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Gender Climate Legal and Institutional Reform Diagnostic

WOMEN'S PARTICIPATION IN VIETNAM'S ECONOMY

AGENDA FOR ACTION

August 2010



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INTRODUCTION

This report addresses the legal and institutional conditions underlying the participation of women in Vietnam's economy. Through close examination of the relevant policies, laws, institutions, and social dynamics, it aims to inform assistance decisions by the U.S. Agency for International Development (USAID) and other donors in the area of economic development in Vietnam. It also can provide insights and guidance about women's economic participation to government officials, private sector representatives, and others.

WOMEN'S ECONOMIC PARTICIPATION IN VIETNAM: A PICTURE OF OPPORTUNITIES AND CONSTRAINTS

As detailed in this report, Vietnam can be described as a land of extraordinary economic opportunity for women while at the same time tempered by social constraints. In so many ways, Vietnam has succeeded in its quest to overcome a recent history of colonialism, war, and poverty. Throwing open its doors to market forces and outside investment in the mid-1980s—through the policy known as *doi moi*¹—the country has since taken on the huge challenges of reworking its legal system, divesting the public sector of its vast control over commerce, training its workforce in previously unfamiliar areas, building new industries, engaging with new trading partners, and generally transitioning from a poor, agriculture-based society to one that is a vibrant, diverse, and contributing member of the world economy. Although Vietnam's emergence was slowed by the Asian financial crisis of the late 1990s, one long-term impact of that crisis was a renewed resolve to embrace international institutions and economic best practices. The country's bilateral trade agreement with the United States led to continued structural reforms, which were rewarded by a multifold increase in trade with the United States, from \$2.91 billion in 1992 to \$15.7 billion in 2008.² The legislative and institutional reform process leading up to its accession in 2007 to the World Trade Organization (WTO) further strengthened Vietnam's

environment for starting businesses, accessing credit, and trading in local, regional, and international markets. Continuing to absorb international best practices through its participation in ASEAN, leads to continued opportunities for women to improve their businesses skills, gain advanced knowledge of the intersection of technology and business, and have a better understanding on how to access other markets.

Notwithstanding its multiple achievements, Vietnam continues to face entrenched issues of state ownership of enterprises (comprising nearly 40 percent of GDP), a notably weak court system, inadequate systems of education and training, corruption throughout the public sector, and deep political ambivalence over democratic institutions and human rights.³ Nonetheless, Vietnam's GDP has increased over the past generation, growing at an average rate of 8 percent since 1990. Per-capital income increased from \$334 in 1994 to \$1,024 in 2008. Poverty, in turn, has diminished.

Concurrent with the most recent stage of Vietnam's economic emergence, another movement in development has taken place, namely, a growing awareness that global economic reform has substantially neglected a huge segment of the world's population—women. There is an increased understanding among international organizations and national governments that incorporating more women into formal economies—including through enterprise

1 According to the Vietnam Ministry of Foreign Affairs *doi moi* is the name given to the economic reforms initiated in the country in the mid-1980s.

2 Statistics cited in this report are drawn from a number of sources, including the Economist Intelligence Unit (EIU) Country Profile (2008), the CIA's online World Factbook (2009), various studies and publications of the United Nations, and other external publications, which themselves draw most of their data from international sources or the Vietnamese government's own surveys, often conducted through Vietnam's General Statistics Office. Given limitations in information-gathering, most figures cannot be said to be exact, but they do represent best estimates as accepted by the international community. As mentioned at various points in this report, there is a dearth of gender-disaggregated data that paints more than the most general understanding of women's economic participation in Vietnam.

3 Several of these issues are explored in a USAID-sponsored diagnostic of the Vietnam's private sector, specifically its environment for commercial law and trade, conducted by Booz Allen between 2005 and 2007. See USAID/Booz Allen, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* (2007).



development, incorporation into the formal labor force, and increased access to trade and markets—offers a positive impact on economic growth and poverty reduction. Although women have traditionally participated in significant numbers in health and education initiatives, policymakers have begun to grasp that the strengthening of public institutions, private enterprises, business associations, professional associations, and other critical economic actors has been late in incorporating women into reforms.⁴ Of course, by virtue of participation in mainstream public and private organizations, a segment of the female population has been assisted by economic reform initiatives. But far greater numbers of women have been habitually neglected in both wealthier countries and poorer ones. “Despite their gains,” opined the *Economist* magazine in 2006, “women remain perhaps the world’s most underutilized resource.”⁵

Thus, it is now useful to consider Vietnam’s recent economic progress through a different lens, one that looks anew at key components of the country’s business environment—the private sector generally, labor markets, access to property and credit, international trade, and

mechanisms of dispute resolution—and considers how these segments of the business environment are working for women.

On the one hand, women in Vietnam are part of an unusually energetic community of businesses and industries. They are heavily represented in the public sector, higher education, and non-governmental organizations (NGOs), often in leadership or managerial positions (although a significant “glass ceiling” remains). They are free to travel, at least in urban areas, without significant restrictions on whom they may interact with, how they must dress, and where they may go. Like men in their country, Vietnamese women have benefitted from intensive reforms to such institutions as enterprise and property registries, banks, business support organizations, and other critical economic entities. Vietnamese women can certainly take credit for their share of the country’s economic growth: women make up 50 percent of the country’s workforce. The workforce in the garment, shoe, and electronics factories is typically 70 to 80 percent women. Significantly, over the past generation, women have migrated in great numbers from poor agricultural communities and taken on the drudgery, intensity, and often unhealthy conditions of factory work, much of which is due to liberalized trade and the opening of new markets. Although their physical advantages in jobs requiring fine dexterity rarely last through their working lives, and few women remain in factory jobs beyond four to six years, the availability of such work has effected a cultural transition that became apparent during this diagnostic. Specifically, exposure to industrial work and commerce seems to have led an increasing number of women to start businesses of their own. In many instances, these businesses manage to leverage formal and informal sources of credit and move beyond the household-enterprise level. Indeed, rather than starting from a position of privilege, most of the women business owners consulted during the diagnostic held previous jobs as industrial workers or mid-level employees.

4 See, e.g., Center for Global Development, *A Global Investment & Action Agenda* (January 2008).

5 “Women and the World Economy,” *Economist*, Apr. 12, 2006. See also “Womenomics Revisited,” *Economist*, Apr. 17, 2007.

On the other hand, although Vietnam’s government has begun promoting gender equality through law reform and public outreach, Vietnamese women face a number of severe constraints. They must deal with signs that their society does not value them as much as it does its men—from abortions based on male preference sex-selection; to textbooks that dwell on women as weak, ignorant, and helpless, as compared to men;⁶ to domestic violence that often goes unchecked; and to pervasive workplace sexual harassment. Women in all sectors of society remain caught in a morass of expectations that bind them to household work and care of the family to a far greater degree than men. While men working in all types of businesses are typically free to use their spare time to build their enterprises and contacts among potential customers and colleagues, women must spend that time doing household chores and caring for children and the elderly. Women in wage labor earn 83 percent of a man’s wage in urban areas and 85 percent in rural areas.⁷ In addition, women who are business owners are seen as not wanting to succeed beyond the micro level. This is a commonly held presumption across all segments of society for both men and women, including the many women who run the small businesses. This is in large part due to the largely held belief that a woman cannot provide a “happy home” and succeed in a “larger business.” There is a “missing middle” and a dearth of women-owned businesses beyond the micro level.

As underscored by the World Economic Forum, “Reducing gender inequality enhances economic productivity and economic growth.”⁸ Where women are permitted to participate as equals in an economy, they experience increased incomes, improved health, and extended livelihoods. Moreover, there is an increasing awareness that development assistance directed at women has a greater impact than aid that flows predominately to men.⁹ These points promise a great deal for all Vietnamese people—women, men, and children. If Vietnam commits itself to reforms in

conditions for “doing business” that impact women to the same degree as men, the country will continue to experience greater productivity, entrepreneurial opportunity, and international trade. This report explores the opportunities for and constraints against doing so.

THE GENDERCLIR DIAGNOSTIC AND INDICATORS

This report is grounded in a comprehensive methodology, established through USAID, which has been used in over 36 countries since 1998, but has now been adjusted to focus on the role of women in economic development.

VIETNAM’S RANKINGS IN THE WORLD BANK DOING BUSINESS CATEGORIES			
	2010	2009	Change
<i>Doing Business Overall (181 countries surveyed)</i>	92	87	-5
Starting a Business	108	101	-7
Dealing with Construction Permits ¹⁰	67	64	-3
Employing Workers	90	72	-12
Registering Property	37	38	+1
Getting Credit	43	51	+8
Protecting Investors	170	168	-2
Paying Taxes	140	131	-9
Trading Across Borders	67	65	-2
Enforcing Contracts	42	42	0
Closing a Business	124	124	0

In 2007, incorporating lessons learned from its first-generation legal, institutional, and trade diagnostic tool, USAID sponsored the development of an updated and redesigned set of indicators through its Business Climate Legal and Institutional Reform (BizCLIR) project.¹¹ Those indicators now substantially align with the structure of the World Bank’s enormously influential *Doing Business* country reports, first launched in 2003.¹² For each of the topics it covers, *Doing Business* considers a few key indicia of whether and how the environment for enterprise is “working,” measured by such means as the number of procedures involved in achieving

6 World Bank, *Vietnam Country Gender Assessment 27–28* (2006).

7 VCCI Vietnam Women’s Entrepreneurs Council, *Women’s Entrepreneurship Development in Vietnam 18* (September 2007) (citing World Bank, *Vietnam Country Gender Assessment* (2006)).

8 World Economic Forum, *Gender Gap Report 20* (2007).

9 See Nicholas Kristof & Sheryl WuDunn, “The Women’s Crusade,” *N.Y. Times Magazine* (August 23, 2009) (“In general, aid appears to work best when it is focused on health, education and microfinance . . . And in each case, crucially, aid has often been most effective when aimed at women and girls; when policy wonks do the math, they often find that these investments have a net economic return. Only a small proportion of aid specifically targets women or girls, but increasingly donors are recognizing that that is where they often get the most bang for the buck”).

