



NATIONAL LEGISLATIVE DEVELOPMENT PROJECT

DỰ ÁN PHÁT TRIỂN LẬP PHÁP QUỐC GIA (NLD)

**NATIONAL LEGISLATIVE DEVELOPMENT PROJECT IN
VIETNAM (NLD)**

GENDER EQUALITY PLAN

Draft subsequent to Project Steering Committee

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Acronyms

CBA	Canadian Bar Association
CEA	Canadian Executing Agency
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CIDA	Canadian International Development Agency
CSA	Committee on Social Affairs of the National Assembly
DFATD	Department of Foreign Affairs, Trade and Development, Canada
GALD	Department of General Affairs on Legal Development
GAP	Gender Action Partnership
GEP	Gender Equality Plan
GEWG	Gender Equality Working Group
GOV	Government of Vietnam
GSOV	General Statistics Office of Vietnam
IGAG	Informal Gender Advisory Group
LC	Law Committee of the National Assembly
LD	Legal Document
LM	Logic Model
LND	Legal Normative Document
LPLD	Law on Promulgation of Legal Documents
MAG	Ministry of the Attorney General for the Province of Ontario
MARD	Ministry of Agriculture and Rural Development
MOF	Ministry of Finance
MOIT	Ministry of Industry and Trade
MOJ	Ministry of Justice of Vietnam
MOLISA	Ministry of Labor, Invalids and Social Affairs
NA	National Assembly of Vietnam
NCAAW	National Commission for Women's Affairs
NLD	National Legislative Development Project
OJI	Ontario Justice International
ONA	Office of National Assembly

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OOG	Office of Government
PD	Project Director
PFM	Project Field Manager
PIAP	Policy Implementation Assistance Project (CIDA)
PIP	Project Implementation Plan
PMF	Performance Measurement Framework
PMU	Project Management Unit
PSC	Project Steering Committee
RBM	Results Based Management
RIA	Regulatory Impact Assessment
SE	Stikeman Elliott LLP
STAR	Support for Trade Acceleration Project (USAID)
TA	Technical Assistance
TAT	Technical Advisory Team
TOR	Terms of Reference
UNDP	United Nations Development Program
VGELS	Vietnamese Gender Equality and Legal Specialist
VN	Vietnam
VWU	Vietnam Women's Union
WBS	Work Breakdown Structure

I. 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 Normative Documents (LPLND). The LPLND was adopted by the National Assembly on June 22, 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.

In 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 2015 and the Law on Gender Equality 2006 and its implementing documents.

Gender equality work is allocated to and coordinated among a number of Vietnamese State bodies that have different mandated roles. Responsibility for different aspects of gender equality is allocated to the Ministry of Labour, Invalids and Social Affairs (MOLISA) 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 required to scrutinize current LNDs, and to mainstream gender equality in draft LNDs assigned to them; the Ministry of Justice is assigned prime responsibility for 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 prime responsibility 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.

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Careful analysis of the situation and validation of findings from discussions with Vietnamese partners and state bodies responsible for gender work identified a number of causes for shortcomings which are outlined in the GEP and can be summarized as a lack of skills and knowledge on techniques for gender mainstreaming as well as a lack and poor coordination of resources to apply to the task of gender mainstreaming in the law.

Despite significant efforts to provide general gender equality training in Vietnam for more than a decade, there remains a lack of understanding on how to apply gender equality mainstreaming principles to 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. The NLD GEP promotes 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 must 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.

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.

Criteria for selection and approval of gender specific activities proposed by NLD partners have been developed and are included in the GEP.

The GEP responds to the gender equality aspects of the NLD Work Breakdown Structure and specifies the outputs and proposed scope of activities and initiatives targeting the National Assembly and inter-ministry mechanisms for coordinating gender mainstreaming work. The feasibility of the following initiatives will be considered:

- NLD's technical assistance program and training activities will be designed to include systemic application of gender equality approaches to policy development and legislative drafting, to support the eventual establishment of the GEWG, as agreed by the NLD partners. The identification of appropriate participants from the legal and policy making departments and other departments assigned responsibility for law making 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, experts and consultants, and that all experts who conduct training sessions and workshops are gender sensitive.

In some situations there will be a need for specialized gender equality training or for processes that ensure that mechanisms for oversight of gender sensitive law-making are well coordinated.

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In these circumstances, NLD will support inter ministry/interagency gender specific workshops and training and specialized professional capacity development.

- Formation of a Gender Equality Working Group to facilitate gender equality policy and drafting discussion and cooperation among NLD partners: 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.
- Support for the Informal Advisory Group to the National Assembly Committee on Social Affairs which provides input and analysis as needed on a voluntary basis on the gender equality implications of draft laws coming before the National Assembly for approval. NLD will explore ways and means of supporting this group to ensure a systematic approach to providing gender equality analysis of draft laws.
- Capacity development for personnel of the Committees of the National Assembly 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.

Activities to be undertaken or introduced during Year 1 of Phase 2

The Work Plan for Year 1 of Phase 2 includes two activities related to gender equality, 2530-MOIT-1-15 through which MOIT intends to develop methodologies to mainstream gender equality in policy making and drafting legislation and 1270-NLD-1-15 in which gender equality findings will be referenced in presentations related to the CEA assessment process.

In addition steps will be taken to further describe and identify partners for activities related to the potential activities described above. Anticipated initiatives will include:

- Development of selection criteria to establish a core group of policy making and drafting officials, drawn chiefly from the legal departments of partner ministries.
- Organization of a seminar for 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.
- Development or adaptation of tools and training materials including testing and refining of a toolkit on mainstreaming gender equality in LND.

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- Initiation a a specialised training program on gender equality during policy development and legislative drafting, including examination of comparative working tools and presentation of working methodologies between policy makers and drafters through process coordination and gender equality working protocols.
- 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.
- Organisation of a workshop 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.

II. CONTEXT FOR GENDER QUALITY INTEGRATION IN THE LEGAL SYSTEM IN VIETNAM

This section of the Gender Equality Plan (GEP) sets out the overall assessment of the problems and issues related to limited integration of gender equality over all in the legal system in Vietnam. It also addresses how planned activities in NLD are expected to assist Vietnamese partners to develop skills and practices that will lead to the institutionalisation of gender mainstreaming throughout the legal system.

In general terms, mainstreaming gender equality and women's empowerment in the construction of a Rule of Law regime involves a broad perspective from constitutional and legal reform through to ensuring that women's voices are heard in the law-making process. Gender mainstreaming in the context of NLD involves integrating a gender perspective throughout the entire law making process including policy making, legislative drafting, implementation, monitoring and evaluation of laws.

Shortcomings and gaps have been identified in the CEA assessment report, the report of the NLD Vietnamese Gender Equality Specialist and during meetings with Vietnamese partners and state bodies responsible for gender integration in Vietnam. The findings that informed the development of the Gender Equality Plan are that: implementation of gender mainstreaming is incomplete; gender impact assessments are rarely undertaken; resources to address gender issues are not adequate; draft LNDs do not include an annex or data on gender; and dossiers for draft laws are not submitted to the Committee on Social Affairs of the National Assembly (CSA) to assess the gender impact except where there is an obvious gender issue.

The promulgation of the Gender Equality Law (2006) and the approval of the National Strategy for Gender Equality 2011-2020 were intended to facilitate integration of gender equality in law-making. However the mechanisms to implement the legislation were slow to develop and State bodies assigned responsibility for implementation are under-resourced. To date much of the training and progress on gender equality has been of a general awareness-raising nature and gender equality activities are largely donor funded. Despite explicit direction in the Gender Equality Law to mainstream gender into legal normative documents (LNDs) and direction to the National Assembly Committee on Social Affairs (CSA) in the 2008 Law on Legal Normative Documents (LLND) on gender equality integration, only draft laws that have an obvious gender implication are examined from a gender equality perspective. Virtually no gender impact assessments or reports are included in dossiers on draft laws coming before the National Assembly.

The National Assembly Committee on Social Affairs is responsible for verifying the integration of gender equality issues in the draft laws, draft ordinances and draft resolutions, but officials lack the technical skills and resources to do so.

Specific issues to be addressed by the GEP are:

1. The provisions of the Gender Equality Law (2006) and National Gender Equality Strategy 2011-2020 are poorly implemented. Although gender equality mainstreaming in LNDs increased overall between 2007 and 2013, the proportion of LNDs where gender is mainstreamed remains small in comparison to the total number of promulgated LDs.

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2. Of the proportion of laws and ordinances adopted by the National Assembly few mainstream gender equality (in 2013 only 26%).
3. Members of the National Assembly (where 24.4% only are women in the 13th National Assembly) are ill prepared for their role as legislators and, for the most part, lack the skills and time to adequately review legislation and prepare for debate.
4. Gender equality policy making is not effectively connected to drafting of laws and gender impact assessments are not done.
5. 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.
6. MOLISA has a government wide mandate to manage gender equality across government but this responsibility is split between two departments (Legal and Gender Equality) and lines of communication between them or with line ministries are not effective. MOLISA has conducted very few evaluations on mainstreaming gender equality in law-making, and the scope of any evaluation is narrow.
7. The Vietnamese Women's Union advocates gender assessments for all draft laws and the inclusion of a gender impact section in dossiers for all new draft laws. At the same time the Vietnamese Women's Union has not provided sufficient constructive, comprehensive and substantive criticism on drafts and has failed to connect what criticism it does make with recommendations for change.
8. Legal drafters lack skills in gender analysis and gender neutral drafting.
9. Until now gender equality training has for the most part consisted of one-off workshops of a general nature disconnected from daily work requirements.
10. Officials in the ONA and CSA lack the time and resources to adequately review legislation from a gender perspective, only review legislation with an overt gender impact and rely on a voluntary advisory group of experts to review drafts from a gender perspective.
11. The MOJ, which is a key player in the legal system, has not adequately assigned responsibility for gender equality of the government wide law making system. This situation arises from the fact that when Committees for Women's Affairs and Gender Focal Points were originally set up by the GOV they were intended mainly to deal with internal matters regarding discriminatory practices related to the specific mandate of an individual ministry or discrimination that impacted career advancement of women in government. The NLD Gender Equality Plan relates to the role of MOJ in integrating gender equality in the legal system overall. It is therefore important that the lead department for purposes of the NLD GEP should be the Department of the General Affairs on Legal Development (GALD) or a department with technical responsibility for law-making.
12. Drafting agencies do not pay sufficient attention to mainstreaming gender equality in drafts as required by Article 21 of the Gender Equality Law (2006) and guidelines in Article 10 of decree No. 48/2009/NC-CP.

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13. The current Laws on Laws (2004, 2008 and 2015) do not provide adequate mainstreaming of gender to meet the requirements of the Gender Equality Law (2006). This in turn may result in gender equality mainstreaming mechanisms being absent in the new LPLND and ensuing processes and procedures. Those LNDs that do consider gender equality related issues do not demonstrate an awareness of how to mainstream gender in the legislative development process, but seem to consider the inclusion of some policies on women's issues sufficient. This leads to confusion in implementation of gender specific regulations to the disadvantage of both genders.

The sections of this document that describe the activities NLD will develop to address these matters include both specific gender equality related activities and activities of a more general nature where a gender perspective will always be in play, e.g. development of training materials and training courses on drafting will include gender equality concepts such as gender impact assessment and use of gender neutral language but gender specific tool kits will also be developed to reinforce gender equality principles and practices. NLD will ensure that consideration is given to gender balance in project activities and will actively seek women participants, especially in training and educational programs.

BACKGROUND OF THE NATIONAL LEGISLATIVE DEVELOPMENT (NLD) PROJECT

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 the legal system. The design has been refined to take into consideration the changes brought about by the adoption of the Laws on Laws of 2004 and 2008, the process of consolidation of the legislation and LNDs related to policy and law-making and to include a focus on legislation with an impact on economic development. During the past year NLD has supported the Ministry of Justice with the development of policy related to the new Law on the Promulgation of Legal Documents (LPLD) as well as the drafting of the new LPLND. The LPLND was adopted by the National Assembly on June 22, 2015.

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

Vietnamese NLD partners are the Ministry of Justice (lead partner), Ministry of Finance, Ministry of Industry and Trade, Ministry of Agriculture and Rural Development, the Office of Government and the Law Committee of the National Assembly. To implement the NLD Gender Equality Plan (GEP), NLD will work directly with project partners and Vietnamese entities with a mandate for implementing or coordinating gender policies and laws in Vietnam such as the Ministry of Labour, Invalids and Social Affairs (MOLISA), the National Assembly Committee on Social Affairs (CSA) and the Vietnam Women's Union (VWU).

