of the CEA assessment findings in policy and law-making process [including mainstreaming of Gender Equality and PMF indicators]

Output 1420: Training personnel and NLD partners in strategic planning, evaluation and RBM (including Gender equality issues)

**Component 2:**

Output 2120: Support for development of guidelines, tools and instruments for policy development and analysis for law and regulation making

Output 2510: Support for gender equality to be reflected in policy development

Output 2520: Support for gender equality rules to be part of the request for legislation

Output 2530: Support for ensuring that gender equality is an integral part of LNDs that are drafted

Output 2540: Support for ensuring that gender sensitive indicators are developed as part of policies for implementation and enforcement of LNDs

Output 2550: Support for NA deputies to develop and apply gender skills in their work

Output 2560: Support for staff of NA committees to develop and apply gender skills in their work

Output 2570: Support for policy and legal officers at central and local level to develop and apply GE skills and apply in their work

Output 2580: Support for inter-ministerial efforts to set up a Gender Equality Working Group on policy and drafting

**Component 3:**

Output 3140: Support for training for conducting efficient reviews and appraisals, including post-review (inclusion of specific process to ensure GE legal conformity)

Output 3150: Support for the development of a legislative drafting desk book (including GE specific material to assist drafting process)

Output 3370: Support for capacity building of drafters in order to apply gender sensitive approaches and use gender-neutral language (Vietnamese) during drafting

Output 3620: Support for drafters to engage in questioning drafting instructions for policy clarification purpose (including analysis of GE reasoning and questioning)

**Component 4:**

Output 4510: Support for the establishment of professional support networks for policy developers and for legislative drafters (with particular attention to gender equality)

Output 4660: Support for the development of a Gender Equality tool-kit specific to sectors of the work of partners (e.g., gender equality in budgeting, disaggregated statistics requirements)

**1.3. NLD Gender Equality Plan proposes special initiatives targeting the National Assembly and inter-ministry mechanisms for coordinating gender mainstreaming work:**

**1.3.1. Capacity development for personnel of the Committees of the National Assembly:** NLD proposes to develop a capacity development program for staff of the NA Law Committee and Committee on Social Affairs and other agencies relevant to law-making. It is likely that there will be an initial focus on women members because of the fact that Vietnam is falling short of its target for women members in the NA but an attempt will also be made to identify potential male members who indicate an interest in gender

awareness and capacity building. The NA Committee on Social Affairs (Gender Equality Department) has been invited to submit proposals related to this activity. NLD will develop a concept for a program of activities over the life of the project, beginning with discussions with the Women's Parliamentary Group and officials in the Office of the National Assembly and the Committee on Social Affairs.

- 1.3.2. Support for the Informal Advisory Group to the National Assembly Committee on Social Affairs:** This group is comprised of about 15 retired senior experts who previously had a senior role or position connected to the National Assembly and the GOV. These experts have deep knowledge and experience on a wide range of topics and can be called upon to provide comments and advice on the gender equality aspects or impacts of draft laws tabled to the NA Committee on Social Affairs for review. The Group provides this input as needed and on a voluntary basis. Since the NA Committee on Social Affairs is confronted with a serious shortage of expertise and resources for conducting a fuller and more detailed gender equality review, the contribution of this group has been helping to fill the gap and is very much appreciated by the Committee. NLD will explore ways and means of supporting this group to ensure a systematic approach to providing gender equality analysis of draft laws and to involve members of the group in the development of the Gender Equality Working Group (discussed below) and the design of a program to create a cadre of expert drafters knowledgeable in gender equality and able to mainstream gender equality in their work as advisors, mentors and teachers.
- 1.3.3. Formation of a Gender Equality Working Group to facilitate gender equality policy and drafting discussion and cooperation among NLD partners:** Observations by Vietnamese and Canadians involved in NLD suggest that while Vietnam has a very strong legal base for, and commitment to, gender equality and substantial effort has been expended on raising awareness of international and domestic legislation for gender mainstreaming, the absence of a coordinating mechanism within the law-making system hampers efforts to ensure that GE is fully considered during the policy making process and the drafting and passing of laws. A best practice for this sector would be to facilitate centralization of review of policies and drafts to ensure inter-ministerial cohesion on this issue. Institutional capacities for reporting, gender analysis, data collection and monitoring remain weak, conflicting and unsystematic. Responsibility for gender analysis and review is split among various entities of the system, even within ministries. The formation of an inter-ministry/inter-agency Gender Equality Working Group on law-making (GEWG) in the Government of Vietnam has been proposed to coordinate gender analysis and review of laws and to make related recommendations to improve the law-making process.

It is proposed that NLD's technical assistance program and training activities should be designed to include systemic application of gender equality approaches to policy development and legislative drafting, to support the eventual establishment of a GEWG, as agreed by the NLD partners. The identification of appropriate participants from the legal and policy making departments to participate in gender equality training initiatives will contribute to the establishment of a core group of expert drafters with expert gender skills for law-making purposes.

Consistent with the overall approach to mainstream gender throughout the project, all activities will include a gender dimension. This will take the form of ensuring that there is a gender balance amongst participants and experts and consultants, and that experts who conduct training sessions and workshops are gender sensitive.

In some situations there is a need for specialized gender equality training or for processes that ensure that mechanisms for oversight of gender sensitive law-making are well coordinated. In these circumstances, NLD will support inter ministry/interagency gender specific workshops and training and specialized professional capacity development.

#### **1.4. Activities to be undertaken or introduced during Year 1 of Phase 2**

During Year 1 of Phase 2 the following activities are anticipated:

- 1.4.1.** Selection criteria will be developed to establish a core group of policy making and drafting officials, drawn chiefly from the legal departments of partners except where policy making responsibility rests elsewhere. Partners will be invited to nominate from two to five officials who have the capacity to become experts in gender mainstreaming in policy making and drafting in the law and who will commit to participate in capacity building and training activities including knowledge of policy development and gender analysis techniques for coordination of information, over the life of the project. Partners will be required to make a commitment to free up the time of selected officials to fully participate in these activities. It is expected that this process will consolidate a pool of experienced and committed specialists in gender mainstreaming in policy and law making.
- 1.4.2.** Organise a seminar for partners and key state gender entities to familiarize participants with general principles and processes involved in gender mainstreaming in law making and to acquaint them with international and Canadian best practices. During this seminar NLD specialists will assess the existing level of knowledge and competence of participants with a view to planning for capacity building activities going forward.
- 1.4.3.** Develop or adapt tools and training materials including testing and refining of a toolkit on mainstreaming gender equality in LNDs through a pilot project associated with other NLD training and materials development activities.
- 1.4.4.** Initiate a specialised training program on gender equality during policy development and legislative drafting, including examination of comparative working tools for engaging in the technical dimensions of law making for gender equality and presentation of working methodology between policy makers and drafters through process coordination and gender equality working protocols. Experts in gender

mainstreaming in the law will be drawn from Canada, Southeast Asia and Vietnam to provide input on gender based analysis, gender analysis tools, working with partners to achieve results, and best practices in gender mainstreaming in policy development and drafting. LNDs of partner ministries will be emphasised.

- 1.4.5.** An assessment of the specific needs of National Assembly entities for training and support to carry out their role in gender equality mainstreaming and approval of laws.
- 1.4.6.** A workshop will be organised at the end of Phase 2 Year 1 or early in year 2 to describe the initial NLD Gender Equality results. Participants will be invited from a wide range of agencies with responsibility for gender equality in law making including NLD partners, the CSA, MOLISA, UNDP, UN Women and donors supporting gender equality activities in Vietnam.