10 In its most recent survey, the World Bank changed the designation of the category “Dealing with Licenses” to “Dealing with Construction Permits,” a title that more accurately reflects the scope of its survey. That subject-matter area is not among those covered in this diagnostic.

11 Detailed information about BizCLIR can be found at www.bizclir.com.

12 See generally World Bank, *Doing Business 2009* (2008) and accompanying literature at www.DoingBusiness.org.

a goal (for example, to legally transport goods across borders or to enforce a contract), the number of days it takes, and the costs of the procedures in relation to per-capita income. *Doing Business* now gathers data from 181 countries and ranks each, thereby demonstrating how their respective regulatory environments compare to others throughout the world.

BizCLIR, for its part, takes most of the *Doing Business* topics and, through a diagnostic exercise, delves deeper into their respective legal frameworks, implementing and supporting institutions, and social dynamics. That is, after *Doing Business* delivers a key “snapshot” of the conditions for enterprises in 181 countries, BizCLIR subjects the same issues to an expanded analysis of factors feeding in to these essential findings and then reports on the entire, more complex scenario. BizCLIR seeks to understand the important contextual differences among countries and identifies strengths and weaknesses within economies that provide key opportunities for long-term development.

Also in 2007, recognizing that its *Doing Business* framework might have overlooked the conditions that women face in navigating their local business environments, the World Bank launched its *Doing Business Gender Project*, a two-year initiative that aims at identifying legal and regulatory barriers facing businesswomen in 181 countries and advocating change. The project’s primary objectives are to identify laws and regulations that discriminate against women, investigate which reforms on business regulations have the highest impact on opportunities for women, and prepare case studies of women entrepreneurs to describe the reasons for their success and obstacles they faced.

About one year following the launch of this project, USAID’s Office of Women in Development Office (WID) invested in a related effort to bring a similar awareness of gender issues into the BizCLIR methodology. Although BizCLIR diagnostics in the past have made limited investigations into the involvement

of women in individual business environments, WID sought to learn how gender may be integrated into the *full* execution of the BizCLIR methodology. With the knowledge gained, countries that engage in future BizCLIR diagnostics can be even more assured that the full picture of their business climate has been assessed. In addition, countries that want to focus more deeply on women’s challenges and opportunities can engage in a diagnostic that solely looks at this from a gender standpoint. This report is the first to use the new indicators and complements a previous BizCLIR assessment undertaken in 2006 and updated in 2007.¹³

As a first step toward integrating gender, the BizCLIR indicators were modified and streamlined into a separate volume of “GenderCLIR” indicators, consisting of seven sections that substantially incorporate the 10 major issues examined in *Doing Business* but consider them each from a gender perspective—namely, whether women have equal access to and opportunity to benefit from various segments of the business environment. Then WID sponsored the first full “GenderCLIR diagnostic” in Vietnam, a pilot project geared toward learning how issues of gender emerge under the diagnostic methodology.

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The diagnostic took place July 13–24, 2009. A six-member team of consultants, along with the

¹³ The previous BizCLIR Assessment, *SOUTHEAST ASIA COMMERCIAL LAW AND TRADE DIAGNOSTICS—VIETNAM* can be located at <http://www.bizclir.com/galleries/country-assessments/Vietnam.pdf>

director of USAID’s Office of WID, traveled to Vietnam and conducted interviews across the business environment. The team was able to interview national and local officials, women-owned enterprises, business associations, NGOs, the banking and lending community, representative donors, lawyers, and many others. Interviews, observations, and focus group consultations took place in and near Hanoi, Ho Chi Minh City, and Can Tho. Over 240 people were consulted. Their input, as well as review of a large body of literature pertaining to the many aspects of Vietnam’s business environment, helped shape the final conclusions of the team, which are found in this report.

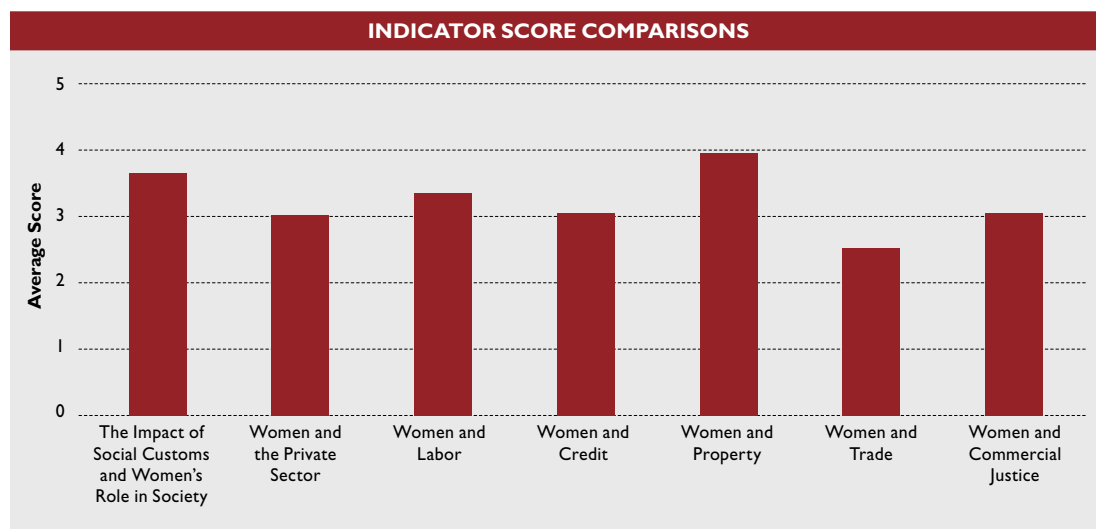
SUMMARY OF DIAGNOSTIC FINDINGS

As illustrated by the table on the next page, the areas that scored the highest in the GenderCLIR diagnostic—those with the *most* positive findings—are Women and Commercial Justice and Women and Property. These scores suggest that the “playing field” for women is the most equal with men in these areas. The weakest scores—indicating more negative circumstances than positive—emerge from the areas of Women’s Role in Society and Women and Trade. Beyond these trends, the general findings of the seven *Doing Business* subject-matter areas examined in this diagnostic are summarized below.

WOMEN’S ROLE IN SOCIETY

Overall, while significant gaps remain in Vietnam between men and women with respect to educational attainment, economic performance, and general health, those gaps have narrowed in recent years as the status of women in the country has improved. At least 60 percent of adult women in Vietnam are economically active, according to a national survey conducted in 2005. The mean hourly wages of women are approximately 85 to 90 percent of those of men, and women have, on average, just one less year of formal education than men. Vietnamese women remain more likely to live in poverty than men. They are also more likely to have been ill within the past 12 months, or to be living with a disability. Furthermore, gender gaps are wider in rural areas and among members of ethnic minority groups, as compared to women in cities and women in the Kinh¹⁴ majority. Women in the rural areas are in need of additional vocational training and education. The gender gap in the rural areas often leads to their migration into the cities to search for jobs, which often puts them at risk.

As a result of recent reforms, Vietnam’s legal framework is substantially unequivocal in its support for gender equality. In addition to the Constitution’s commitment to equality, a new Gender Equality Law (2007) and a Domestic Violence Law (2008) set forth the government’s



¹⁴ Vietnam is comprised primarily of Kinhs (Viet) 86.2%. The other ethnic groups are Tay 1.9%, Thai 1.7%, Muong 1.5%, Khome 1.4%, Hoa 1.1%, Nun 1.1%, Hmong 1%, others 4.1% (1999 census) CIA Factbook

reinforced commitment to protecting women and encouraging their full access to opportunity, health, and personal well-being. In practice, however, women are still treated, in many ways, as second-class citizens. Society places a low value on the lives of women, beginning with high national rates of abortions of female fetuses, one of the most striking incidences of sex selection in the world. Vietnamese women are far more likely than men to migrate beyond their homes to find work, and they are frequently exploited in labor markets. Family customs place a double burden on economically active women such that it becomes difficult for many to consider starting a business or growing their current small businesses to a larger scale. Policy and program action to address these inequities has begun, but much of it still appears to be driven by international donor intent than by domestic advocacy. A coordinating body, the National Committee for the Advancement of Women (NCFAW), has been established, and newer, domestically launched NGOs are building capacity. In short, women's role in Vietnamese society is changing, but a cultural consensus in favor of full equality has not emerged.

WOMEN AND THE PRIVATE SECTOR

Vietnam's legal framework for enterprise development is strong, largely gender-aware, and without serious structural inequality. Yet national policies of gender equality have not moved from paper to practice in the private sector. Technical support for women business owners is available, but it takes place largely within broad-based business support programs. Business support services underperform in terms of identity, reach, breadth, and attractiveness to women clients. While new "home-grown" women's business associations can be interpreted as a positive sign, their members have started separate groups because existing support structures have not met their needs. Moreover, Vietnam lacks a single "beacon" for women's entrepreneurial growth, that is, an Office of Women's Enterprise Development or its equivalent in Vietnam's government. Nor is

there a person or group accountable for a woman's enterprise development portfolio. At the same time, Vietnam lacks sufficient sex-disaggregated data to fully understand the rates and characteristics of women participating in the private sector.

WOMEN AND LABOR

Labor conditions and opportunities for advancement differ according to whether women live in urban or rural environments; whether they work in the agricultural, industrial, or service sectors; and how they are impacted by other major distinguishing conditions, such as disability, geography, or minority status. Most women are poorly served, in general, by certain key institutions, such as the Ministry of Labor, Invalids, and Social Affairs (MOLISA), which does little to enforce occupational safety and health issues of special concern to women, and the country's trade unions, which lack independence and are concerned far more with political stability than with the actual conditions impacting women in the industrial sector. On the other hand, outside forces, such as trade requirements and conditions set by foreign investors, have begun to bolster certain conditions for working women, such as greater attention to safety or more childcare services in industrial settings. Although the Labor Code includes language that aspires to be inclusive of women's interests and friendly toward their concerns, it can also be interpreted as so paternalistic and perpetuating of gender stereotypes that it ultimately diminishes the ability of women to participate as equals in the workforce.