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The Canadian Executing Agency (CEA) responsible for the implementation of the NLD is a consortium made up of the Canadian Bar Association, which manages and administers the Project, Ontario Justice International (OJI), which is part of the Ministry of the Attorney General (MAG), Ontario, Canada, which provides and facilitates direct institution to institution linkages with MOJ and line ministries, and the Montreal, Quebec legal firm, Stikeman Elliot LLP which provides input and advice on private and public sector issues.

Project Goal: To support more equitable economic growth through more transparent and accountable governance.

Project Purpose: To support an integrated program of reform of the Vietnamese lawmaking process and improve the quality of economic legislation.

Ultimate Outcome: A strengthened, effective, transparent legal framework reflecting the needs of Vietnamese citizens and supporting equitable economic growth.

In the NLD Project Implementation Plan (PIP) approved by the Project Steering Committee (PSC) in May 2013, it is agreed that the gender approach in the NLD project will be to ensure that gender issues will be considered throughout the legislative process in Vietnam. The Gender Equality Plan links (in section VIII below) gender equality activities to project components as set out in the Work Breakdown Structure (WBS).

IV. STRUCTURE AND PROCESS: GENDER EQUALITY MAINSTREAMING AND COORDINATION IN NLD:

IV.1. Principles and commitment:

As described earlier, the NLD Gender Equality Plan (GEP) describes the approach to Gender Equality in NLD which is to integrate and mainstream gender equality in all activities in the project and to initiate some activities with project partners and other Vietnamese organisations with gender equality responsibility to support these organisations to mainstream gender equality in their law-making work as required by the Government of Vietnam in the Law on Gender Equality 2006 and the National Gender Strategy for Vietnam 2011-2020.

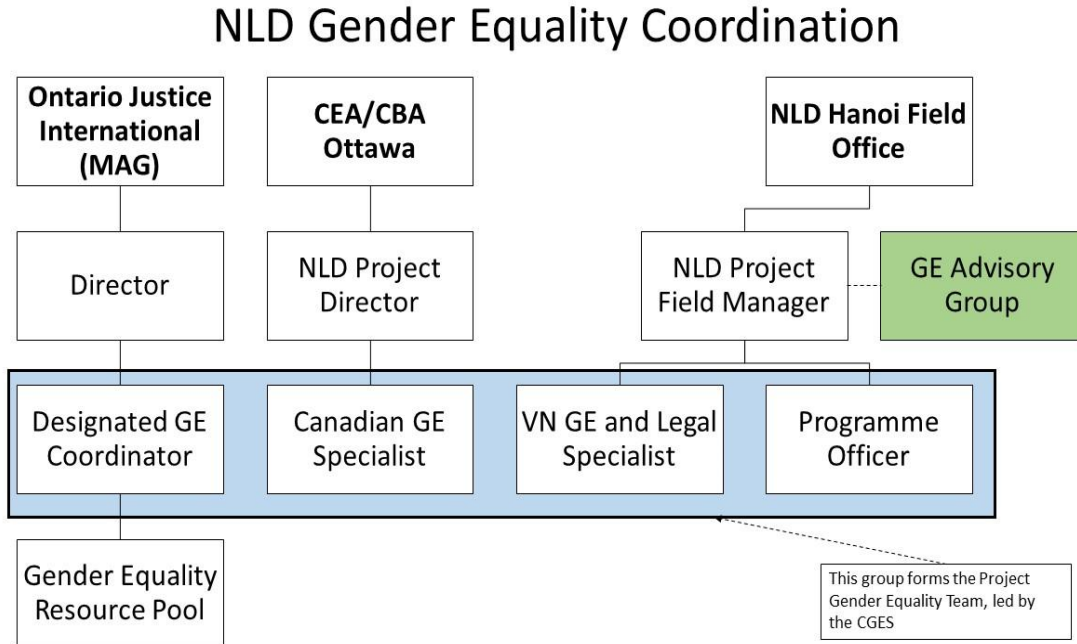
As previously pointed out, the NLD GEP promotes an approach to policy development that ensures that policy is developed at the front end of the legislative process, in advance of drafting, and that gender impact assessments and analysis should be part of the process for all draft laws and detailing documents, not just those with an obvious gender consideration.

The GEP responds to the gender equality aspects of the NLD Work Breakdown Structure. It reinforces the principle of and commitment to integrating gender equality in all activities and specifies outputs and a proposed scope of activities and initiatives targeting the National Assembly and inter-ministry mechanisms for coordinating gender mainstreaming work. Criteria for selection and approval of gender specific activities proposed by NLD partners are included in the GEP.

To maximize gender equality integration and mainstreaming in NLD a high degree of coordination and cooperation is essential. In order to ensure a consistent and thorough approach this document sets out a structure and description of the roles and responsibilities of various elements of NLD.

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The following diagram shows the links and relationships necessary within the NLD project structure to ensure total integration and mainstreaming of gender throughout all NLD activities:



IV.2. Roles and responsibilities:

IV.2.1. NLD CEA, Ottawa office:

The Ottawa office of the Canadian Bar Association (CBA) is the headquarters for the NLD project and provides policy, implementation, administrative, financial and strategic direction and oversight of all aspects of the project, including the gender equality strategy.

The Canadian Gender Equality Specialist (CGES) is contracted by the Ottawa office.

The Project Director (PD) in Ottawa plays a major role in the selection, supervision and guidance of the (CGES) in consultation with the Project Field Manager in Hanoi. The PD plays an active role in the project and is in direct contact with the Director and Senior Counsel in MAG, who will each play a role in ensuring that resource persons are gender sensitive and technically knowledgeable about gender integration in law making.

IV.2.2 Hanoi Field Office;

The NLD Field office personnel are pivotal to the success of gender integration in NLD. The Project Field Manager provides direction and leadership to NLD program officers (POs) and staff as well as to partners on the integration of gender equality in all aspects of NLD. The PFM assigns specific responsibility for coordination of gender equality elements of the project to a PO and selects and contracts the Vietnamese Gender Equality and Legal Specialist (VGELS) and assigns tasks accordingly.

The PFM will be responsible for recommending the makeup both of the Vietnamese Gender Equality Advisory Group and the core Gender Equality Working Group through a consultative process with partners and for supervising their activities and contribution to results.

IV.2.3 Ontario Justice International: Ministry of the Attorney General Ontario.

NLD is uniquely placed among donors working in the legal system in Vietnam inasmuch as Ontario Justice International (OJI), an organisation of the Ministry of the Attorney General Ontario (MAG), is a partner in the NLD CEA/consortium. MAG has considerable experience on the integration of gender equality in law-making in Canada and has past experience working with Vietnamese entities on a variety of topics. In order to strengthen institutional links rather than to engage solely in a series of 'one off' activities, NLD will work through MAG to bring into play Canadian expertise and build relationships that will provide for ongoing exchanges of information, capacity building activities and support during and beyond the life of the project.

The benefits derived from the opportunity and ability to engage in practical direct government to government transfer of knowledge and skills has been clearly

demonstrated in NLD Phase 1. MAG has already worked with the National Assembly's CSA through the former Canada funded Policy Implementation Assistance Project (PIAP) project and has developed relevant documents on policy making and gender mainstreaming in the legal system that can readily be adapted and translated for use with NLD partners. Technical assistance may be drawn from among MAG officials with in depth experience in gender analysis and integration in law-making and from their colleagues in Canadian line ministries. As specific activities are developed the NLD gender team will work with MAG to identify and match resources to technical needs. During the March 2014 Study Tour on Policy Development and Legislative Drafting by Vietnamese officials to Canada, MAG presented an Overview of Gender Mainstreaming in the Policy and Legislative Development Process which included sections pertinent to the current needs in Vietnam such as descriptions and detailed guidelines on gender based analysis in the legislative process. (See Appendix 5 of this document for a more detailed description of Canadian experience in gender mainstreaming in law making).

MAG mounted a gender equality session for the March 2014 NLD Study Tour to Canada and presented an Overview of Gender Mainstreaming in the Policy and Legislative Development Process which included sections pertinent to the current needs in Vietnam such as descriptions and detailed guidelines on gender based analysis in the legislative process. MAG subsequently made a summary of the materials used in that session and a document, "Gender Mainstreaming in the Policy and Legislative Drafting Processes", was consolidated and communicated to the MOJ and will serve as basis for gender mainstreaming methodology and training materials. MAG has previously worked with the National Assembly's Committee on Social Affairs and will be able to adapt relevant documents on policy making and gender mainstreaming in the legal system for use with NLD partners.

MAG will be providing technical assistance throughout the life of the NLD project and has developed a roster of expert resource persons. It has committed to integrate gender considerations in all training and capacity building activities in which it is involved. Specialized gender equality related technical assistance will be drawn from among MAG officials with in depth experience in gender analysis and integration in law-making and from their colleagues in Canadian line ministries. As specific activities are developed the NLD gender team will work with MAG to identify and match resources to technical needs.

IV.2.4 Canadian Gender Equality Specialist (CGES):

The CGES is the Team Leader for the Project Gender Equality Team (GET) which is made up of the GGES, the Vietnamese Gender Equality and Legal Specialist, the designated MAG GE coordinator and the designated NLD Program Officer. Reporting to the PD and working collaboratively with the PFM, the CGES has overall responsibility to ensure that the Gender Equality Plan is implemented. The CGES is highly experienced in gender equality integration in development projects and has a deep knowledge of the theory and methodologies used in mainstreaming gender equality in government programs.

Terms of reference are attached as Appendix 7.

IV.2.5 Vietnamese Gender Equality and Legal Specialist (VGELS):

The Vietnamese Gender Equality and Legal Specialist is a seasoned expert on Gender Equality mainstreaming in the law in Vietnam. A Vietnamese national, she is the Vice Principal of the Vietnamese Women’s Academy and is a respected advisor to the Vietnamese Women’s Union and GOV ministries and state bodies. Her role as part of the GET is to provide strategic and technical advice to NLD and its partners on trends, capacities and policies with respect to gender equality in the law in Vietnam, to participate in NLD planning meetings especially with respect to GEP implementation, to provide direct advice to partners on integrating gender equality mainstreaming in NLD funded activities and to participate as a resource person in training and capacity building activities of NLD.

Terms of reference are attached as Appendix 8.

IV.2.6 Ad-hoc Gender Advisory Group:

The concept for an ad-hoc Gender Advisory Group arose as a result of contacts with several knowledgeable and experienced individuals during the course of consultations while developing the Gender Equality Plan for NLD. Some of these people are still part of the VWU and VWA staff and faculty, others are retired members of National Assembly Committees and the National Committee on Women’s Affairs and are still actively providing advice and analysis to the Committee on Social Affairs on draft legislation coming before the National Assembly as part of the ‘Informal Advisory Group on Legal Affairs to the CSA’. This Advisory Group could support the work of the VGELS and provide a pool of experienced trainers for specialized training on gender mainstreaming and to engage with the Gender Equality Working Group as coaches and mentors.

Mobilization and use of this resource pool of experts will be made on an as needed basis in consultation with the PD, gender specialists and NLD partners.

V. PROPOSED PRELIMINARY ACTIVITIES YEAR 1-2, PHASE 2

- i. Gender Equality Mainstreaming in all NLD partner activities:
 - Ensuring that all NLD Program Officers are equipped to screen activity proposals for gender equality implications.
 - Requiring partners to include details of how they intend to approach gender mainstreaming in the activity description. VGELS and PO will discuss GE implications and provide guidance as needed to implementing partners;
 - A preliminary training session will be proposed to all partners on how to mainstream gender equality in conducting their specific activities. All POs will also be expected to attend. The VGELS will lead this training session.

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- Routine screening of all proposals for gender equality impacts.
 - Requiring partners to report on gender equality impact and results.
- ii. Convening a meeting of partners (TAT) to discuss the feasibility of activities suggested in the GEP (listed below), and to set priorities and develop a gender specific work plan;
 - iii. Developing selection criteria for a core group of policy making and drafting officials, referred to in the GEP as the Gender Equality Working Group, to be drawn chiefly from all departments and units of NLD partners that have a role in policy making and legislative drafting.
 - iv. Inviting partners to nominate two or three officials per department/unit (# to be determined by PFM) 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 and establish a pool of experienced gender aware policy and law makers.
 - v. Organising a seminar for NLD partners and key state gender entities identified in the GEP (MOLISA, NA CSA, WU) to familiarize participants with general principles and techniques involved in gender mainstreaming in law making and to acquaint them with international and Canadian best practices. During this seminar NLD gender specialists will assess the existing level of knowledge and competence of participants with a view to planning for capacity building activities going forward.
 - vi. Developing or adapting tools and training materials including refining and testing of a toolkit on mainstreaming gender equality in LNDs through a pilot project associated with other NLD training and materials development activities.
 - vii. Initiating 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.

Due to limited resources, priority will be given to specialized training activities for NLD partners but the identified key state gender entities will always be informed and will be invited to attend NLD gender equality related workshops/seminars, and where possible, to participate in the training sessions. Tools and materials will be shared widely for the purpose of creating synergy and enhanced knowledge and tools on gender mainstreaming among central administrative bodies responsible for gender equality work and for better coordination among those with a specific mandate, or that are involved in gender equality.

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- viii. 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.
- ix. Organisation of a workshop 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, UNWomen and donors supporting gender equality activities in Vietnam.

V. BASIS FOR GENDER EQUALITY PROVISIONS IN VIETNAMESE LEGISLATION

Vietnam has a strong legislative framework for the integration of gender equality principles and practices which are set out in the Gender Equality Law (2006) and the National Gender Equality Strategy 2011-2020. Vietnam ratified the Convention on All Forms of Discrimination against Women (CEDAW) in 1982, thereby agreeing that the legislative process must ensure that existing and new laws must not conflict with provisions of the treaty.

The recent adoption and implementation of the new Law on the Promulgation of Legal Normative Documents (LPLND) and the efforts of the National Legislative Development Project in Vietnam provides a unique opportunity for gender equality to be mainstreamed in the legal system in a sustainable way. The National Legislative Development Project is assisting the Ministry of Justice to develop a strengthened, effective and transparent legal framework that will reflect the needs of Vietnamese citizens and support equitable economic growth. The project will support efforts to include gender equality requirements in the LPLND and ensuing LNDs.

Decree No. 70/2008/ND-CP sets out general provisions and specific responsibilities for the MOLISA, the Ministry of Planning and Investment (MPI), the Ministry of Justice, the VWU the legal departments of line ministries, and other entities.

Circular number 17, “On Mainstreaming Gender Equality in the Making of Legal Normative Documents”, provides direction on implementation of the Gender Equality Law and guidance on the purpose of mainstreaming Gender in LNDs, This Circular was issued by the Minister of Justice on August 13, 2014.

A set of national indicators on gender related development statistics was issued by the Prime Minister as part of Decision 56/2011/QD-TTg. Among these are two indicators of specific relevance to gender equality in law making and to the NLD Gender Equality Plan:

- Reference #100/1101: Rate of LNDs that are integrated with Gender equality issues.
- Reference #101/1102: Rate of members of drafting team, editing team of LNDs who are trained with knowledge on gender.

These GOV performance indicators will be reflected in the Performance Measurement Framework for NLD.

Details of specific legislation are included as Appendix 3 of this document.

VII. MANDATE OF VIETNAMESE STATE BODIES IN GENDER EQUALITY INTEGRATION

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A number of Vietnamese state bodies that are not formal NLD partners have clearly mandated roles in gender equality integration and mainstreaming. In order to support NLD partners to become more proficient and involved in gender equality effort it is essential to include these bodies in NLD initiatives to achieve NLD gender equality goals. The opportunity to facilitate cooperative cross ministry efforts in the field of law-making through NLD activities is considerable, and has been identified by MOJ, MOLISA and others as essential. 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.

Decree No 70/2008/ND-CP and Decree No 20/2008/ND-CP assign responsibilities for gender equality integration and responsibility for state management of gender equality. It is very clear that the GOV reserves the right to exercise unified state management of gender equality but recognises that gender equality cannot be achieved by ministries or agencies working in isolation and that a high degree of cooperation is essential. Nevertheless, these decrees clearly assign specific responsibilities to MOLISA for exercising the state management of gender equality throughout the country and to ministries and ministerial-level agencies to coordinate with MOLISA in exercising the state management.

MOLISA is specifically tasked with submission of LNDs, assessing the integration of gender equality in the drafting of LNDs, guiding gender equality activities-skills integration in operation, coordination to foster a contingent of gender equality activists, research, preliminary and final reviews, reporting and publicising gender equality data, and international cooperation on gender equality.

Ministries and ministerial level agencies are charged with scrutinizing current LNDs, and integrating gender equality in LNDs assigned to them.

The MOJ is assigned the prime responsibility, in coordination with MOLISA, for assessing the integration of gender equality issues in the elaboration of LNDs.

The Ministry of Planning and Investment is assigned the prime responsibility, in coordination with MOLISA, on matters related to statistical data on gender. At the same time MOLISA has the prime responsibility for collecting and synthesizing information and data on gender equality and ministries and ministerial-level agencies are required to formulate and promulgate, according to their competence, gender-based classification criteria within the statistical criteria of sector or domains under their charge.

In terms of access to local Vietnamese expertise, Vietnamese entities such as the Vietnamese Women's Union Academy and the National Commission for the Advancement of Women have access to Vietnamese resources that can be drawn in for capacity building activities and are an important part of the Vietnam machinery for improving the status of women. Where appropriate, NLD will attempt to draw in MOLISA legal and gender equality departments into project activities because of their mandate to mainstream gender equality in the law (See appendix 4 for further information).

VIII. METHODOLOGY AND VALIDATION OF THE GENDER EQUALITY PLAN

The approach to developing and validating the NLD Gender Equality Plan is an inclusive one, based on Canadian government gender equality policies and practices and, as stated previously, based on gender equality provisions in Vietnamese law and policy. It began with the inclusion of the Canadian Gender Specialist in the Inception Mission and the decision reflected in the Project Implementation Plan (PIP) to

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integrate gender equality throughout all project activities. This mainstreaming approach is consistent with the systemic nature of NLD and, because the life span of NLD is almost the same as for the Vietnamese National Gender Equality Strategy, there is reason to believe that progress can be made.

Gender Equality questions were posed in the CEA Assessment; individual and group interviews were held with representatives of partners, state bodies with specific responsibility for the integration of gender equality in the law, eminent Vietnamese individuals with a track record of championing gender equality, representatives of previous and current CIDA/DFATD legal type projects and other donors working on legal and gender equality issues.

1. GEP development activities

- A draft GEP was developed as a result of discussions with Vietnamese partners during the NLD inception mission in May – June 2012
- Information was gathered from project partners during a Results Based Management and Performance Indicator Training workshop in December 2013.
- Discussions were held with the local Gender Advisor in the Department of Foreign Affairs, Trade and Development, Canada, (Hanoi Development section).
- Meetings were held with other donors working in the legal system including UNDP, UN Women, US Aid, and Danida.
- A Vietnamese Gender and Legal Specialist (VGELS) was retained by NLD to work as part of the gender equality team in Hanoi to review the draft GEP, assist in the development of gender sensitive and gender specific performance indicators and advise on the context and challenges for gender equality integration in Vietnam and the implementation of particular initiatives proposed by partners.
- The draft GEP was discussed in meetings with the Gender Focal Point in the Ministry of Justice, the GALD department in the Ministry of Justice, the Legal Affairs Departments of all partner Ministries, the Department of Social Affairs Gender Equality Section of the Vietnam National Assembly Office, the Legal Affairs Department of the Ministry of Labour, Invalids and Social Affairs, UNDP, UNWomen and the Gender Advisor to the Department of Foreign Affairs and Development, Canada. (See list of meetings in Appendix 1)
- The draft GEP was circulated to NLD Canadian partners and consultants/experts and gender input from the MAG was contributed during study tours and in the process of developing the Logic Model and Work Breakdown Structure. The input from these sources is integrated in this document.
- The NLD gender team is actively involved in the development of Key Performance Indicators and Performance Indicators that are being developed for the NLD Project and for the GOV with the involvement of MOJ and GSOV.
- The set of national Indicators on gender related development statistics issued by the Prime Minister of Vietnam in 2011 includes two indicators specific to the integration of gender equality in law-making and these are integrated into NLD indicators in the PMF.

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- The gender team has been fully involved in the development of, and revisions to, project documents such as the Logic Model, Performance Management Framework and the Work Breakdown Structure to ensure that gender equality principles and specific gender initiatives are embedded where necessary.
- Internal working sessions have taken place to refine and validate the GEP, followed by a presentation to a meeting of the TAT. A further meeting of NLD partners for formal validation took place on February 9, 2015.

2. Activities during Phase 1 contributing to the GEP and gender planning for Phase 2

In the planning phase of NLD a number of activities contributed to building knowledge about the implementation of the Gender Equality Law and the National Gender Equality Strategy in Vietnam:

- Assessment of the implementation of the Gender Equality Law (2006) in the law-making process and consideration of gender issues relating to law-making is included in the overall CEA Assessment. Specific questions related to the implementation of the Gender Equality Law (2006) articles 20, 21 and 22, and on section 47 of the Law on Laws were included in surveys and interviews in the assessment process and research projects.
- NLD Logic Model expected results were reviewed for gender sensitivity and expected gender results were added.
- Gender considerations are integrated in the process of PMF refinement and identification of indicators.
- Guidance for the partners with respect to the need for identification of accessible and reliable baseline data disaggregated by gender.
- A gender equality team has been established in the Hanoi office consisting of the Canadian/International Gender Specialist, the Vietnamese Gender and Legal Specialist and a Program Officer designated to track and coordinate gender initiatives.
- An extensive report currently being prepared by the Vietnamese Gender and Legal Specialist will provide vital information on gender equality in law-making from a Vietnamese perspective.
- A proposal prepared by the NLD VGELS recommending the inclusion in the new LPLD of a requirement for Gender Equality mainstreaming in LNDs was forwarded by NLD to the Law Committee of the National Assembly and the VGELS made a presentation on this subject at the NLD sponsored workshop of the National Assembly Law Committee on October 10, 2014.
- The MAG Senior Counsel reviewed the draft Law on Laws from a gender equality perspective and comments were conveyed to the NA Law Committee during the October 9-10, 2014 workshop.
- During the Study Tour in March 2014, MAG officials made a presentation on the history and status of gender equality development in Canada and its application in law-making at the present time.

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- The NLD Gender team participated in the workshop on the LPLD of the NA Law Committee and in a Gender Action Partnership (GAP) and National Commission for Women's Affairs (NCFAW) workshop on the subject of women's participation in the National Assembly.
- The NLD gender team reviewed the UNDP report on the Situation of Women Members in the National Assembly.

3. Criteria for approval of Gender Equality related activity proposals

In keeping with the approach to fully integrate 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 include some activities that are explicitly directed to 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.

The following criteria will be applied in the approval of gender specific activities:

- 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 an 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.

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- 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.

IX. SUMMARY DESCRIPTION OF CURRENTLY PLANNED INITIATIVES

The following is a summary of anticipated gender equality initiatives or areas of focus to be undertaken with NLD partners that have been embedded in the NLD Work Breakdown Structure (WBS), thus ensuring that resources will be allocated for implementation of the GEP. Partner ministries 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 helped them to understand how to apply it to their specific day to day responsibilities; for this reason activities with partners will focus mainly on knowledge and skills development in policy making and drafting with a view to mainstreaming gender equality in all NLD project activities. Initiatives will also be developed that will assist key players in the Vietnamese law-making system, especially project partners, to integrate and mainstream gender equality principles in policy making and drafting of the new LPLD and implementing documents.

NLD will be promoting an approach to policy development that ensures that policy is developed at the front end of the law-making process, in advance of drafting, and that gender impact assessments and analysis should be part of the process for all draft laws, not just those with an obvious gender consideration. This approach supports the VWU in its attempt to have gender assessments done and a gender impact section included in the dossiers for all new laws.

1. Scope of activities linked to WBS

The activities selected or proposed in the WBS arise from the responses to gender related questions in the CEA Assessment and from discussions with Vietnamese partners, primarily the legal sections of partner ministries. In explaining their shortcomings on implementing gender equality mainstreaming, almost all reported that they had understood gender mainstreaming to be a lack of discrimination against women and that they lacked the knowledge and skills to go farther. Gender impact analysis is very rarely done, if ever, and all ministries, particularly MOF and MOIT, expressed the desire to have training or coaching on how to apply gender equality techniques in their day to day work.