WOMEN AND PROPERTY

Real property. Vietnam faces a host of issues relating to land that impacts the ability of enterprises to grow and thrive. On the one hand, the Land Law of 2004 sets forth a relatively clear system for land use rights and transactions, and the country's land use registries have grown increasingly effective in registering the property rights of Vietnamese citizens. On the other

hand, the shortage and fragmentation of land in this country of more than 86 million people, complicated by confusing, conflicting, and often corrupt practices pertaining to state-owned land, render the topic fraught with challenges. Observers agree, however, that problems facing Vietnam's land regime have considerably less to do with gender than with other issues. The implementation of a major initiative this decade to promote the inclusion of both spouses' names on Land Use Rights Certificates, has benefitted women. Certain social dynamics pertaining to land do warrant further study, such as the relationship between women's migration and their access to land. Court reform and corruption in the real property arena are two other issues that should be more vigorously tackled, to the benefit of women and men alike.

Intellectual property. As Vietnam endeavors to uphold international expectations about intellectual property rights (IPR) enforcement, it is also charged with promoting a "culture" of IPR within its own community of scientists, entrepreneurs, artists, writers, and others, one that will allow creators of intellectual property to profit economically from their work. The country's Law on Intellectual Property, which went into effect on July 1, 2006, creates an internal structure whereby Vietnamese inventors and creators may seek and obtain patents, trademarks, copyrights, and plant variety rights. Public understanding of this system is limited, however—men as well as women throughout Vietnam remain largely unaware of the scope of opportunities (as well as restrictions) established by the law. Innovative women entrepreneurs can benefit from embracing intellectual property rights protection. It can be crucial for marketing new products or services and can enhance the export opportunities of a small and medium enterprise. There is a growing community of women business-owner groups, discussed in this report's chapter on Women and the Private Sector, and promoting a culture of IPR within these influential groups could help women business owners capitalize on an unrealized asset.

WOMEN AND CREDIT

Rapidly changing conditions impact the environment for women's access to credit in Vietnam. In the banking sector, recent regulations have removed administrative interventions in lending activities. Private credit institutions now have the right to consider, to make decisions, and to take responsibility for providing credit to small and medium-sized enterprises (SMEs). Together with traditional types of commercial bank lending, policies on new forms of credit provision—such as guarantees, discount, rediscount, and factoring—have also been issued by the State Bank of Vietnam, thus creating a legal framework for credit institutions to lend to SMEs in compliance with international best practices. Notwithstanding advances in credit opportunities available to women, these tools have not been improving the access to credit for women. There remains the difficult issue of how small, women-owned businesses can use credit to transition from small or even informal status to access greater economic opportunity, including more robust markets and value chains, and grow. Vietnam seems to be experiencing the same trends found elsewhere—the missing middle, that is, the tendency of very small, women-owned businesses to remain very small, although success stories among women's enterprises are increasing.

WOMEN AND TRADE

Trade is an area with clear opportunities for women but has not been used to its full advantage due to a lack of targeted support for women-owned businesses. With Vietnam recently joining the World Trade Organization (WTO) and participating actively in regional trade organizations, the legal framework for trade is transparent and accessible. The major institutions implementing the regime for trade policy, chiefly various offices within the Ministry of Trade and Industry, are substantially dominated by men at the highest levels, although women are increasingly represented. As in most areas, Vietnam does not generally keep statistics reflecting trade by women-owned

businesses, thereby missing the chance to spot differences and opportunities for targeted support. Women business owners are increasingly involved in trade, with services presenting a key opportunity for women who may take advantage of that sector's relative flexibility. Women-owned businesses have been underserved by trade support institutions and have not had the same opportunities for trade promotion as businesses owned by men. The competitiveness that comes with trade liberalization also affects the more vulnerable economic sectors such as agriculture which have been dominated by women. Without the collection of sex-disaggregated data, the government has not been able to target programming to help those sectors, and primarily women, be more competitive. The opportunities remain, however, and fully participating in international trade through APEC, ASEAN and the WTO, can increase the opportunities for women to learn and grow their businesses. With the proper support for women entrepreneurs and women's participation in negotiations, trade fairs and other international opportunities, this is a growth area for women and for the economy.

WOMEN AND COMMERCIAL JUSTICE

Because gender equality is a core legal principle in Vietnam, gender bias does not appear to be a barrier to the use of the formal dispute resolution process. In reality, however, few women use the courts or alternative dispute resolution (ADR) to resolve disputes. In Vietnam, there is a strong cultural aversion to engaging in a public dispute. Furthermore, most businesses in Vietnam do not generally use formal written agreements which necessarily results in informal dispute resolution. The work performed by two-thirds of urban women-owned enterprises, and almost three-quarters of rural women's enterprises is done by the women themselves. Such small enterprises may not have the information or the resources they need to access the formal dispute resolution process. Furthermore, the amounts in dispute for such small businesses may simply not justify anything more than informal

mediation. In almost every interview conducted in this diagnostic, the concern was raised that poor women, women in rural areas, and women in ethnic minority populations did not have adequate information about their legal rights.

CROSSCUTTING THEMES

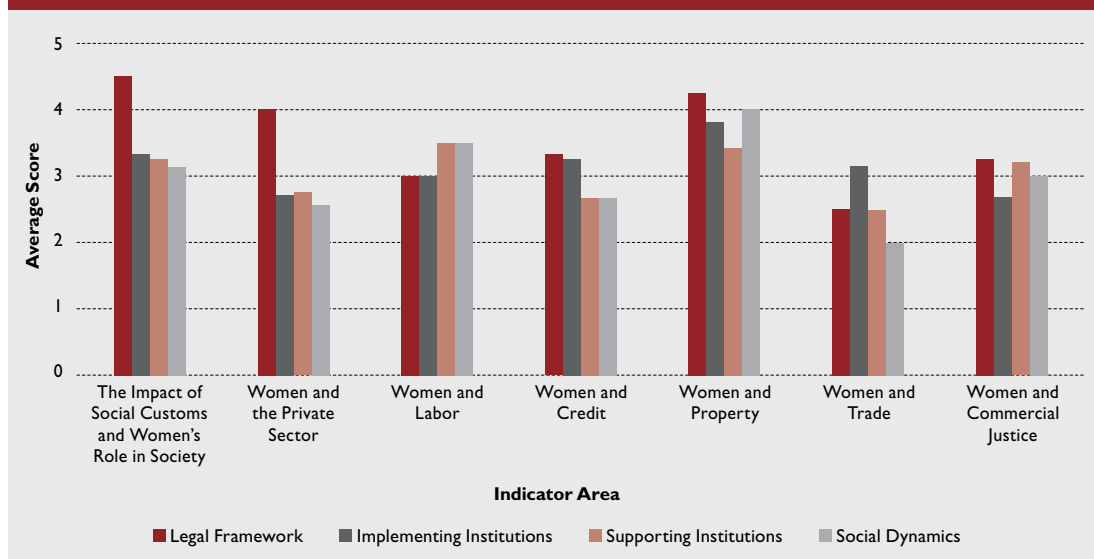
This diagnostic is organized so that seven components of a healthy and prosperous economy are considered as individual areas as well as and in relation to each other where appropriate. As illustrated in the graph on this page, certain general areas of this inquiry tend to be stronger, on average, than others: Specifically, across most sections, indicators pertaining to the legal framework tend to score higher than those pertaining to social dynamics. Indeed, certain issues and dynamics are so prevalent across this analytical framework, that they warrant special mention. These can be thought of as crosscutting themes or topical "layers" falling over all areas of review. In this diagnostic, the crosscutting themes include the following:

WOMEN AS A FULL PARTNER IN VIETNAM'S ECONOMIC TRANSFORMATION

As noted from the outset of this report, Vietnam has quickly transformed, at a pace found in few other developing economies, from being a poor, entirely socialist, agriculture-based economy to a dynamic economy in multiple sectors. Throughout this diagnostic, the central role of women in this transition was observed. Fundamentally, women have provided a vast portion of the inexpensive labor that provided the country's initial and continuing draw to outside investors. Women staff nearly 80 percent of the garment, shoe, and electronic industries and are also heavily engaged in fish and food processing. To find these jobs (which do not require significant skills and provide a paycheck that, while low, at least is consistent), women often migrate far from their homes. For better or worse, migration of women alters the structures of the communities they have left. It also contributes to such social ills as human

¹⁵ See C&D/ActionAid, *Research on the Actual Situation of Migrant Female Workers and Its Relationship to Human Trafficking* (December 2008).

INDICATOR SCORE COMPARISONS



trafficking and HIV-AIDS.¹⁵ Although at the national level, Vietnam has made great strides in improving the quality of education for children at primary and secondary levels, with little difference between school achievement for boys and girls. However, these national statistics mask the differences in school success for different ethnic groups in different regions, and the gender gap between ethnic minority girls and boys. To fully engage in a global economy, increased educational attainment needs to be encouraged for girls in the ethnic minority. Vocational training is also important in these areas where the fact that a girl will not get a job means that the parents do not want to invest in her education.¹⁶

Significantly, interviews confirmed that women typically do not stay long in factory jobs, which often require sharp eyes and excellent fine motor skills, both of which diminish with overwork. Though still a minority, some of the women who start their working lives as laborers later form enterprises that grow to employ others. This diagnostic included several meetings with women whose businesses began after they left their jobs in factories or offices, who borrowed money from family members, and who worked enormously hard to expand and grow. These entrepreneurs have faced many of

the same constraints encountered by men who launch businesses—lack of business know-how, weak access to credit, and difficulty identifying and exploiting markets. At the same time, they suffered from constraints relating to their gender, including often overwhelming family obligations and underdeveloped networks for business development. One especially interesting aspect of Vietnam's economic transition is how women have worked together during this period to overcome certain shared constraints, chiefly through the creation of their own business associations, clubs and credit societies. These groups have recently been started by women business owners who have felt that existing support for women-owned firms has been either too focused on small start-up businesses or too slow-paced in terms of its outreach or other activities.