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

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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)

2. Background, Rationale for proposed additional Phase 2 Gender Equality activities targeting the National Assembly and legislative drafters

2.1. Background on the National Assembly and its Committees

The role of the National Assembly is pivotal in achieving sustainable gender equality in law-making in Vietnam. NLD is cognizant of the draft Law on the National Assembly adopted on November 20, 2014 and wishes to respond to the expressed requirements of the National Assembly by supporting capacity building activities for National Assembly deputies and officials. In the immediate future, support to the National Assembly CSA and individual women Deputies and staff of Committees in their roles in law-making is likely to find resonance.

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The Law on the National Assembly sets out the NA's role and functions. In particular Chapter I of the law contains several articles that are particularly relevant to the advancement of women and justify the involvement of NLD in some aspects of the work of the National Assembly. NLD will monitor the evolution of this and other laws for compliance with gender obligations and will take the findings into account to inform the GEP and to provide a basis for interventions through or with partners.

Article 76 on the duties and the powers of the Committee for Social Affairs lists its general and specific responsibilities for gender review and for mainstreaming gender equality in proposed laws, ordinances, and resolutions for submission to the National Assembly or the Standing Committee of the National Assembly.

It is not clear that the mandate described in Article 76 pertains to all legislation that comes before the CSA and the fact that the language is specific about the social ministries and silent about economic, financial and environment ministries gives rise to the concern that the intent is for the CSA to review only drafts that have an obvious gender equality implication. Supporting this view is the fact that there is very little reference to gender equality responsibility elsewhere in the draft. Canadian experience has proven that policies and draft legislation can have unrecognized or hidden gender equality implications and that it is imperative to apply a gender analysis assessment in the development of all policies and draft legislation.

2.2. Women in the National Assembly

That Vietnam places a strong emphasis on Gender Equality and has made great strides in many areas of women's lives is not in question, but the percentage of women in elected positions is decreasing and at 24.4% in the present National Assembly, women's representation falls far short of the targets set by the Fatherland Front and Election Board of 30% for 2011-2015 and 35% for 2016-2020. Recent studies by UNDP and by Paul Schuler, UCSD, explore the reasons for this decrease. Both the UNDP and Schuler studies find that nominated female candidates fare poorly compared to male candidates with more than 60% of males and only 40% of females winning seats. Both studies also point out that surprisingly little is known about the behaviour or contribution of women members in the National Assembly. The UNDP study finds that it is not gender alone that discriminates against female candidates but their background, education and experience, since voters are more likely to prefer military officials (predominantly male) over business or state-owned enterprise candidates (predominantly female).

Women are also significantly under-represented in public sector leadership positions. Recent MOLISA and VMU reports show that women hold very few Ministerial, Vice-Ministerial, Director General, Deputy Director General, Party Executive positions and Chairs and Deputy Chairs of Peoples councils or the equivalent.

The UNDP study shows that, in the NA, the Chairs and Deputy Chairs of the Standing Committee and other NA Committees hold a very significant level of power and that women, for the most part, occupy lesser roles in the NA while men are more likely to be leaders.

Looking at membership in Committees, women are not equally represented on the powerful Economic, Law, and Justice Committees. Furthermore, even on those committees where women are represented, such as the CSA; the Culture, Education, and Youth Committee; and the Council for Ethnic Minorities, women are less likely to occupy leadership roles than men.

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Recent international discourse on the impact of gender equality mainstreaming in parliaments refers to ‘gender responsive parliaments’ but research and studies on the impact of women in legislatures are, for the most part, western, African or Latin American, and are inconclusive or contradictory. The reality is that Vietnam’s political institutions differ from those of countries in which studies have been done which suggest that a unique approach to addressing gender equality issues in the NA is warranted.

2.3. Capacity development for National Assembly Deputies and Officials: Learning opportunities for members of the Women’s Parliamentary Group and staff of Committees

NLD proposes to develop a capacity development program for members of the National Assembly and for staff of the National Assembly Committee on Social Affairs, the Law Committee 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 be made to identify potential male members who indicate an interest in gender awareness and capacity building. The National Assembly Committee on Social Affairs (Gender Equality Department) has been invited to submit proposals related to this activity. NLD will initiate discussion on how a program of activities could be put in place 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 CSA. Since a new National Assembly will be elected in 2016, these activities would commence later in the project cycle.

In recent years women’s parliamentary and political caucuses have been established in some Asian countries. These caucuses normally exist across party lines and are a mix of issue based and peer support groups. Although political systems differ, the challenges and obstacles for women are largely the same, for example, getting elected, balancing support and advocacy for pro-poor women and pro-gender issues against party loyalty, and appointment to key positions within the parliamentary system.

In Canada, at the federal and provincial levels, gender has been mainstreamed throughout government policy and legislative processes and there is value in sharing the experience of the last two or three decades, particularly as it relates to policy development and law-making processes. Study Tours in the sub-region and in Canada (at the federal level and in various provinces such as Quebec, Ontario and British Columbia) would provide opportunities for peer learning. Participation in regional inter-parliamentary fora may be facilitated by NLD.

3. *Informal General Advisory Group of Legal Experts to the National Assembly Committee on Social Affairs on drafts (IGAG)*

An ‘Informal Group of Experts’ exists, comprised of senior retired experts who previously had a senior role or position connected to the National Assembly, NCFAW and the GOV. Individual expert advisors and the CSA saw the value of a cooperative approach and thus the Informal General Advisory Group was formed in 2010 to provide expert advice to the National Assembly Committee Social Affairs (CSA) on draft laws coming before the National Assembly. These experts have deep knowledge and experience on a range of topics and can be called upon to provide comment and advice on the gender equality aspects or impacts of draft laws. Group members provide this input on an as needed and voluntary basis. Some members of the group were involved in PIAP activities and have knowledge of Canadian approaches to gender integration in the law-making system. NLD will explore ways and means to support this group to ensure a systematic approach to providing gender equality analysis of draft laws and with a view to ultimate institutionalisation of such an expert professional group within the CSA. NLD will also explore

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ways and means to involve members of this group in the development of the (see below) Gender Equality Working Group 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.

Initially it is proposed that two to five legal officers from each NLD partner ministry and NA and GOV gender entities be selected to undergo policy analysis and drafting training (including gender analysis and gender neutral drafting) over the time frame of the NLD project.

The IGAG members have stated that they are prepared to act as trainers and mentors over the same period and NLD will invite them to submit ideas or proposals on how their role can be facilitated within the overall Gender Equality Plan.

4. Ministry or Secretariat on the status and role of women in Vietnam

It is our understanding at the time this Gender Equality Strategy is being prepared, that a proposal to set up a separate Ministry for Women is before the Politburo for consideration. Although there is some disagreement in government circles about the likelihood of this coming to pass, we are flagging it here as a possibility so that if it does happen NLD is in a position to interact. Canada has very significant and valuable experience in this type of government machinery for women at the Federal and Provincial levels in Canada and through overseas development support for projects to develop women's machinery in a number of countries including some in Southeast Asia. If approval for such a State entity is approved, NLD will be in a position to contribute to aspects that are related to a mandate in law making.

5. Gender Equality Working Group on Law-making (GEWG) in Vietnam

Observations by Vietnamese and Canadians involved in NLD suggest that while Vietnam has a very strong legislative base for and commitment to gender equality and substantial effort has been expended on raising awareness of the importance of international and domestic legislation for gender integration, the absence of a coordinating mechanism within the law-making system hampers efforts to ensure that gender equality is fully considered in drafting and passing of laws. Institutional capacities for reporting, gender analysis, data collection and monitoring remain weak and unsystematic. Responsibility for gender analysis and drafting is split among various parties in the law-making 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 (GoV) has been proposed to coordinate gender analysis and review of laws and to make recommendations on integrating gender analysis and gender sensitive drafting procedures in the law-making process.

It is clear from recent discussions that before such a group could be mobilized, a core group of experienced drafters with good technical skills including knowledge of policy development and gender analysis techniques is required. It is proposed that a program of educational and training activities should be designed, including application of gender equality approaches to policy development and drafting, leading ultimately to the development of the GEWG. The formation of internal ministry sub-groups to coordinate between departments may ultimately contribute to the establishment of a core group of expert drafters with gender skills.

Activities under WBS 2500, WBS 3200, 3100 and WBS 4900 will contribute to the establishment of a core group of gender aware policy makers and drafters within the overall goal of establishing a pool of professionally trained policy makers and drafters.

6. Best Practices for integrating gender equality in law-making

Peer learning is often a very effective means by which to transfer knowledge and build capacity as it brings into play existing knowledge and experience of individuals or groups working in similar situations on common interests. This is especially true in the gender equality aspect of NLD as the people or groups targeted are already engaged in aspects of law-making, and could benefit from learning from their peers in Canada and internationally about what works and the steps that have been taken to improve their capability to undertake their role in law-making from a gender equality perspective.

NLD will support workshops and exchanges that will enable its partners, National Assembly members, officials of the ONA-CSA, and legislative policy makers and drafters, to learn from what has worked in other jurisdictions and to extract from this learning methods and approaches to integrating gender mainstreaming in the legal system that are suitable for Vietnam.

Examples of best practices, or of what works for integrating gender in law-making, will be drawn mainly from Canadian experience or from countries in the region and will be presented by individuals who have direct participation and experience to contribute. Previous experience of the PIAP can guide the CEA and Vietnamese partners on the selection of topics that might include the following:

- Steps to mainstreaming gender equality in the law making system in Canada including an overview of the Policy and law making process
- A Canadian parliamentarian's perspective on how to build support in parliament and elsewhere for gender equality integration
- The experience of the Gender Equality Directorate in Serbia in implementing a CIDA project involving several aspects of law-making
- The application of gender based analysis and development of gender analysis tools by the Canadian Federal Government
- The development of tools for gender based budgeting in Canada
- The experience of women's caucuses in Southeast Asia (Cambodia, Indonesia)
- Canadian Bar Association experience in addressing gender equality issues in the legal system in Canada.

7. Activities to be undertaken or introduced during Year 1 of Phase 2

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.

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The Work Plan for Year 1 of Phase 2 includes two activities related to gender equality, 2530-MOIT-1-15 through which MOIT intends to develop methodologies to mainstream gender equality in policy making and drafting legislation and 1270-NLD-1-15 in which gender equality findings will be referenced in presentations related to the CEA assessment process.

In addition, steps will be taken to further describe potential activities and to identify appropriate partners.

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

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.
2. A seminar will be organised 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.
3. Tools and training materials will be developed or adapted, 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.
4. A specialised training program on gender equality during policy development and legislative drafting will be initiated, 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.
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.
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, UNWomen and donors supporting gender equality activities in Vietnam.

XI. MANAGEMENT OF THE GENDER EQUITY PLAN INTEGRATION IN NLD

Integration of gender equality in all planning and operational processes of the project and the support of special initiatives in partner agencies and GOV gender entities to integrate gender mainstreaming best practices in the law-making system will require consistent coordination and management within NLD.

The NLD Gender Equality team consists of a Canadian/International Gender Specialist, a Vietnamese Gender and Legal Specialist, a designated Programme Office in the NLD Hanoi office and a gender equality expert at MAG. Together, the Gender Equality team will ensure that Key Performance Indicators at a strategic level and Performance Indicators at an operational level, are screened for gender sensitivity and that, where necessary, specific gender equality indicators will be developed.

The Gender Equality team will also be assigned to monitor all activities supported by NLD for gender content and sensitivity with particular responsibility for the quality and content of gender specific activities.

While gender specialists and assigned NLD staff have a specific role to play, it is incumbent on all project personnel to be aware of gender considerations in their work and it is important to include the Gender Specialists in the loop on all aspects of project development and management.

The Canadian/International Gender Specialist is an integral part of the Project Management Team, and reports to the Project Director and works directly with the Project Field Manager. The Gender Specialist will review work plans, project initiatives and activities and provide feedback to the Project Management Team on matters relating to gender mainstreaming and work closely with the Project Field Manager to ensure that gender equality results are included in project reporting. A CBA tool for addressing gender equality in the design and planning of activities will be adapted for NLD.

To ensure adequate integration of the Gender Equality Plan, the Gender Specialist will liaise with the NLD Program Officer responsible for gender equality activities and the Vietnamese Gender and legal Specialist and the MAG Gender specialist. The project gender team will confer regularly to discuss status and progress of the Gender Equality Plan implementation, lessons learned and potential adjustments.