Although some NGOs exist to support women's economic development, they generally do not—as yet—reach women across the country. Moreover, they are largely focused primarily on poverty alleviation, rather than on enterprise creation, and they have neither a high public profile nor sufficient capacity to meet the needs of the country's women business owners. At this point, there is not a recognition of

¹⁶ See UNESCO, *The Transition of Ethnic Minority Girls from Primary to Secondary Education* (March 2008)

transitioning these enterprises from subsistence to sustainability and then to success.

INSUFFICIENT DATA ON WOMEN

This diagnostic found a critical lack of hard information in Vietnam—from the business census, from surveys, or from program monitoring and evaluation—that allows meaningful comparisons between women and men business owners or their enterprises in terms of relative characteristics, challenges, or contributions. The General Statistics Office conducted an important baseline survey in 2005,¹⁷ but the information collected in that report, including comparisons between the economic participation of men and women, is becoming outdated and contains some major inconsistencies with a Household Living Standards Survey conducted the following year. Similarly, there is scant data in Vietnam pertaining to women-owned businesses, including their relative access to finance, their use of various credit products and their involvement in international trade of goods and services. Although there is somewhat more information that disaggregates women as part of Vietnam's workforce, much more could be done on an official level to understand their circumstances, especially their work in the informal sector.

Indeed, this lack of hard information is, in many ways, impeding the progress of women-owned enterprises in the country. It is nearly impossible to manage what remains unmeasured. How many women-owned businesses exist in specific industries, and what is their respective revenues and employment size compared to national averages? Are women-owned firms growing in numbers and in economic clout at the same or different rates as their male counterparts? What are the most important barriers to their growth and progress, and are those barriers different, or more or less severe, for women-owned firms than for all SMEs in Vietnam? What trends in the economic participation of women can be observed from year to year? The answers to such questions would go a long way in helping policymakers provide an environment to ensure

that there is true equality of opportunity for both women and men entrepreneurs in Vietnam.

Conditions of women in the Vietnamese economy could be better understood through the disaggregation of data by sex collected by the country's annual Provincial Competitiveness Index (PCI). Earlier this decade, USAID sponsored the first PCI, a survey of hundreds of local businesses throughout the country assessing why conditions for doing business are stronger in some regions than in others. A relatively low-cost endeavor, the survey covered business establishment costs, land access and security of tenure, transparency and access to information, time costs of regulatory compliance, informal charges (corruption), the competition environment, provincial leadership, private sector development services, labor training, and legal institutions.¹⁸ Among the results of this exercise is to show provincial governments how they can improve their performance, “not against some ideal and possibly unattainable standard of good governance, but rather against the best performance already practiced by their peers within the same national political framework.”¹⁹ The whole country watches for the results—since the PCI was published in 2005, results have been routinely referenced in the national and local media and cited by provincial authorities and business associations as the impetus for reform.

The PCI contains no questions pertaining to gender. The addition of just one question, however, could lead to a windfall of information, namely, the sex of its respondents. If the PCI asks whether the person answering the survey is male or female (or whether the responding enterprise is predominately male-owned or female-owned) significant insights about gender-based perspectives will be gained. Provinces would have more information about how men and women see their services, alike or differently, and have a better idea of how to reach the *entire* community of business owners. While sex-disaggregated data is the start, it must be combined with analysis and put into action

¹⁷ General Statistics Office, *Vietnam Gender Statistics in the Early Years of the 21st Century* (2005).

¹⁸ USAID/Vietnam Chamber of Commerce and Industry, *The Vietnam Provincial Competitiveness Index 2006, Summary Report* at 1.

¹⁹ *Id.* at 2.

through a systematic plan of implementation such as the national development strategy.

WOMEN'S FAMILY OBLIGATIONS AND OTHER CULTURAL ROLES

A vast majority of the 200-plus women interviewed for this diagnostic (as well as many men) mentioned the double or triple burden women in Vietnam face. Social custom dictates that the woman is responsible for household duties, child rearing, and taking care of extended family members. There is both a lack of available external support, such as childcare or housecleaning services, and a lack of cultural acceptance of accessing such external support. Many women also feel that such expectations on their contributions are exacerbated by the powerful (and in many ways enormously helpful) Vietnam Women's Union, whose mantra is "study actively, work creatively, and nurture happy families." This mantra is perceived as reinforcing the burdens not just on all women who work outside of the home, but most especially on women business owners.

Family is important in the Vietnamese culture. Roles for men and women appear traditionally determined. During this diagnostic, many young women stated that they made a choice to seek employment at a company because it allowed them a more flexible working arrangement, predictable hours of work, and a steady income, making business ownership a less viable option given the demands of time and money perceived to be that much greater and at the sacrifice of the family. Men are assumed to be the head of household, making the major decisions regarding family finances. Dedication to their work or career is expected, while for the woman work must be managed along with care of children and the extended-family responsibilities.

Stereotypes and widespread expectations of gender roles serve to perpetuate the gender gaps between men and women, particularly in rural areas. At several junctures, this report recommends an increase in public dialogue about gender roles in Vietnamese society.

Seeking support from one another, as well as from the donor community, women's NGOs and professional associations should come together to launch a public conversation about issues that, according to many people interviewed for this diagnostic, are not widely discussed at this time. These include gender roles in parenting and family life, domestic violence, sexual harassment, and other similar topics. At all junctures, men should be included in the conversation. The Vietnam's Women's Union would be a natural convener of this discussion, even though their mantra is fairly traditional.

HOW THIS REPORT IS STRUCTURED

Each chapter of this report is structured the same way. Following an introduction, each chapter has four substantive sections, which are themselves followed by recommendations.

LEGAL FRAMEWORK

The chapters first examine Vietnam's laws and regulations that serve as the structural basis for the ability of women to participate in the economy. They discuss the following questions: How accessible is the law, not only to elite, well-informed groups, but also to less sophisticated actors, rural constituencies, or foreign investors? How clear are the laws, and how closely do existing laws reflect emerging global standards? How well do they respond to commercial realities that women face? What inconsistencies or gaps are present in the legal framework?

IMPLEMENTING INSTITUTIONS

Next, the chapters examine those institutions that hold primary responsibility for implementation and enforcement of the legal framework as it relates to women. These institutions include government ministries, authorities, and registries, or, in certain cases, private institutions such as banks and credit bureaus. In addition, courts are examined with respect to their effectiveness in addressing disputes involving women participants in the commercial arena. The indicators seek to uncover how these implementing

institutions function not only within the capital city, but also in rural communities and among less empowered constituencies.

SUPPORTING INSTITUTIONS

The chapters then look closely at those organizations, individuals, or activities without which true gender equality in Vietnam cannot be fully developed, implemented, or enforced. Examples include lawyers, banks, business support organizations and private services, professional associations, universities, and the media. Questions and analyses examine relative awareness of law and practice on the part of each institution, and the specific ways in which institutions increase public and professional awareness, work to improve the business environment for women, and otherwise serve their constituencies.

SOCIAL DYNAMICS

Finally, the chapters discuss key social issues. Roadblocks to women's participation in the economy, in particular, are considered, including those entities that may be undermining change. These indicators also seek to identify significant opportunities for bolstering women's economic participation—such as champions of reform or regional initiatives—as well as matters of access to opportunity and formal institutions. Social dynamics also concern other important matters of social perceptions that are not legal or institutional in character but must be addressed for change to take place. These can include human capacity, cultural norms, public health, attitudes and perceptions, each of which may have a significant bearing on how women truly fare. Indeed, often a full understanding of legal and institutional issues cannot be achieved without a nuanced consideration of a country's social dynamics.

RECOMMENDATIONS

Following this four-part analysis, each chapter sets forth a set of recommendations. These recommendations are drawn from the key findings in each chapter, and reflect current reform

capacities, opportunities, and an evident will to reform. Some of the suggestions within the respective sets of recommendations may overlap—that is, some may be consolidated into a single reform initiative—and all turn on the priorities and preferences enunciated by the government itself. The recommendations in this report are intended to serve, among other functions, as a threshold list for donor coordination of immediate initiatives and preparation of scopes of work.

INDICATORS

With respect to each area of inquiry, this diagnostic uses a process of reviewing and scoring **key indicators** to develop a thorough analysis. Once as much relevant information as possible was gathered—from written sources, meetings and interviews, and consultation among colleagues—each of the key indicators was scored, based on the assessor's best estimate of the issue at hand. To help an assessor determine a score, between 5 and 20 **supporting questions** accompanied each key indicator. These questions themselves are not scored, but are intended to guide the assessor toward a consistent, fact-based judgment from which the key indicator score is then derived.

THE SCORE AWARDED KEY INDICATORS ALIGNS WITH THE FOLLOWING CONCLUSIONS:

- 1 = strong negative
- 2 = moderate negative
- 3 = neutral (or having some negative and some positive qualities)
- 4 = moderate positive
- 5 = strong positive

The scores are not intended to serve as a stand-alone, number-based pronouncement on the state of affairs in the country. Rather, they should be read in conjunction with this report as a means of understanding the relative status of certain key indicators of a healthy legal and institutional environment for women in business and trade, and identifying priorities for reform.

THE GenderCLIR RECOMMENDATIONS: TOP PRIORITIES

This report contains over 50 recommendations that suggest—in terms ranging from the very broad to the highly specific—a variety of approaches to improving Vietnam’s business environment. Although each of the report’s recommendations contributes to an overall vision for how Vietnam can continue its emergence into the world economy, the following can be considered the top priorities:

ALL SUBJECT-MATTER AREAS

1. **Sex-disaggregated data.** Increase and improve the collection of all economic data pertaining to women and men, taking affirmative steps to disaggregate data according to sex. Improved data on women should incorporate nearly all areas covered by this diagnostic, including entrepreneurship, labor property, credit, trade, and courts. The Provincial Competitiveness Index, at a minimum, should track the sex of its respondents so that information received can be analyzed for important gender-related trends and used for planning.
2. **Harness the benefits of trade.** Ensure that the opportunities available due to Vietnam’s entry into the WTO, APEC and ASEAN are taken advantage of by women in business by bolstering information on them in women’s business associations. Create a branding campaign for “engendered free trade” and a dissemination strategy that will include greater number of women in trade promotion centers and in trade fairs and will share information on the women’s businesses to investors.
3. **Support implementation of the Gender Equality Law,** including through increased public dialogue and consciousness-raising about special issues impacting women in Vietnam. Dialogue should strive not only to build women’s access to tools that support their participation in the economy, but also to reach out to both sexes to understand how Vietnam can overcome a culture in which women are valued less than men. Working with the Vietnam Women’s Union (VWU), ensure that men are brought into the discussion of how the family copes with the new economic opportunities.

WOMEN’S ROLE IN SOCIETY

1. **Support domestic NGOs that focus on gender equality.** Capacity-building of locally driven NGOs is essential to program effectiveness and long-term sustainability. With respect to gender equality issues, two organizations, the Center for Studies and Applied Sciences in Gender, Family, Women and Adolescents (CSAGA) and the Research Center for Gender and Development (RCGAD), appear to offer the strongest leadership and energy. Such groups could help conduct societal dialogues about gender equality generally; continue to focus on the abortion of female fetuses; promote education of women; press for more substantial sex-disaggregated record-keeping; and begin “next-generation” conversations about sexual harassment and the glass ceiling.
2. **Gender information consolidation.** Establish and support a repository for gender equality information, research studies, organizations, and activities. Information on gender issues—such as gender equality, gender-based violence and trafficking, and women’s enterprise development—while growing, is scattered and therefore difficult to find, and somewhat lacking in statistical underpinnings. Supporting the aggregation of all this information, probably under the auspices of the NCFAW would be a worthwhile endeavor. A gathering of the Vietnam-based women’s rights NGOs to share information, challenges, and best practices could lead to greater coordination of efforts and impact of project outcomes. This would be especially powerful for smaller NGOs operating in rural areas, which likely do not have a view of what is going on in other regions of the country.

WOMEN AND THE PRIVATE SECTOR

1. **Government beacon for women in business.** Establish a stronger governmental beacon to support women's enterprise development.
2. **Women's business association strengthening.** Strengthen the organizational capacity of the three key women's business associations, including the Vietnamese Women Entrepreneurs Council (WEC), the Hanoi Network of Entrepreneurial Women (HNEW), and the Saigon Women Entrepreneurs Club.
3. **Economic empowerment and mentoring to grow the "missing middle"**
Support post-start-up, growth-oriented women business owners, including:
 - Fostering facilitated peer roundtable discussions, where members would share business challenges and successes
 - Providing growth-focused educational programming on such issues as understanding employment law, building an executive management team, encouraging export promotion activities and exploring new international markets, serving on boards and commissions, and accessing growth capital
 - Forming mentor-protégée relationships, both domestic and international. Utilizing the dynamic of APEC and ASEAN, women's organizations could mentor Vietnamese organizations which could then, mentor its members.
 - Organizing one or more international fact-finding and relationship-building trips for the leaders of women's business associations in Vietnam to meet and discuss areas of common interest with women's business association leaders in other countries.

WOMEN AND LABOR

1. **Gender awareness.** As a component of the Labor Code revision process, encourage public debate about gender roles in society.
2. **Safety.** Examine the state of occupational safety and health awareness and enforcement in Vietnam, particularly as it concerns the workplace hazards impacting work in the garment, footwear, and electronics industries.
3. **Education for jobs.** Particularly in the rural areas, improve female access to education beyond primary school and vocational and other training for skilled jobs.

WOMEN AND CREDIT

1. **Improved financial literacy and management.** Develop a curriculum for business skills enhancement for women SMEs in the formal sector, enabling them to operate at highest management levels to include financial literacy and financial management.
2. **Develop sex-disaggregated data on credit and repayment.** Build the capacity of the newly established private credit bureau to ensure that the organization can collect data on women businesses.

WOMEN AND PROPERTY

1. **Land use rights awareness for women.** Strengthen the collection and dissemination of sex-disaggregated data pertaining to Vietnam's land use rights to identify the gaps in registration and then direct an awareness campaign toward women who are unaware of the new initiative to register property in both spouse's name.
2. **Transparency.** Continue anticorruption efforts in property-related institutions.
3. **Protect women's innovation to enhance the market value of their enterprise.** Encourage those institutions that are engaged in the promotion of IPR to target organizations of women entrepreneurs, scientists, lawyers, and other key groups in their outreach efforts. Strengthen the IPR training of judges and lawyers to recognize IP in small and medium enterprises operated and owned by women.

WOMEN AND TRADE

1. **Harness regional trade organizations to capture international best practices in business.** Connect women's business associations, women's associations, and associations that involve women to the opportunities presented by participation in the regional trade forums—APEC and ASEAN.
2. **Engendered free trade.** Create a branding campaign for “engendered free trade” and a dissemination strategy that will include greater number of women in trade promotion centers and in trade fairs and will share information on Women Business Owners (WBO) to investors.
3. **Technology as a tool to strengthen links to international markets and business information.** Link women's groups to market intelligence and trade data and include training on the location and usage of those tools to find market opportunities.

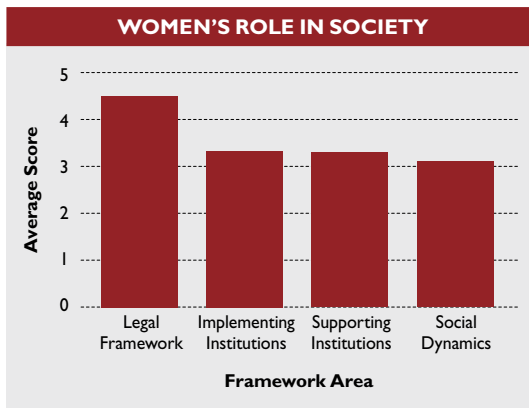
WOMEN AND COMMERCIAL JUSTICE

1. **Implementation of the Gender Equality and Domestic Violence Law.** Dedicate more resources to the implementation of the Gender Equality Law and Domestic Violence Law, especially in rural and ethnic minority population areas.
2. **Training of decision makers on gender issues.** Provide more continuing education for district judges, lay assessors, and mediation committee members on gender issues and family violence issues.



WOMEN'S ROLE IN SOCIETY

In this first investigation by USAID/BizCLIR of a business-enabling environment from a gender perspective, a new and important dimension is added to the diagnostic process: reviewing—at the start—how social customs and gender roles in society either foster or hinder a woman's ability to start and grow a business and to otherwise participate in a country's economy. This inquiry provides a critical foundation upon which to assess the six specific GenderCLIR indicator areas: women and the private sector, women and labor, women and credit, women and property, women and trade, and women and commercial justice. Accordingly, this chapter focuses broadly on the state of women in Vietnamese society, looking not only at the legal framework governing their everyday lives, but also at the extent to which state institutions focus on-gender equality issues and NGOs address the health and well-being of women. It further examines the cultural and social circumstances affecting women in Vietnamese society—the “social dynamics”—that impact their participation in the economy.



A growing amount of fact-based information—from surveys and household censuses—provides a basic statistical portrait of women in Vietnam. Overall, while there are still gaps between men and women with respect to education attainment, economic performance, and general health, those gaps have narrowed significantly in recent years as the status of women in the country has improved. For example, a recent national household survey²⁰ reveals that at least 6 in 10 adult women in Vietnam are economically active. The mean hourly wages of women are approximately 85 percent

	Women	Men
Labor force participation rate	61.0%	64.8%
Mean hourly wages, adults 18–64 (000 VND)		
Urban	8.314	9.593
Rural	5.413	6.076
Percent below poverty line	16.3%	15.6%
Mean # yrs of schooling	5.6	6.8
Avg # hrs housework/day*	2.2	1.5
% doing no housework	33.6%	43.7%
% ill in past 12 months	56.2%	49.0%
% w/ disability**	16.9%	14.5%

*Among those who did housework
 **Such as vision, hearing, cognition, mobility, self-care, communication
 Source: Vietnam Household Living Standard Survey, 2006

of those of men, and they have, on average, just one less year of formal education than men. Vietnamese women remain more likely to live in poverty than men. In addition, they are also more likely to have been ill within the past 12 months or to be living with a disability. Furthermore, gender gaps are wider in rural areas and among members of ethnic minority groups, as compared to women in cities and women in the Kinh majority.²¹

20 General Statistics Office (GSO), Vietnam Household Living Standard Survey (2006).

21 Around 86% of the Vietnamese population belongs to the Kinh majority, also referred to as the Kinh/Chinese majority.

At the same time, there is a growing body of knowledge concerning the status of women around the world. The World Economic Forum has, for the past three years, published a Global Gender Gap Report in which 128 economies are rated²² in four areas: economic participation and opportunity, educational attainment, political empowerment, and health and survival. Vietnam, first added to the survey in 2007, ranked 42nd out of 128 economies surveyed that year, but dropped to 68th of 128 countries in 2008, the most recent year of analysis. Among the four rated areas, Vietnam scores highest on economic participation, is in the mid-range on health and survival, and places well below the median on political empowerment and educational attainment. Notably, its relative rankings in both economic participation and health and survival fell significantly in the 2008 survey.²³

VIETNAM RANKING ON GLOBAL GENDER GAP INDEX		
	2008	2007
Overall (ranked among 128 economies)	68	42
Economic participation and opportunity	24	11
Educational attainment	106	103
Political empowerment	92	91
Health and survival	67	42

Source: World Economic Forum, Global Gender Gap Report (2008).

On the United Nations Gender-related Development Index (GDI), Vietnam ranks 105th out of 177 economies surveyed. Similar in some ways to the Global Gender Gap Index which is published by the World Economic Forum, the UN's GDI measures relative life expectancy, education, and earned income.²⁴

With respect to the general issues affecting women in Vietnamese society, among the key questions posed during this diagnostic were the following:

- Does the legal framework in Vietnam guarantee equal rights for women and men, and can a woman freely exercise those rights?