Department of Foreign Affairs, Trade and Development guidance documents on gender equality will be used in planning and implementation of project gender equality initiatives as well as to guide NLD in mainstreaming gender equality in all aspects of project implementation, management and reporting.

Appendix 1

List of individuals or groups consulted

- Ms. Ha Thi Thanh Van, VWU in her capacity as NLD local Gender expert;
- Ministry of Agriculture and Rural Development: Ms. Nguyen Thi Kim Anh, Director of Legal Department, MARD and two colleagues
- Ministry of Industry and Trade: Ms. Tran Do Quyen, Deputy Director and Ms. Lai Thu Huong, Legal Department
- Vietnamese Women's Union Women's Academy; Ms. Ha Thi Thanh Van, Vice Director, VWU Women's Academy and 2 colleagues
- Ministry of Justice: Mr. Quang, former Director of Personnel Department and Gender Equality Focal Point and colleagues; Mr. Do Dinh Luong, GALD
- Ministry of Justice: Mr. Chau, Director of Personnel Department and Gender Equality Focal Point and colleagues
- Ministry of Justice - Institute of Legal Science: Dr. Nguyen Van Cuong and colleagues
- Ministry of Finance: Deputy Director of the Legal department and five colleagues representing different sectors within MOF
- Ministry of Labour, Invalids and Social Affairs (MOLISA): Mr. Ha Dinh Bon, Director, Legal Department and colleagues
- National Assembly Committee on Social Affairs: Ms. Nguyen Thanh Tra, Deputy Director, Department for Social Affairs
- DFATD: Ms. Victoria Sutherland, Ms. Vu Thi Yen
- Ms. Hien, Gender Advisor , DFATD
- UNDP: Ms. Le Thi Nam Huong, Program Officer, Governance and Participation Unit
- UN Women: Ms. Shoko Ishikawa, Country Representative, Ms. Thuy, Programme Officer.
- Mr. John Bentley, formerly US STAR project
- Mr. Vu Ngoc Binh, Consultant to WB and UN on Human Rights and Gender Equality (formerly programme officer UN Women
- Informal Advisory Group to CSA on drafts: Mr. Luong Phan Cu, formerly member and Vice Chairman 11th and 12th National Assembly; Ms. Tran Thi Mai Huong, Gender expert formerly NCFAW
- Participated in the Gender Action Partnership (GAP)/UN Women/NCFAW workshop on Women in the National Assembly
- Participated in NLD/ NA Law Committee workshop on LPLD draft
- Internal discussions with representatives of NLD Canadian partners and the Project Director, Project Field Manager and Project staff in the Hanoi office.

Appendix 2
Work Breakdown Structure (WBS)

Appendix 3

Legal basis for integration of Gender Equality in Vietnam

- 1.1 Laws on the Promulgation of Legal Normative Documents (LNDs) were adopted in 2004 and 2008 as first key steps to reform the legal framework to regulate the division and delegation of powers between Institutions when legislating. A new Law on the Promulgation of Legal Documents (LPLD) is in the final stages of approval by the National Assembly and is expected to be adopted in 2015 and implemented in 2016. By supporting an integrated program of reform of the Vietnamese Policy and law-making process, the National Legislative Development Project (NLD) will assist the GOV to develop a strengthened, effective and transparent legal framework that will reflect the needs of Vietnamese citizens and support equitable economic growth. NLD will support efforts to include gender equality requirements in the LPLD and ensuing LNDs to implement the LPLD.
- 1.2 The Resolution 11-NQ/TW (2007) of the Politbureau on women affairs in the era of industrialization and modernization of the country marked the first political determination regarding gender equality.
- 1.3 The promulgation of the Gender Equality Law (2006) and ensuing Directives, Decrees and Decisions, led to Decision No. 2351/QĐ-TTĐ, December 24, 2010 approving the National Strategy for Gender Equity 2011-2020 (NSGE).
- 1.4 The Gender Equality Law (2006) has three articles that support integration of gender equality in the law-making process:
 - Article 20: To ensure basic principles of gender equality in the improvement of the legal normative documents system
 - Article 21: To mainstream gender equality issues into legal normative documents
 - Article 22: To verify the mainstreaming of gender equality issues
- 1.5 The Law on Promulgation of Legal Normative Documents (2008) also provides direction:
 - Article 47: The National Assembly Committee on Social Affairs is responsible for verifying the integration of gender equality issues in the draft laws, draft ordinances and draft resolutions.
- 1.5 Vietnam ratified the Convention on All Forms of Discrimination against Women (CEDAW) in 1982, thereby agreeing that the legislative process must ensure that existing and new laws must not conflict with provisions of the treaty.
- 1.6 Decree No. 70/2008/ND-CP, detailing the implementation of Articles 8, 9, 25, 26, 27, 28, 29 and 30 of the Law on Gender Equality (2006), sets out general provisions and specific responsibilities for the Ministry of Labour, Invalids and Social Affairs (MOLISA), the Ministry of Planning and Investment (MPI), the Ministry of Justice, the Vietnamese Women's Union (VWU) the legal departments of line ministries, and other entities. (These provisions will be outlined more fully in section 9.)
- 1.7 The draft Law on National Assembly organisation makes several references to gender equality, particularly in Article 76 on the role of the Committee on Social Affairs.

1.8 Circular number 17, “On Mainstreaming Gender Equality in the Making of Legal Normative Documents”, was issued by the Minister of Justice on August 13, 2014 pursuant to the Law on Gender Equality dated 29th November 2006, the Law on Promulgation of Legal Normative Documents of People’s Councils and of People’s Committees dated 3rd December 2004, the Law on Promulgation of Legal Normative Documents dated 3rd June 2008 and to subsequent Decrees and Decisions. This Circular includes the following provisions:

Article 1. Governing scope

This Circular stipulates the principle of mainstreaming gender equality in the making of legal normative documents; the process for mainstreaming gender equality in the making of legal normative documents and the responsibilities of the lead drafting agencies, the reviewing agencies, the examining agencies in the implementation of mainstreaming gender equality in the process of making legal normative documents.

Article 2. Purposes of mainstreaming gender equality in the making of legal normative documents

Mainstreaming gender equality in the process of making legal normative documents (hereinafter referred to as LNDs) is a measure to achieve the goal of gender equality, to eliminate gender discrimination, to ensure legitimate rights and benefits in line with the typical characteristics of each gender; to create equal development opportunities for men and women in all fields of social lives and in the family; and to ensure actual gender equality between men and women.

Article 3. The principles for mainstreaming gender equality in the making of legal normative documents

4. Mainstreaming gender equality shall be implemented in the whole process of the development of legal normative documents.
5. To ensure that there will be no gender inequality incidents, to secure the rights of each gender in the contents, the process and procedure of LNDs drafting and promulgation as stipulated.
6. To ensure the participation of the agencies in charge of labour, war invalids and social affairs and the Vietnam Women’s Union. To mobilize the participation of the Vietnam Fatherland Front and its member agencies, and of related organizations and individuals in accordance with the laws.

Article 4. Reporting and statistic responsibilities in the field of gender equality mainstreaming

Ministers, Heads of Ministerial level agencies, and Chairmen of People’s Committees at the provincial level shall annually report on the number and the ratio of LNDs with the issue of gender equality mainstreamed in the process of making legal normative documents of which they are the lead drafting agencies for submission to the competent agencies for promulgation or for promulgation by themselves as delegated.

Appendix 4

Mandate of Vietnamese State bodies for gender equality integration

Decree No. 70/2008/ND-CP and Decree 20/2008/ND-CP provide details on the implementation of several articles in the Gender Equality Law.

1. Responsibilities for State management of gender equality:

- The Government exercises the unified state management of gender equality.
- The Ministry of Labour, Invalids and Social Affairs (MOLISA) shall take responsibility before the Government for exercising the state management of gender equality throughout the country.
- Ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, coordinate with the Ministry of Labour, War Invalids and Social Affairs in exercising the state management of gender equality. People's Committees at all levels shall exercise the state management of gender equality in their respective localities as decentralized by the Government.

2. Responsibility of MOLISA:

- To submit to competent state agencies for promulgation or promulgate according to its competence LNDs on gender equality, and organize their implementation.
- To take part in assessing the integration of gender equality issues in the drafting of LNDs.
- To guide gender equality activities-skills of integration of gender equality issues in the organization of operations of agencies and organizations.
- To assume the prime responsibility for and coordinate with ministries and ministerial-level agencies in building, training and fostering a contingent of gender equality activists.
- To organize scientific research and application of scientific advances in the domain of gender equality.
- To conduct preliminary and final reviews, make annual and periodical reports and assessments on the situation of gender equality across the country.
- To make statistics and publicize information and data on gender equality throughout the country according to law.
- To enter into international cooperation on gender equality within the ambit of state management in accordance with law; to propose the conclusion of or accession to treaties on gender equality, and organize the implementation of gender equality treaties to which Vietnam is a contracting party.

3. Responsibilities of ministries and ministerial-level agencies: to scrutinize current LNDs for amendment, supplementation or annulment; to promulgate according to their competence or submit to competent agencies for amendment, supplementation, and annulment or promulgation LNDs to ensure gender equality in sectors or domains under their charge.

4. Coordination in integrating gender equality issues in the elaboration of LNDs is assigned:

- Ministries, ministerial-level agencies and People's Committees at all levels shall integrate gender equality issue in the elaboration of LNDs assigned to them.
- The Ministry of Justice shall assume the prime responsibility for and coordinate with the Ministry of Labour, Invalids and Social Affairs in, assessing the integration of gender equality issues in the elaboration of LNDs, including:
 - Projects, drafts of LNDs submitted by the Government to the National Assembly or the National Assembly Standing Committee:
 - Projects, drafts of LNDs submitted by other agencies, organizations or National Assembly deputies to the National Assembly or the National Assembly Standing Committee, which must be commented by the Government:
 - Drafts of LNDs falling under the promulgating competence of the Government or the Prime Minister.
- Legal departments of ministries, ministerial- level agencies and judicial agencies of provincial-or district-level People's Committees shall assess the integration of gender equality issues in the elaboration of LNDs railing under the promulgating competence of ministries, ministerial-level agencies People's Councils or People's Committees of the same level.

5. Coordination in making statistics, collecting and providing information and data on gender and gender equality:

- The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Labour, Invalids and Social Affairs in studying, formulating and submitting to the Government for promulgation national gender development index and gender-based classification criteria in the state statistical data; guide ministries, ministerial-level agencies and provincial/municipal People's Committees in collecting and summing up statistical data on gender within the national target system, and calculating the national gender development index.
- The Ministry of Labour, Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with provincial/municipal People's Committees and concerned agencies and organizations in. collecting and synthesizing information and data on gender equality: supplying information and data on gender equality according to law.
- Ministries and ministerial-level agencies shall formulate and promulgate according to their competence gender-based classification criteria within the statistical criteria of sector or domains under their charge; organize the making of statistics, collection of information and data and making of reports on the gender equality situation in sector or domains under their charge on a regular basis or at the request of the Ministry of Labour, Invalids and Social Affairs or the Ministry of Planning and Investment.

6. Participation of the Vietnam Women's Union in the state management of gender equality (Article 16):

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- The Ministry of Labour, Invalids and Social Affairs, other ministries, ministerial-level agencies and People's Committees at all levels shall coordinate with, and create favourable conditions for women unions of the same level to participate in the state management of gender equality as follows:
 - Studying, receiving social discussions of women's unions of the same level regarding policies and law on gender equality;
 - Coordinating with women's unions of the same level in collecting opinions on the implementation of policies and laws on gender equality and detecting acts in violation of the law on gender equality;
 - Coordinating in propagating, educating, fostering knowledge about gender and skills for gender equality activities: organizing activities in support of women so as to contribute to achieving gender equality targets.

Appendix 5

Overview of Gender Mainstreaming in the Policy and Legislative Development Process: Ministry of the Attorney General, Ontario, Canada, March 2014

Gender mainstreaming refers to the process of assessing the implications for women and men of any planned action, including policies, programs and legislation. It involves recognizing the importance of diverse, lived experiences of both women and men, and promoting the equal representation and participation of women and men in government decision-making processes. The goal of gender mainstreaming is to achieve gender equality by ensuring that proposed actions have intended and fair results for women and men, boys and girls.

In Canada, gender mainstreaming is pursued by fully integrating gender-based analysis into all stages of government policy, program and legislative development. Gender-based analysis is not a separate process of inquiry to be pursued once a government initiative has been developed. Gender equality is an integral consideration in responsible policy and law-making. Like all countries, Canada's experience in gender mainstreaming has had many twists and turns. Most progress in promoting gender awareness and advancing equality between women and men has been made with incremental steps - and sometimes some backward steps. There is a need for ongoing vigilance and sustained commitment to gender-based analysis in order to work towards gender equality in law, policy-making and society as a whole.

This article provides a brief overview of Canada's experience in gender mainstreaming, and offers a framework for gender-based analysis in policy and legislative development.

Definitions of Terms and Concepts

i. Distinction between sex and gender

In understanding gender mainstreaming and promoting gender equality, it is important to first understand the difference between "sex" and "gender". "Sex" refers to the physiological differences between males and females (e.g. *only women can give birth*). "Gender", on the other hand, refers to the social attributes and opportunities associated with being male and female, and the relationships between women and men, as well as the relations between different groups of women and men. These attributes, opportunities and relationships are socially constructed and learned and passed on through socialization processes (e.g. *only women can take care of children*, a common gender stereotype).

ii. Distinction between overt and systemic discrimination

Advancing gender equality in policy and law-making involves addressing both overt and systemic discrimination between women and men. Overt discrimination occurs when there is a deliberate action taken to differentiate between individuals based on some attribute (e.g. "women need not apply" in a job ad).

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Systemic discrimination refers to behaviour, policies or practices that are part of the structures of an organization, and which create or perpetuate disadvantage for certain groups. Assessing and tackling systemic discrimination can be complex, as the results of behaviour, policies or practices may be unintended. For example, a policy of only hiring people who are 1.7 meters (5 feet, 6 inches) tall may result in disproportionately discriminating against women.

Policies, programs and legislation must be careful not to reinforce stereotypes and systemic discrimination about women and men.

iii. Distinction between equality and equity

Another important distinction can be made between equality and equity. Equality does not mean that women and men will become the same, but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Advancing equality involves recognizing the differences between individuals, rather than simply treating everyone equally.

Gender mainstreaming requires the recognition of difference, which will influence the design of policies, programs and laws. For example, Canadian research has shown that girls learn math differently than boys. Girls learn better if concepts are explained within a context and then doing activities. Boys do better with more activity-based learning first rather than learning concepts. Different learning styles and different strengths require different interventions.

iv. Distinction between equal opportunity and equality of outcome

Incorporating gender perspectives into policy and legislative drafting processes involves recognizing that women's and men's social and economic lives are different, and that equal opportunity does not always mean exactly equal treatment or equal results.

Equality of results or outcomes is often referred to as substantive equality, as opposed to formal equality. Substantive equality requires institutions, including government, to take steps necessary to advance policies, programs and laws in ways that are responsive to their particular needs. Sometimes this will involve differential treatment of different groups. For instance, policies, programs and laws which focus on women need to take account of the physical, social, political, economic and historical realities women face in the workplace, home and public life.

Key Influences in Gender Awareness in Canada

There have been several key events that have affected gender awareness in Canada. The key stages of gender awareness and opportunities for advancement in Canada include:

- **Early 1900s:** Women granted right to vote (1918); first woman elected to Parliament (1921) and women recognized as legal "persons" under Canadian law for the purposes of certain rights under the Constitution (1929).
- **1960 – 1980's:** "First Wave of Feminism": grassroots women's groups advocate on a broad range of social, health, economic, and legal issues, including:
 - increasing the participation of women in the paid labour force which raised issues of employment and pay equity;

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- changing school curriculum to reflect the changing reality of women in society and forcing broader education and employment choices for women;
- reproductive choice and a range of women's health issues including violence against women;
- growing acceptance of shared family responsibilities;
- increasing social and media acceptance of women's rights and recognition of gender issues in society;
- ongoing gender research in a broad range of fields - health, economics, law and education, and
- "Backlash" against women's issues are reported intermittently.
- Government responses, including:
 - Report of the Royal Commission on the Status of Women (1970);
 - Development of government research, programs and services focused on women, including central secretariats such as Status of Women Canada, a federal government organization, and the Ontario Women's Directorate as well as Status of Women Advisory Councils across the country;
 - Establishment of public education campaigns on employment and education equity, family violence and violence against women, and
 - Increased funding for women-focused services and women's centres.
- **Mid 1980's:** Canadian Constitutional changes and the introduction of Canadian *Charter of Rights and Freedoms*, which creates a constitutional basis for equality and non-discrimination.
- **1990's – present:** Growing government concerns about fiscal pressures and growing pressure for social programs. Budgetary constraint measures put pressure on women's and general social programs.
- **1995:** Canadian government adopts a policy requiring departments to do gender-based analysis of future policies, programs and legislation based on the Beijing Platform for Action – UN Conference on Women.
- **2015:** 24.7% of Members of Canadian Parliament are women. This represents more women elected than ever before but still only half of the representation in the population. As of January 2015 the Inter-Parliamentary Union ranks Canada 52nd in the world on their *List of Women in National Parliaments* – just ahead of Vietnam with 24.3% women Members of the National Assembly (tied for 54th with Poland and Sudan).

While much progress has been made, more work is needed to address continued challenges to achieving gender equality in Canada.

Legal Foundation for Gender Equality in Canada

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The principles of equality are incorporated into the legal foundation of Canada. The Constitution of Canada, the supreme law in the country, contains the *Charter of Rights and Freedoms* (“*Charter*”), which guarantees the right to equality in broad terms, and specifies that governments are not permitted to discriminate against individuals on the basis of personal characteristics like race, sex or age. The *Charter* provides that:

s.15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

and that

s. 28 Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Sections 15 and 28 of the *Charter* outline a standard of gender equality to which all governments in Canada (federal, provincial and territorial) must comply. Women’s groups advocated very strongly for these specific clauses to be included in the *Charter*.

Federal provincial and territorial legislation also include Human Rights Codes that have similar provisions that apply to the public and private sectors.

The equality provisions in the Constitution provide the legal grounds to challenge government programs, policies and legislation that may result in unequal outcomes for women and men. The Charter equality rights provided an impetus for governments to undertake proactive reviews of legislation, programs, and policies in the mid 1980’s to ensure they met the Charter.

Legal challenges through the courts over the past twenty years have refined the understanding of equality rights. Canada’s courts have said that equality is a result and that in order to achieve an equitable result, it may be necessary to treat groups or individuals in different ways. Canadian courts have held that true equality cannot be achieved unless the law takes the particular circumstances of women into account.

All levels of government have processes in place to review proposed laws so that they meet the legal requirements of the *Charter*.

Canadian Experience: Use a Variety of Instruments and Levers

There are several instruments that governments can use to advance the goal of gender equality. These include:

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- Legislation and regulation
- Government policies, programs and services
- Taxation policies
- Capital expenditures
- Payments to individuals and organizations
- Public awareness and public education
- Research and knowledge transfer
- Coordination
- Leadership

Pursuing a particular course of action and achieving impact does not always require legislative or regulatory change. In many cases, legislative change is pursued alongside changes to policies, programs and services. Sometimes different instruments or combinations of instruments are more effective depending on the nature of the issue to be addressed. For example, improved access to quality, affordable child care can be achieved by each of these instruments. Government has choices on the instruments that will help it to achieve certain goals.

The next section focuses on incorporating a gender-based analysis into the policy and legislative drafting processes. This framework can also be adapted to the process of developing government programs, budgets and other initiatives.

Canadian Experience: Gender-Based Analysis

In Canada, gender mainstreaming is pursued by incorporating a gender-based analysis into the development, implementation and review of policies and legislation.

Gender-based analysis of government policies and legislation helps to ensure that they are effective and responsive in the broadest possible way for all citizens. The challenge in gender-based analysis is to anticipate the results of programs, policies and legislation, so that the differential impact on women and men can be identified and appropriate responses be developed to ensure the impact is as equitable as possible.

The following proposed framework for gender-based analysis in policy and legislative development was originally developed by Status of Women Canada in *Gender-based Analysis: A Guide for Policy-Making, Revised Edition, 1998*.

The Policy Development / Analysis Cycle



The Eight Steps of Gender-Based Analysis

- Step 1: Identifying, Defining and Refining The Issue
- Step 2: Defining Desired/Anticipated Outcomes
- Step 3: Defining Inputs: Gathering the Information and Consultation
- Step 4: Conducting Research
- Step 5: Developing and Analyzing Options
- Step 6: Making Recommendations/Decision-Seeking
- Step 7: Communicating Policy
- Step 8: Assessing the Quality of Analysis

Step 1: Identifying the Issue

Defining and describing the issue or problem is critical for determining why an action must be taken and what action is needed.

The following questions are generally asked in issue identification:

- What is the issue?
- Who says it is an issue?
- Why has it become an issue?
- How does your background (your gender/experiences/values/circumstances) affect your understanding of the issue?
- What are the root causes?
- Does this issue require policy analysis/development?

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To ensure a gender perspective in identifying, defining and refining the issue, consider:

- The different experiences of women and men, and ensure that these experiences are taken into account.
- Involving both women and men in identifying the issue. What do women's organizations and gender-aware researchers have to say about this issue? What was the level of participation of the affected groups of women and men in the issue identification process?
- How to avoid stereotypes and systemic discrimination about women and men.
- That policies, programs and legislation acknowledge and respond to their impact on both women and men.
- That age and other factors modify the different experiences of males and females (e.g. pregnancy and child rearing, life expectancy).
- Factors that should be considered for doubly disadvantaged women (women with disabilities, elderly women).
- How equity may be an issue in the policy. For example, do women and men currently receive different levels of benefits from the policy or legislation under review? Are you looking for a policy that provides means to overcome gender inequities and/or to eliminate barriers?

Step 2: Defining Outcomes

An analysis of intended and unintended outcomes usually involves examining the degree to which the policy can meet or hinder other policies or government objectives. Outcome indicators, monitoring processes, partners in defining outcomes, and accountability for achieving outcomes are usually considered in this phase.

The following questions are generally asked in defining outcomes:

- What outcomes does government want to achieve with this policy?
- What outcomes would other stakeholders expect from this policy?
- Should any of these outcomes be achieved by means other than new or revised policy/legislation? Is the development of a policy/legislation the best means to produce the desired outcome?
- How do these outcomes meet or hinder other government values, objectives or policies?
- Could there be unintended consequences or a backlash?

To ensure a gender perspective in defining the outcomes, consider:

- That different measures may be required for outcomes to be equitable for both women and men (identical treatment does not necessarily assure equality).
- That multiple outcomes may need to be identified to take into account the effects of gender on policy implementation.
- That expectations for outcomes (from government, public, stakeholders) should take into account both women and men, and that the expectations do not unintentionally incorporate existing stereotypes or biases.
- If there are different outcomes for women and men, these should be given equal consideration; outcomes for women should not be an add-on.

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- You may need different outcome indicators in order to capture the different realities for women and men; assigning specific monitoring and accountability for outcomes for both.
- Which gender-specific factors could modify the possibilities of achieving the outcomes; for example, pregnancy, harassment in the work place, lack of child care, care-giving for elders, are all variables which, if unaccounted for in the policy, could mitigate positive outcomes.

Step 3: Defining Inputs (Gathering Information and Consultation)

This stage in policy development looks at what knowledge is needed, and what sources can best provide it. Defining information inputs and gathering information involves identifying available and relevant data sources, partners in data gathering and analysis and possible consultations required.

The following questions are generally asked at this stage:

- What do we need to know about the issue? About the underlying problem? About values influencing the issue?
- What information is required to ensure that all perspectives will be taken into consideration? And who should be involved in determining what information is needed?
- What information sources are available? Who will be partners in information gathering/provision?
- Is the available information sufficient and appropriate to define the policy? Is there a need to generate primary data?
- Should the scope of the policy be redefined in light of the availability and appropriateness of the information?