- Are there public sector institutions that focus on gender equality issues? Is gender “mainstreamed” in other government agencies?
- Are there women in decision-making positions in government and civil society?
- Are there NGOs focused on improving the status of women, including their economic status? Are these organizations sustainable and locally driven, and do they reach a broad spectrum of the population?
- Do women belong to professional or community-based associations? Are they involved in local advocacy and decision-making?
- Are women able to exercise their rights without cultural constraints? Do they have freedom of movement and access to the same infrastructure support (transportation, public utilities, and technology) as men?
- Do women believe they have equal opportunity to participation in the Vietnamese economy and access to economic self-determination?

Taking these and other issues into account, the picture in Vietnam is a moderately positive one. There is, in general, legal equality between men and women, with a formal “stake in the ground” planted in 2006 with the enactment of a Gender Equality Law (entered into force in 2007). If anything, efforts in Vietnamese law to take into account the special concerns of women—such as in the highly paternalistic Labor Code²⁵—serve to reinforce gender stereotypes to a degree that, in the long run, does not necessarily benefit women.

A number of public sector institutions are charged with ensuring that the edicts of the Gender Equality Law are implemented. Also, a variety of supporting institutions carry out policies and programs pertaining to gender equality, though more so in the areas of health and social issues than in economic development. At the same time, various social dynamics impede true equality between the sexes, particularly with respect to economic and entrepreneurship issues. Thus, Vietnam’s formal declaration

22 The Gender Gap report focuses on parity rather than on women’s empowerment overall. See World Economic Forum, *Gender Gap Report (2009)* The full report can be found at: <http://www.weforum.org/pdf/gendergap2009/Vietnam.pdf>

23

24 See United Nations, *2007/08 Human Development Report, Gender-related Development Index*, available at <http://hdrstats.undp.org/indicators/268.html>.

25 This is more fully described in the Chapter on Labor. The term, “paternalistic”, refers to a law that gives “special protections” to women, such as limited working hours and types of jobs, extremely generous maternity leave, time off for pregnancy and breast feeding, and retirement at an early age—all very “nice”, but ultimately not afforded equally to men, and thus lead to two key results: (1) an inclination for employers to hire men over women, due to the anticipated expense and complications of hiring a woman of child-bearing age; and (2) perpetuation of the social expectations of women that make them the primary caretakers—that is, the “dual burden” discussed throughout the report.

of gender equality has not yet made its way from paper to practice. The GenderCLIR diagnostic scores pertaining to Women’s Role in Society reflect this conclusion: a positive 4.5 on the 0 to 5 rating scale with respect to legal framework, a moderately positive 3.3 for both implementing and supporting institutions, and a mid-range or neutral 3.0 rating in the area of social dynamics.²⁶

LEGAL FRAMEWORK

The Vietnamese **Constitution**, ratified in 1992, contains clear language establishing the principle of gender equality under the law, stating:

Male and female citizens have equal rights in all fields—political, economic, cultural, social and the family . . . All acts of discrimination against women and all acts damaging to women’s dignity are strictly banned. Men and women shall receive equal pay for equal work. Women workers shall enjoy a regime related to maternity. The State and society shall create all necessary conditions for women to raise their qualifications in all fields and fully play their roles in society. (Art. 63.)

Following up on those declarations has been the passage of a **Gender Equality Law**, as well as the **Law on Domestic Violence Prevention and Control**, passed in November 2007 and entered into force in July 2008, exactly one year prior to this diagnostic. In addition to the country’s **Comprehensive Poverty Reduction and Growth Strategy (CPRGS)** (discussed in this report’s chapter on Women and the Private Sector), as well as the country’s **Labor Code** (1994, updated in 2002) (discussed in this report’s chapter on Women and Labor), these two more recent laws are now the legislative cornerstones for gender equality in Vietnam today.

During this diagnostic, several interviewees described the **Gender Equality Law** as largely declarative or “aspirational” in nature, rather than inherently proscriptive or directive. Its major elements include:

LEGAL FRAMEWORK FOR GENDER EQUALITY

- Comprehensive Poverty Reduction and Growth Strategy (CPRGS) (2002)
 - Labor Code (1994, as amended and supplemented in 2002 and 2006)
 - Gender Equality Law (2008)
 - Law on Domestic Violence Prevention and Control (2008)
- **A statement of goals:** “to eliminate gender discrimination, to create equal opportunities for man and woman in socio-economic development and human resources development in order to reach substantial equality between man and woman, and to establish and enhance cooperation and mutual assistance between man and woman in all fields of social and family life.”
 - **A widely cast net:** The law includes declarations of gender equality in the fields of politics, the economy, labor, education and training, science and technology, culture, information and sport, public health, and family.
 - **An outline of potential tools:** A chapter on “measures to ensure gender equality” points to the need for the development of more legal documentation, ensuring that gender concerns are integrated into subsequent legislation and providing more information on how to ensure greater equality, but offers no specific guidance in this regard.
 - **Shared responsibility:** The law clearly states that the responsibility for ensuring gender equality lies not only with government agencies at the national and local levels, but also with political organizations such as the Vietnam Women’s Union, and with citizens themselves.
 - **Measuring, monitoring, and enforcing:** While implementation details are not mentioned, the law states that responsibility for monitoring and reporting on efforts to increase gender equality lie with a state management agency on gender equality

²⁶ A list of the key indicators used in this diagnostic, along with the supporting questions posed as part of each key indicator, can be found at www.bizclir.com

and that violations of the law may lead to criminal prosecution. In fact, a declaration announced in August 2009, just following the in-country portion of this diagnostic, details the level of fines (ranging from US\$11 to \$2,200) to be levied upon a determination of actions counter to the Gender Equality Law. In this declaration, several health institutions were cited for violations stemming from gender determination and selective abortion.²⁷

The **Law on Domestic Violence Prevention and Control** (Domestic Violence Law) is also a key milestone in the area of gender equality in Vietnam. Domestic violence is a pervasive, yet under-discussed issue in Vietnam; many observers contend that it has worsened in recent years. Key components of the law include the following:

- A **broad, inclusive definition** of domestic violence, including examples of what is considered to be domestic violence, such as forced sex and forced child marriage.
- **Proactive education and communication campaigns** to prevent domestic violence, including use of the media and curriculum materials in schools. Further, the law gives responsibility to village and commune leaders to discuss and deal openly with the issue, including providing counseling services and organizing “communal meetings.”
- Guidance on **protection services** for victims of domestic violence, including educating health-care providers on issues, issuing legal protections such as restraining orders, and providing safe havens for victims of spousal abuse, referred to as “reliable addresses,” meaning “prestigious individuals and organizations that are capable volunteers ready to help domestic violence victims in the community.”
- A broad outlining of **engines of responsibility** for implementing the law, starting with individuals and families and spreading through the Vietnam Fatherland Front Committee and the Vietnam Women’s



Union to a variety of government agencies—with the primary responsibility for oversight given to the Ministry of Culture, Sport and Tourism.

In addition, two years ago Vietnam started participating in the recognition of the International Day for the Elimination of Violence Against Women (November 25), established by the United Nations in 2000 and commemorated each year by women’s rights activists around the world since 1981.

Thus, there is a strong legal framework supporting the overall status of women in Vietnamese society. However, as is often the case, that equality under the law does not always translate into equal treatment in the community, the workplace, or in the household. In fact, as noted in a report prepared in 2001 for the United Nation’s Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by the World Organisation Against Torture (OMCT):

Despite all of the commitments entered into internationally and nationally in relation to preventing and combating discrimination against women, violence and other forms of discrimination against women persist in Vietnam. Although

²⁷ Vietnam Women’s Union, “Decree to promote gender equality” (August 10, 2009), available at <http://www.hoiphpn.org.vn/newsdetail.asp?CatId=128&NewsId=11591&lang=EN>.

violence against women, including domestic violence, marital rape, trafficking in women and girls and violations of women's reproductive rights are serious problems, they frequently go unacknowledged and unpunished, sending the message that these forms of discrimination against women are socially acceptable. Moreover, it would appear that since the implementation of the "doimoi" or renovation process in 1986, there has been an increase in violence and other forms of discrimination against women in Vietnam.²⁸

On the positive side, and in contrast to the lack of information noted in this report's chapter on Women and the Private Sector, there is a good deal of fact-based information and sex-disaggregated data on the relative status of women and men in society, in terms of health and education and, to a lesser degree, workforce participation. Such information is invaluable in tracking progress, addressing needs and gaps, and informing new policies and practices.

IMPLEMENTING INSTITUTIONS

There are three main implementation agencies for issues related to the status of women in society. The primary government agency is the **Ministry of Labor, Invalids and Social Affairs (MOLISA)**, which is the state agency with the gender equality portfolio. There is also a **National Committee for the Advancement of Women in Vietnam (NCFAW)**, which is the inter-ministerial coordinating body for issues related to the advancement of women.

While other agencies deal with various issues related to women's equality—most notably the **Ministry of Health**, which deals with reproductive health issues—the MOLISA carries the primary responsibility for ensuring and enforcing gender equality, and the NCFAW, housed within the MOLISA, has the interagency coordination responsibility. Also, while the Domestic

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Labor, Invalids and Social Affairs (MOLISA)
 - Department of Gender Equality
 - Institute for Labour Science and Social Affairs (ILSSA)
- National Committee on the Advancement of Women (NCFAW)
- Vietnam Women's Union (VWU)

Violence Prevention and Control Law of 2007 named the **Ministry of Culture, Sports and Tourism** as the responsible governing agency for that issue, that agency does not appear to have assumed that role. Rather, the MOLISA has been the government agency convening meetings and conducting studies on this important women's rights issue.

The third primary implementing institution is the **Vietnam Women's Union (VWU)**. Even though it is a quasi-public institution rather than a government agency, the VWU plays a pivotal role in all issues related to women and is extensively involved both in the implementation of gender equality policies and programs and advocacy for women's rights.

MOLISA

Two organizations within the MOLISA are at the center of quantifying and rectifying gender equality concerns: the **Department of Gender Equality** and the **Institute of Labour Science and Social Affairs**.