To ensure a gender perspective at this stage, consider:

- That gender-disaggregated data is often not available; therefore it may be necessary to seek information in the form of case experience, administrative data or initiate direct research to generate primary gender-specific data. Gender-disaggregated data refers to data broken down by socio-economic attributes of women and men, for example, age, race, ethnicity, income etc.
- That information regarding other equity groups (e.g. people with disabilities) needs to be disaggregated by gender.
- Actively seeking the advice and participation of community and women's groups expert in this field when looking at sensitive issues. Take appropriate measures to ensure their full participation which could include changing the consultation processes, providing child care support.
- That unique and comprehensive information, often not available through traditional data sources, can be obtained by consulting with non-government organizations.
- Women's organizations generally have limited funds and rely almost entirely on volunteers. Responses to consultation requests take time, as decisions are generally made consensually.

Step 4: Conducting Research

The following questions are generally asked in conducting research:

- Who determines the research question(s)?
- What is (are) the research question(s)?

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- What factors will affect the research design?
- Who will be involved in the research and the research design? How?
- Is the scope and nature of the research design appropriate for this policy issue?
- What methodology(ies) will be used?
- What type of analysis will be done?

To ensure a gender perspective at this stage, consider:

- That policies, programs and legislation that do not address gender concerns may leave out relevant facts and data.
- That research questions must make specific reference to both women and men if the research is to address their particular circumstances.
- That research design should be constructed in a way that disaggregated data are collected. In the case of secondary research, disaggregated data should be sought.
- That some research approaches are not sensitive to women's or men's particular needs (e.g. issues regarding the disclosure of personal information of women who may be vulnerable to aggression or exploitation, may rule out some data collection approaches).
- Using reports, studies and guides that use gender methodologies in designing your gender-aware research. These need to be part of your research tool kit.

Step 5: Developing and Analyzing Options

Following research, it is necessary to identify options that would address the issues or problem and analyze their relative strengths and weaknesses, mitigations and issues. The relationship of options to, and their impact on, existing policies, programs and legislation must also be studied.

The following questions are generally asked in developing and analyzing options:

- What options are indicated by the data/ information/research?
- How are the options directly related to the desired outcomes previously identified?
- How do each of the options meet or hinder existing policies, programs or legislation?
- Do each of the options present a "real" alternative for government?
- What are the direct and/or indirect implications of each option? Are there unintended outcomes?
- What factors will positively/negatively affect each option?
- Who would implement each option? What resources are required?

To ensure a gender perspective in developing and analyzing the options, consider:

- How the options will support gender equity, and avoid discrimination, or point out where equity may be compromised. This should be explicit in the cost/benefit analysis of each option.
- What are the consequences of not adopting a gender-sensitive option? For women? For government?
- Including gender-specific measures in each option.
- What are the financial consequences of each option – the cost of implementing and of not implementing the option – are there disproportionate costs for women or men?

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- Seeking the perspectives of both women and men in developing the options and assessing their costs, benefits, acceptability and practicality.

Step 6: Making Recommendations

The following questions are generally asked in making a recommendation and obtaining a decision:

- Who will be involved in choosing the option recommended?
- On what basis will the recommendation be made? What are the underlying assumptions and values implicit in the recommendation?
- What sort of documentation is needed to support the recommendation?
- Does the recommendation have unintended outcomes and/or restraints (legal, economic, social, cultural, environmental, etc.)?
- Will there be further consultation on the recommendation? With who?
- What aspects of the policy environment (fiscal, government strategic priorities, other policies, current public opinion, government commitments, etc.) impinge on the recommendation?

To ensure a gender perspective in developing a recommendation and obtaining a decision, consider:

- Gender equity as a significant element in weighing and recommending options.
- Ensuring that the recommended option contains no legal, economic, social or cultural constraints to gender-equitable participation in the proposed measures.
- How any differential consequences based on gender, and their social and economic costs, will be communicated to decision-makers.
- Explaining the consequences of the recommended option in light of government's commitment to gender equity, and if and how the recommendation supports these objectives.
- Outlining in the recommendation methods to ensure that the policy is implemented in a gender-sensitive and equitable manner.
- If your recommended option results in a conflict of values, how you articulate your recommendations to ensure gender-sensitive decision-making.

Step 7: Communicating Policy

Communicating the recommended or chosen option can play a significant role in its acceptance and implementation.

The following questions are generally asked when determining how to communicate a policy:

- What is the message to communicate?
- To whom do we want to communicate it?
- What information will be given to whom? How?
- When will the information be communicated?
- What languages or formats will be used?
- What measures will be taken to communicate the policy, program and legislation to those who participated in its development?

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To ensure a gender perspective in communicating policy, consider:

- That the message should address both women and men.
- Designing communication strategies, tools and forums that reach both women and men.
- How to highlight gender implications of the policy.
- How the participation and contributions of both women and men in the policy development and analysis process will be acknowledged and communicated.
- How to ensure that examples, language, and symbols used in the communication are gender-aware and diversity-appropriate.
- How to select formats, locations and language that will be accessible to women and men.
- Are there benefits to involving non-governmental and grassroots groups in communicating the policy? How can they be involved?

Step 8: Assessing the Quality of Analysis

Assessment is the final step – and a key stage in the evolution of policy, programs or legislation. The following questions are generally asked in assessing the quality of analysis:

- How will we know if the policy, program or legislation was appropriate and effective?
- Who will establish the criteria to judge this?
- How and to whom are we accountable for the quality of our analysis?
- Who will review/analyze the quality of the analysis? To whom will the assessment be reported? Who will report it?

To ensure a gender perspective in assessing the quality of analysis, consider:

- Integrating questions concerning gender throughout the analysis.
- Clarifying gender implications within the context of the policy, and within the policy priorities of government.
- Clearly presenting what the gender implications are for each option, and why the recommended option will support gender equity, and promote (not restrict) women's autonomy, opportunities and participation.
- Substantiating these claims with relevant, reliable gender-disaggregated data, and/or, reliable information from credible informants.
- Balancing this information with appropriate considerations of the policy environment, such as historical information, the policy context, comparative information from other jurisdictions, community-based information and studies.
- Does the evaluation lead to a need to re-consider the policy or adapt it in any way?

Gender-Based Analysis in the Legislative Process

During the legislative design, development and drafting phase:

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- Recognize gender differences and disparities and analyze which are fact-based and which are social biases or stereotypes that need to be addressed;
- Develop strategies to maximize the intended benefit of the legislation for both men and women;
- Consider whether corrective measures or special initiatives need to be developed to ensure the legislation achieves its goals appropriately for both women and men;
- Consider whether special initiatives may have unintended negative consequences on either men or women.

During the legislative review and debate phase:

- Provide access for those reviewing the proposed legislation to the research and gender analysis that led to the development of the legislation;
- Ensure that consultation processes are designed to include gender experts, those women and men impacted by the legislation and their representatives;
- Explain the desired outcomes of the legislation in light of government's commitment to gender equity.

During the legislative implementation phase:

- Use gender aware communication strategies to ensure that both men and women are aware of the legislation and understand its implications.
 - Different media will reach different audiences. Consider, for example, distributing leaflets about domestic violence in food stores where women often shop alone as well as having announcements on radio, TV and on websites targeting men and women.
- Put in place methods to ensure that legislation is implemented in a gender-sensitive and equitable manner:
 - This might involve designing prototype training materials for employers and unions to use in training workers in the workplace about safety and harassment so that the approach reflects the intent of the legislation.
- Put in place gender sensitive enforcement mechanisms to ensure that the legislation is implemented and assessed effectively.

When monitoring and evaluating the legislation's impact:

- Integrate questions concerning gender throughout;
- Collect and analyze gender disaggregated data;
- Analyze government gender based data collected for other purposes;
- Collect qualitative information from implementers and men and women impacted by the legislation or their organizations;
- Consider non-traditional sources of information or evaluation methods;
- Look for intended and unintended gender impacts;
- Consider other factors that could have influenced impacts, and

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- Consider whether changes are necessary to achieve desired gender impact.

Canadian Examples

Advancing gender equality requires government law and policy-makers to engage in an intentional and careful analysis of the social and economic factors which affect women and men in different ways, and to ensure that proposed actions take account of these differences. Below are some Canadian examples of policies, legislation and other initiatives which address historic and ongoing gender inequality, and take account of the unique experiences of both genders.

Employment / Access to Jobs:

Many jobs in the past were restricted to men or set physical requirements which were difficult for women to satisfy. For example, a woman who could not meet arbitrary minimum standards for height or weight would not be eligible for jobs as police officers or fire fighters.

The courts were asked whether these standards discriminated against women and they held that the answer depended on whether women or other individuals were capable of doing the job even if they did not meet the standard that had been set. The result was the development of job-related performance tests which many women have now passed, thereby increasing the number of female police and firefighters.

Protective legislation prohibiting women from certain occupations (police, fire-fighters and the military) or under certain conditions, was changed to provide safer conditions for all workers and to allow women more employment opportunities.

Employment Standards, Pay and Benefits:

Employment standards legislation and explanatory materials are provided in many languages, distributed to community agencies serving immigrants, and special information sessions were held for live-in caregivers who are primarily women from the Philippines.

Pay equity legislation requires that men working in female dominated occupations benefit from any wage adjustments achieved by women in that occupation (childcare workers, nurses, elementary school teachers).

Maternity leave provisions were also changed to allow families to decide which parent would assume responsibility for caring for a new born or adopted child. In Ontario a woman is entitled to 17 weeks of pregnancy leave and then either parent is allowed up to 35 weeks of parental leave. Parents can choose how to divide the 35 weeks of leave between them.

Violence Against Women:

Police will lay charges against men who have assaulted their wives, rather than requiring the assaulted women to do so.

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Human traffickers will also be prosecuted but their female victims will be eligible for services and to apply to remain in Canada even if they entered Canada illegally and were forced to work in the sex trade.

In addition to legislative changes to address victims of violence against women, significant public education campaigns addressing violence against women; funding for support services for women, men who abuse women and children who witness violence have been increased and special court programs initiated to support victims of domestic violence.

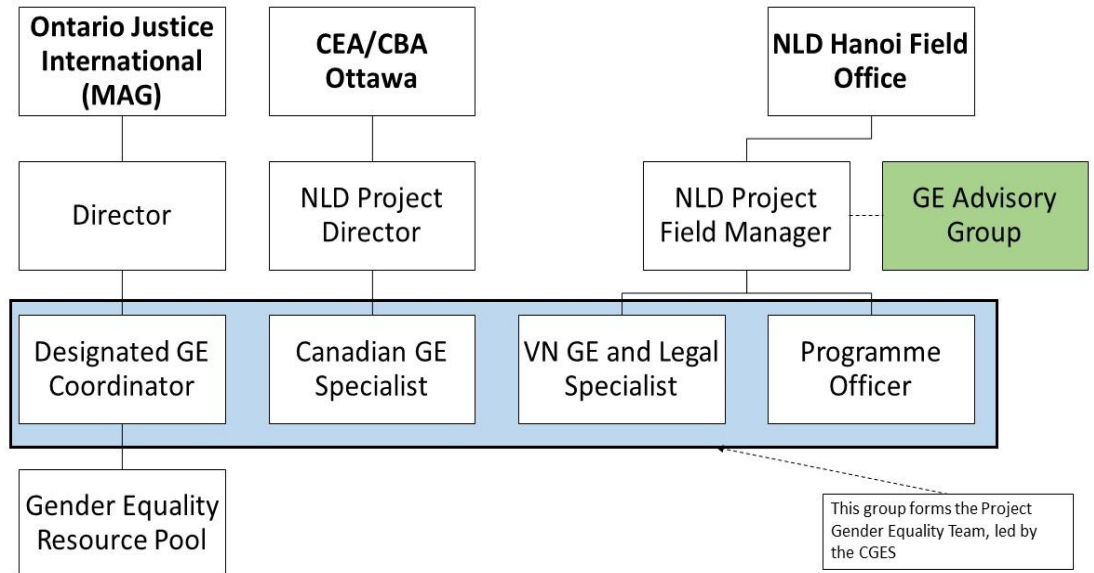
Conclusion

The Canadian experience in gender mainstreaming has been characterized by concerted efforts and progress in moving towards gender equality, with some setbacks and continuing challenges. By integrating gender-based analysis into the process of developing and reviewing policies and legislation, policy and law-makers in Canada strive to address the various dimensions of social problems, and the continued barriers to achieving equality among women and men, and addressing inequality within these groups. The framework on gender-based analysis presented in this article has been refined and applied in various contexts. It is hoped that the framework offers a useful foundation for responsible policy and legislative development.

We continue to learn from the experiences and successes in other countries. We value the ongoing collaboration and cooperation between Canada and Vietnam.