The **Department of Gender Equality** was established within the MOLISA in 2008 to fulfill the main responsibilities of implementing the Gender Equality Law. The department develops rules and programs to implement the Gender Equality Law, and there are also gender "focal points" at the corresponding provincial- and district-level departments to carry out directives from the department. The main duties of the department are to:

- Provide guidelines on the implementation of gender mainstreaming and gender

²⁸ OMCT, *Violence against Women in Vietnam* (2001), available at <http://www.omct.org/pdf/VAW/VietnamEng2001.pdf>.

equality efforts within organizations and institutions at all levels of government

- Provide information and education on gender-related policies and laws
- Train departmental staff at all levels on gender equality issues
- Conduct research and analysis, and report on the results of gender equality efforts

The department also serves as the secretariat for the National Committee for the Advancement of Women.

The **Institute of Labour Science and Social Affairs** (ILSSA) was formed in 1997, but it was repurposed in 2008 within the MOLISA as an independent research institute to provide research, strategy, and links to collaborative partnerships with outside entities (such as NGOs and donor groups) in the “fields of employment, labour, salary, social insurance, occupational safety, ‘People with Special Contributions to the Country,’ social protection, children protection and care, gender equality, control and prevention of social evils (herein after referred to as the area of labour, the People with Special Contributions to the Country and social affairs).”²⁹ The ILSSA is the source of several important studies relevant to the field of women’s equality, such as the *Gender Analysis of the 2006 Vietnam Household Living Standard Survey*, published in 2008 with the support of the World Bank.³⁰

National Committee for the Advancement of Women (NCFAW). Established in 1993, the NCFAW is well known and influential. Its membership is comprised of 21 highly placed women: It is chaired by the minister of the MOLISA; the two vice chairs are the vice minister of the MOLISA and the president of the Vietnam Women’s Union; and the remaining 18 members are all vice ministers or their equivalents in other government ministries and agencies. The mission of the NCFAW is fivefold:

- To research and make proposals to the Prime Minister on direction and solution

to interdisciplinary problems related to the advancement of women

- To assist the Prime Minister in coordinating with Ministries, Ministry Equivalents, Governmental Agencies, People’s Committees at all levels and mass organizations to advocate, popularize and mobilize the implementation of policies and laws of the Party and the State of Vietnam related to the advancement of women
- To assist the Prime Minister in promoting Ministries, Ministry Equivalents, Governmental Agencies, People’s Committees in provinces and cities directly under the Central Government to coordinate with each other to realize national objectives for the advancement of women
- To report to the Prime Minister, every six months, or upon request, the progress of the NCFAW’s work
- To carry out other tasks related to the advancement of women assigned by the Prime Minister.³¹

With respect to the first point, conducting research, the NCFAW is the author of a comprehensive Gender Statistics Report, produced in partnership with the United Nations Development Program (UNDP) and the General Statistics Office (GSO), which outlines the status of women in Vietnam in six key areas: population and family, labor and employment, education and training, health care, leadership participation at different levels, and gender-based violence.³²

In addition to its highly placed and powerful membership, the National Committee for the Advancement of Women (NCFAW) derives its influence and reach through local **98u** (CFAWs), which have been in place since 1994. These CFAWs operate in 99 percent of the country’s districts and towns, and in 84 percent of communes or wards, so they are a powerful mechanism for communication, implementation, and reporting.

²⁹ Id.

³⁰ World Bank, Research Center for Female Labour and Gender, Institute of Labour Science and Social Affairs (ILSSA), *Gender Analysis of the 2006 Vietnam Household Living Standard Survey: How Do Women Fare in Education, Employment, and Health?* (2008) (Draft report obtained from ILSSA).

³¹ Taken directly from the NCFAW Web site at <http://www.ubphunu-ncfaw.gov.vn/?lang=E&func=intro&catid=195&MN=67>.

³² National Committee for the Advancement of Women (NCFAW) and General Statistics Office (GSO) *Gender Statistics Book* (2005, published with support from UNDP and the government of the Netherlands).

VIETNAM WOMEN'S UNION

No discussion of the status of women in Vietnamese society would be complete without mentioning the omnipresent and extensive network that is the Vietnam Women's Union (VWU). The organization is truly at the nexus of everything having to do with women in the country. Founded in 1930 as the Liberalization Women's Union, and called by several other names during its first 20 years of operation (such as the Anti-imperialism Women's Union and the Women League for National Salvation), the VWU has held its present moniker since 1950. It has played a central role in political and social issues in the country since its founding.

The VWU's national network counts over 13 million women as its members and is represented at all four levels of Vietnamese government: national, provincial (63 units), district (642 units), and commune (10,472). In 2007, a new national "movement" for the VWU came out of 10th National Women's Congress: "Women study actively, work creatively, and nurture happy families."

Pursuant to this theme, the VWU set six specific goals for the 2007–2012 period:

1. Raising women's awareness, knowledge and capacity, in order to meet the requirements of the "new situation"; cultivating healthy, knowledgeable, skillful, dynamic, innovative, cultured and kind-hearted Vietnamese women.
2. Participating in the formulation, social counter-argument, and supervision of implementation of laws and policies on gender equality.
3. Assisting women in economic development, job creation and income generation.
4. Assisting women in building prosperous, equal, progressive and happy families.
5. Building and developing a strong organizational structure for VWU.
6. Expanding international relations and cooperation for equality, development and peace.³³

As illustrated throughout this report, the VWU's activities are far-reaching and extensive. In general, the organization is involved in economic issues such as savings clubs for rural women and micro-enterprise development in handicrafts and agribusiness; environmental issues such as pollution, hygiene, and natural disaster preparedness; health issues such as family planning and health care availability for populations in need; and social issues such as trafficking and domestic violence.

There are many examples of the VWU's activities and influence. Among them, late last year the VWU signed onto the United Nation's global campaign to end violence against women, pledging to collect one million signatures at the commune and provincial levels to be combined with others from around the world in recognition of November 25 as International Day for the Elimination of Violence Against Women. In addition, the VWU works with the International Labour Organization (ILO) and other donor agencies to combat the problem of human trafficking, in which people—mostly young women—are lured into traveling abroad or from rural into urban areas within Vietnam with the promise of work, only to end up being forced into prostitution, marriage, or unsafe and underpaid working conditions. The VWU has conducted awareness-raising and direct-assistance activities for women, children, and families in 10 communities in three southern provinces. As another example, the VWU in Phu Yen has implemented seven projects to develop traditional village production in such areas as vegetable and flower growing, fishing net weaving, rice paper making, and fish sauce processing. To date, VND2.9 billion has been lent from the National Fund for Job Creation to 181 women in the districts of Tuy An, Song Cau, PhuHoa, and TuyHoa city.

SUPPORTING INSTITUTIONS

In addition to government ministries and departments charged by law to implement

³³ Taken directly from the VWU Web site, at <http://www.hoihpn.org.vn/newsdetail.asp?CatId=78&NewsId=10103&lang=EN>.

policies and oversee programs focused on gender equality, there are a number of private sector actors that design and deliver programs to help women in communities across the country. Far and away, the most important “supporting institution” focused on improving the quality of life and economic status of women in Vietnamese society is the international donor community and active NGOs.

Four key NGOs are critical to the support of Vietnamese women (often with the support of international donors:

CENTER FOR STUDIES AND APPLIED SCIENCES IN GENDER, FAMILY, WOMEN AND ADOLESCENTS (CSAGA)

Founded in 1997, the CSAGA focuses on preventing violence against women and children. It uses a multimedia approach to get out its messages, including producing a documentary film shown on nationwide TV, hosting a weekly radio talk and call-in show, and publishing a book, *Dang Sau Canh Cua/Behind the Doors*, which highlights first-person accounts of domestic violence for use in workshops. The CSAGA also operates a toll-free telephone hotline, which receives over 200 calls per day, and a counseling center for victims of domestic violence. The organization conducts training sessions for domestic violence counselors and community workshops on the issue all over the country, employing seven full-time trainers. Nguyen Van Anh, founder and chair of the CSAGA, also chairs a Domestic Violence Prevention Network, established in early 2008 and comprised of a number of civil society organizations that meet to share experiences and ideas on confronting the issue of domestic violence. The CSAGA is a prime example of a domestically launched and driven, women-focused NGO.

INSTITUTE FOR POPULATION AND SOCIAL STUDIES (IPSS)

Rather than a strict NGO, the IPSS is a research institute within the National

Underlying domestic violence, as well as other forms of inequality between men and women in Vietnam, is a more than 1000-year history of patriarchy that privileges men over women.

—Dr. Le Thi Quy, RCGAD, *Domestic Violence in Vietnam*, presented at Asia Pacific Forum on Women, Law and Development, August 2000

Economics University in Hanoi, one of four such institutes housed at the university. Institute staff members also teach at the university, which has 53,000 students from around the country. Funding for research studies comes from the Vietnamese government and from United Nations’ agencies and other donor groups such as the UK’s Department for International Development (DFID) and the SIDA. Institute staff interviewed for this diagnostic emphasize that they integrate gender in all of their work. Recent research of interest includes an investigation of in-migration to Hanoi and Ho Chi Minh City and a national survey of the reproductive health of the country’s youth, both of which include gender analyses.

INSTITUTE FOR SOCIAL DEVELOPMENT STUDIES (ISDS)

This independent NGO focuses on gender, health, and sexuality—including HIV/AIDS and the situation of Vietnamese women who migrate abroad for work or marriage. Established in 2002, its main focus is on research, training, and advocacy activities. The ISDS is developing a toolkit to help foster community dialogues on issues related to sexuality, to get issues out into the open, and to reduce stigma. In the area of women’s rights and empowerment, the ISDS is involved in a study on migration, focused on tracking where women are emigrating for work or marriage (the top four countries are Japan, Malaysia, South Korea, and Taiwan) and a study on the link between land rights and out-migration, including how women fare after they emigrate (many are exploited and find it difficult to return home).