Appendix 6: Gender Equality integration and coordinating structure and process:

NLD Gender Equality Coordination



Appendix 7:

TERMS OF REFERENCE: NLD CANADIAN GENDER EQUALITY SPECIALIST (CGES)

1. Background:

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 approach to Gender Equality in NLD is twofold:

- To integrate and mainstream gender equality throughout all aspects of the project.
- To initiate gender equality capacity building activities with project partners and other Vietnamese organisations that have a mandate to integrate and monitor gender equality in the law making process to support them 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 up to now 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.

The May 2015 draft report of the Monitor emphasizes the need for more explicit explanations on how NLD intends to proceed on gender equality mainstreaming and the selection and prioritization of gender equality activities. The monitor has recommended that the Gender Equality Plan (formerly known as the GE Strategy) (GEP) should be adjusted to more clearly describe the process for gender mainstreaming and she also stresses the need to track partner satisfaction related to gender equality integration in activities.

A Canadian Gender Equality Specialist (CGES) is the Team Leader for the NLD Gender Equality Team (see Diagram in the Gender Equality and Mainstreaming and Coordination document attached) and will act as the principal resource on gender equality issues, practices and policies relevant to the project. The CGES will guide and advise on the process of gender mainstreaming in all NLD activities, provide support

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to the Hanoi office on the assessment of gender equality awareness of NLD staff and partners, review proposals from partners, monitor the integration of gender equality in each activity, contribute to overall planning and management of the project, and liaise with the MAG designated GE Coordinator on the selection of GE specific consultants and the application of Gender principles in all training and capacity building activities.

2. Scope of the work:

Reporting to the Project Director in Ottawa and working in close collaboration with the Project Field Manager in Hanoi, the CGES is an important member of the NLD project management team. The role will encompass the following aspects of project planning, reporting and management:

- Act as the principal resource on gender equality issues, practices, and policies relevant to the project and in the project context
- Participate in overall annual planning, reporting, and budgeting processes to ensure that the Gender Equality Plan (GEP) is fully implemented and that gender equality is fully mainstreamed in NLD.
- Work closely with the Vietnamese Gender Equality and Legal Specialist (VGELS) on all aspects of the implementation of the GEP and ensure that the knowledge and experience of the VGELS is fully exploited to make sure that a Vietnamese perspective on GE is always considered.
- Provide input and advice on achieving expected results and into defining, collecting and analysing sex-disaggregated baseline, gender equality indicators and targets for ongoing revision of the PMF.
- Assist in ensuring integration of gender equality as a cross-cutting fully integrated theme in all aspects of the project.
- Assist in monitoring results against indicators and in project reporting to DFATD.
- Assess the gender equality awareness and capacity of NLD staff and partners and provide training, coaching and materials as needed to ensure that all project staff and participants in projects apply a gender sensitive and mainstreaming approach throughout activities.
- Assist the PFM in developing terms of reference for the formation of the Hanoi based Vietnamese Gender Equality Advisory Group, and liaise with the Vietnamese Gender Equality and Legal Advisor to nominate members and activate the advisory process.
- Lead the process by which partners will become engaged in gender mainstreaming in all project activities, including discussion of the feasibility of gender specific initiatives and providing input into setting priorities going forward.
- Liaise with the designated GE Coordinator in MAG on the need for gender awareness and experience of resource persons for all project activities and the identification of resource persons with specific expertise on gender equality integration in the law making system.

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- In consultation with MAG, MOJ (GALD) and other partners develop terms of reference and selection criteria for a core group of policy making and drafting officials (referred to in the GEP as the Gender Equality Working Group (GEWG) and assist in the process of initiating and making operational the GEWG.
- Provide ongoing support to the PFM and PO on the management and agenda for the GEWG and selection of issues and pilot initiatives for its involvement.
- In collaboration with the VGELS, develop an agenda for a seminar for partners and key state gender entities to familiarize participants with general principles and processes involved in gender mainstreaming in law making, using Canadian and International best practices as examples.
- Arrange for the assessment of the existing level of knowledge and competence of participants in the above seminar by NLD specialists and the VGELS with a view to planning capacity building activities going forward.
- Collaborate in the development or adaptation of tools and training materials including testing and refining of a tool-kit on mainstreaming gender equality in LNDs through a pilot project associated with other NLD training and materials development activities. The VGELS will be an integral part of these activities.
- Collaborate with MAG, the VGELS and the Hanoi office staff on 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 are to 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.
- Initiate with the VGELS 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.
- Propose an agenda for and assist in the organisation of a workshop around 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, UNWomen and donors supporting gender equality activities in Vietnam.

3. Skills, qualifications and experience:

The Canadian Gender Equality Specialist is a highly experienced professional with a significant background in gender equality integration in development projects with a deep knowledge of the

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theory and methodology used in mainstreaming gender equality in government and governance programs. Specifically the CGES will have the following attributes:

- Graduate degree in a field related to gender equality and/or democratic governance.
- Experience in applying gender equality principles and practice in law-making and/or in government programmes.
- At least 10 years experience working on development assistance projects
- Significant familiarity with, technical knowledge, planning and application of DFATD gender equality policy and tools
- Demonstrated experience in the application of gender equality approaches in legal and judicial reform development programs
- Knowledge of national Vietnamese compliance with international treaties
- Experience in application of gender integration in Vietnamese context
- Excellent communication skills and ability to work strategically as part of a team
- Demonstrated cultural sensitivity

4. Level of effort:

It is expected that in Year 1 of Phase 2 of NLD the CGES will be required to travel to Vietnam three times to participate in training, capacity building and planning meetings, workshops and other events although much of the preparation and documentation may be done at a distance. In subsequent years the level of effort may change depending to some extent on the availability of an experienced Vietnamese counterpart and the degree to which NLD Program officers and officers in partner ministries are able to understand and routinely apply gender equality integration techniques. The scope and level will also be impacted by the degree to which the Project Director and Project Field Manager see the need for the involvement of the CGES in broader management and planning activities and will be determined by them. The level of effort should be re-assessed during the development of work plans in subsequent years.

Appendix 8:

Terms of Reference

Vietnamese Gender Equality and Legal Specialist (VGELS)

June 17, 2015

1. Background:

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 approach to Gender Equality in NLD is twofold:

- To integrate and mainstream gender equality throughout all aspects of the project.
- To initiate gender equality capacity building activities with project partners and other Vietnamese organisations that have a mandate to integrate and monitor gender equality in the law making process to support them 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.

The (date) report of the Monitor emphasizes the need for more explicit explanations on how NLD intends to proceed on gender equality mainstreaming and the selection and prioritization of gender equality activities. She has recommended that the Gender Equality Plan (formerly known as the GE Strategy) (GEP) be adjusted to more clearly describe the process for gender mainstreaming and stresses the need to track partner satisfaction related to gender equality integration in activities.

A Canadian Gender Equality Specialist (CGES) is the Team Leader for the NLD Gender Equality Team (see Diagram in the Gender Equality and Mainstreaming and Coordination document attached) and is the

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principle resource on gender equality issues, practices, and policies relevant to the project. The CGES will guide and advise on the process of gender mainstreaming in all NLD activities, provide support to the Hanoi office on the assessment of gender equality awareness of NLD staff and partners, review proposals from partners, monitor the integration of gender equality in each activity, contribute to overall planning and management of the project, and liaise with the MAG designated GE Coordinator on the selection of GE specific consultants and the application of Gender principles in all training and capacity building activities. A Vietnamese Gender Equality Specialist with a current working knowledge of integrating and mainstreaming gender equality in the law in Vietnam is required to ensure that a Vietnamese perspective is part of all GE planning and implementation with respect to the GEP. The Vietnamese specialist will also ensure that NLD has access to Vietnamese State bodies that are assigned responsibility for gender mainstreaming in the law but which are not formally part of the NLD project. NLD Gender Equality Plan Vietnamese input:

The implementation of the Project Gender Equality Plan (GEP) will occur in parallel with the further development and validation of Performance Indicators (PIs) and the development of a reporting system for project activities. The GEP has been designed to take into account the strong domestic and international legislative and legal framework for Gender Equality in Vietnam and to use this as the basis for the NLD approach to mainstreaming Gender Equality throughout the project. The GEP is designed as a strategy to ensure that gender mainstreaming is applied in all NLD activities and to introduce innovative and practical approaches to people working in the legal system to fulfil their mandate in addressing gender equality issues in law-making and not simply to repeat previous generic gender training programs.

To ensure that Gender is fully mainstreamed in NLD activities and that the NLD can provide MOJ and project partners with an advanced approach to implementation of the GEP, a Vietnamese expert in both Gender and Law-making and with a sound understanding of the Vietnamese government's Gender Equality legislation and its implementation is being retained to be part of the NLD team. The Vietnamese Gender Equality and Legal Specialist (VGELS) will be part of the NLD Gender Equality Team working with the Canadian Gender Equality Specialist (CGES) and the NLD Program Officer (PO).

2. Scope of work:

The Vietnamese Gender Equality and Legal Expert is an integral part of the project Gender Equality Team and will have the overall task of advising the NLD Project Field Manager, the Program Officer and Canadian Gender Specialist of the appropriateness of the GEP in the context of the law-making system in Vietnam and assisting in the implementation of the GEP.

Specifically she will undertake the following activities:

- Review, comment on, and validate the revised GEP from a Vietnamese perspective.
- Provide strategic advice and practical guidance on the implementation of the NLD GEP in the Vietnamese context and perspective.
- Assist the CGES with aspects of her TORs that benefit from direct Vietnamese input or action (as requested by the CGES or deemed necessary by the VGELS).

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- Maintain contact with representatives of project partners and key players in Vietnamese State bodies with responsibility for gender equality main-streaming and seek their input with regard to planned NLD activities and communicate any findings to the NLD Gender Equality Team.
- Contribute to the ongoing review of performance indicators and revisions of the PMF from a gender equality and a Vietnamese perspective and continue to liaise with the NLD Statistics and RBM experts to determine the most effective and efficient means of providing gender input in the ongoing process of refining the PIs and PMF.
- Ensure that data sources and data identified by the RBM experts take gender into account and data is disaggregated.
- Assist in identifying reliable sources of disaggregated data for baseline and performance measurement.
- Contribute to the ongoing RBM and performance indicator development as much as feasible to ensure that a gender equality perspective is maintained.
- Identify and map present and past gender activities, including those funded by other donors, within MOJ and NLD project partners and other key ministries that have a role in gender mainstreaming
- Advise the CGES on appropriate steps for implementing the GEP from a Vietnamese perspective
- Contribute to the design and implementation of activities arising from the GEP in Year 1 Phase 2.
- Deliver/engage in NLD workshops/training as planned in the GEP and approved by the PFM.
- Review all NLD activity proposals and advise the PO and NLD partners on ways to maximize the gender impact. Assess the capacity of partners to integrate gender in activities and, where necessary, provide training, coaching and materials relevant to the gender impact on the subject matter of the activity.
- Make presentations as required by the PFM or CGES on the integration and mainstreaming of gender equality in the LPLD and LNDs.

3. Skills, knowledge and experience:

The Vietnamese Gender Equality and Legal Specialist will have the following skills, knowledge and experience:

- Educational background at a Masters Degree level in a field or fields relative to Gender Equality with specific reference to Gender Equality in the law-making system, preferably a recognised law degree at the master's level.
- Substantial theoretical and methodological knowledge and experience in integrating and mainstreaming gender equality in the Vietnamese legal system. Experience in integrating a gender equality approach within projects.
- Substantial experience working with senior and middle level officials in governmental ministries/departments in Vietnam.
- Ability to work cooperatively with NLD international experts.

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- Independent worker capable of taking direction and working with a multi-disciplinary team within the NLD project.
- Excellent oral and written Vietnamese language skills are essential and working level English language skills is desirable.

The VGE should also have the following attributes:

- a solid understanding of governance and legislative development process, with a focus on participatory processes, joint management, and gender equality issues;
- familiarity with and a supportive attitude towards processes of strengthening NLD key partner ministries, agencies and for building internal capacities for self-management of gender equality integration;
- capacity to undertake consultative and information gathering field visits and interact with different stakeholders, especially key partners;
- Computer skills.
- Current experience in coordinating gender equality activities from a legal perspective in the Government of Vietnam.

4. Level of effort and work breakdown Year 1 Phase 2 (To be completed by PFM and PO)

LOE required in Year 1 of Phase 2 will be determined by the PD and PFM and reviewed for future years.