SOCIAL DYNAMICS

Despite the Constitution's declaration of gender equality and the National Assembly's enactment of a Gender Equality Law, social customs and traditions in Vietnam still stand in the way of true equality between women and men. The following four key factors influencing the current climate for women in Vietnamese society emerged during this diagnostic:

- The undercurrent of unequal value, as evidenced by high rates of domestic violence and the persistence of gender-based selective abortion
- The dual burden women face balancing work and family responsibilities
- The fact that the majority of rural citizens who migrate for economic opportunity are women rather than men
- The mandatory retirement age for female public sector employees, which is five years earlier than for men.

RESEARCH CENTER FOR GENDER AND DEVELOPMENT (RCGAD)

Launched in 2002, the RCGAD is housed at the Hanoi University of Social Sciences and Humanities but receives no direct funding from the university. Originally focused on education—training teachers and lecturers on gender-related issues—the RCGAD now also focuses on research on gender-related concerns, such as violence against women and supporting rural economic development to reduce domestic migration and exploitation of rural women. It participated in the drafting of the Domestic Violence Prevention and Control Law, and published two illustrated booklets on that law and on the Gender Equality Law targeted for use in workshops with community and civil society leaders across the country.

In addition to these key NGOs and research institutions, a number of other similar domestic groups are mentioned at various points in this report as contributing to the broader understanding of and support for women in Vietnamese society.

THE UNDERCURRENT OF UNEQUAL VALUE

While those interviewed during this diagnostic nearly all affirmed that women are considered equal under Vietnamese law, many common, widely acknowledged practices paint a different picture. Further conversation usually revealed some common, discriminatory expectations and practices. As summarized by one NGO representative, in Vietnam, women are expected to “contain themselves and be tolerant.”

Unequal value starts even before birth. Family planning policies that strongly suggest a two-child limit have resulted in a proliferation of selective abortions, which the government is now trying to stop. In 2003, the birth percentage of boys to girls (where 100 percent is parity) was 105.7 percent in rural areas and 102.7 percent in urban areas.³⁴ A recent finding by the Population and Family Planning Service in Ho Chi Minh City is even more startling: in the first six months of 2009, the birth ratio in some provinces averaged 115 boys per 100 girls.³⁵ While efforts are underway to curtail

³⁴ National Committee for the Advancement of Women (NCFAW) and General Statistics Office (GSO) Gender Statistics Book (2005, published with support from UNDP and the government of the Netherlands).

³⁵ See news release on the Vietnam Women's Union web site at <http://www.hoiphpn.org.vn/newsdetail.asp?catid=125&NewsId=11560&lang=EN>.

the use of ultrasound for gender identification and the use of selective abortions, the practice widely persists. Along with China and India, Vietnam is among those countries in the world with the most prevalent indications of gender-based abortions. Among its population aged 0 to 14, there are nearly 1 million more males than females. Rampant selective abortion is certainly one indication that there is unequal value placed on females compared to males.³⁶

The prevalence of gender-based violence in Vietnamese society is another devaluing undercurrent. In 2006, a nationwide survey on family issues found that abuse is present in 20 percent of marriages.³⁷ In some provinces, according to a recent survey conducted by the VWU, as much as 40 percent of women report being victimized by domestic violence.³⁸ Globally, according to the United Nations Development Fund for Women (UNIFEM) up to 6 out of every 10 women experience physical and/or sexual violence in their lifetime.

The enactment of the Domestic Violence Law is seen by many women's rights activists as a long-overdue official acknowledgement of the problem and official permission to openly discuss solutions. While it will take time to remedy the scales of imbalance, positive signs are beginning to be seen.

Gender preference and inequality persists beyond death. One reason that families may aspire to have boys is that only men are traditionally allowed to carry out certain obligations to the souls of the dead.

DUAL ROLES, DUAL BURDENS

A vast majority of the interviewees (women and men) mentioned the double or triple burden women in Vietnam face. They often referred to the VWU's clarion call for women across the country to "study actively, work creatively, and nurture happy families." While, on the one hand, the VWU should be gratified that so many women can quote that edict, many women also feel that this mantra imposes an increased

burden not just on all women who work outside of the home, but most especially on women business owners. Social custom dictates that it is the woman in the household who is responsible for household duties, child-rearing, and care of extended family members. There is both a lack of available external support, such as childcare or housecleaning services, and a lack of cultural acceptance of accessing such external support. These issues are further detailed in this report's chapter on Women and the Private Sector. Clearly, though, it is a social dynamic affecting all women in Vietnamese society.

THE IMPACT OF MIGRATION

Many families and individuals in Vietnam, largely from rural areas, migrate every year, either domestically or internationally, for the purpose of seeking economic opportunity. Women are more likely than men to migrate: for example, 70 percent of migrants to Ho Chi Minh City in 2003 were women.³⁹ Many women are lured with promises of a job and the ability to send money home to their families into harsh working conditions or, even worse, are trafficked into prostitution. For example, the World Human Rights Organization and UNICEF estimate that one-third of the prostitutes in Cambodia are under the age of 18, and that the majority are Vietnamese.⁴⁰ It is estimated that somewhere between 500,000 and 2 million people are trafficked each year worldwide, and that the majority are female.⁴¹ Thousands, perhaps hundreds of thousands of women in Vietnam each year migrate either domestically or internationally, and many of them find themselves trapped in harsh working conditions beyond the protection of the law. While both male and female migrants can face exploitation, for women the sexual component of potential exploitation often makes their situation even harsher.

The Vietnam Household Living Standards Survey found that 6.5 percent of the population (some 4.35 million people) lived in a different province in 1999 than they did in 1994, up significantly from the 2 percent found in

36 The strong preference for boys appears to exist at all levels of society, not just the poorer or less educated one. For a discussion of why wealthier and more educated women often face the same imperative to bear boys poorer, less educated women, see Tina Rosenberg, "The Daughter Deficit," N.Y. Times, August 23, 2009 (Sunday Magazine, Idea Lab).

37 See the news release at <http://en.dovipnet.org.vn/default.asp?xt=xt7&page=newsdetail&newsid=510>.

38 See the news release at <http://www.hoiphpn.org.vn/NewsDetail.asp?CategoryId=128&NewsId=8105&lang=EN>.

39 World Bank, *Vietnam Country Gender Assessment* 49 (2006).

40 See <http://www.humantrafficking.org/countries/vietnam>.

41 See http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php?page=5.

the 1984–1989 period. The majority of these domestic migrants are women.⁴² In many cases, these women end up working in factories where the working and living conditions are extremely difficult, as detailed further in this report’s chapter on Women and Labor.

The gender-based nature of migration is another aspect of the unequal relative value placed on women in Vietnamese society. It is differentiated here from the general “undercurrent of undervalue” because in many cases, migrant women—especially those who have moved within Vietnam from rural to urban areas—indeed find opportunities for safe and legal economic empowerment. In fact, some women’s business groups have become involved in improving working and living conditions for migrant workers and offer basic educational programming. Business education and economic empowerment could also follow.

DIFFERENTIAL RETIREMENT: PATERNALISTIC POLICY OR A BOON TO WOMEN’S ENTERPRISE

According to Vietnamese law, the mandatory retirement age for women (working in public institutions, but applied elsewhere as well) is 55, while for men it comes five years later, at age 60. A study published recently by the Institute of Labour Science and Social Affairs (ILSSA),⁴³ supported by the World Bank, points out the conflicting views and impacts of this differential retirement age. With respect to political efforts to change the law, such that women retire at the same age as men (60), the study summarizes the position of various stakeholders as follows:

- **Arguments in favor of maintaining the status quo:** Women who cannot keep working due to disability could lose access to retirement benefits for five years; current pensioners who are still working are opposed; some businesses oppose change; reform could negatively impact youth employment.
- **Arguments in favor of change:** Economic and social contexts have

changed; other countries in the region have equal retirement ages; women between 55 and 60 are no more sick or disabled than men of the same age; reform would bring monetary savings.

One under-recognized benefit of the current law may actually be its contribution to women’s entrepreneurship. The study shows that a solid majority (60.8 percent) of women pensioners between the ages of 55 and 60 continue to work at rates equal to that of women in the same age range who are not pensioners. One-third (33 percent) are self-employed, and another 45 percent contribute their expertise to a family-owned business. Thus, the current retirement law may have a positive impact on women’s enterprise development.

At this time, there is considerable public dialogue over the following questions: What would happen to these women if the laws changed and they could no longer “double dip”? Would that have a negative impact on small business creation? How would it affect access to childcare, often provided by retired women? What fiscal benefits does equalization of the law suggest?

Ultimately, it seems that fiscal prudence will drive the equalization of the retirement age: The state could enjoy significant savings if it could avoid paying benefits to women until they turn 60. And if there is truly a desire for greater equality in Vietnam, justification of the age disparity becomes difficult. Perhaps women who “lose” under equalization of the retirement age could press to “gain” under equalization of other legal provisions, such as added benefits for male participation in child-rearing such as paternity and family leave added into an amended version of the Labor Code (see this report’s chapter on Women and Labor).

RECOMMENDATIONS

- **Support and increase activity in the Like-Minded Donor Group.** 14 countries are formal members of a Like-Minded Donor Group⁴⁴ in Vietnam, including

42 T. Nguyen et al., *Determinants and Impacts of Migration in Vietnam* (DEPOCEN Working Paper Series 2008/01), available at <http://ideas.repec.org/p/dpc/wpaper/0108.html#download>.

43 World Bank/ILSSA, *Woman’s Retirement Age in Vietnam: Gender Equality and Sustainability of Social Security Fund* (2009).

44 Australia, Belgium, Canada, Denmark, Finland, Germany, Ireland, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom.

bilateral donor agencies that are interested in gender equality and women's economic development issues. While staff members from the U.S. Embassy occasionally attend meetings, the United States is not currently a formal member. Future investments in women's social and economic development in Vietnam would be greatly enhanced by formal participation in this group's activities.

- **Support domestic NGOs that focus on gender equality.** Capacity-building of locally driven NGOs is essential to program effectiveness and long-term sustainability. With respect to gender equality issues, two organizations, the Center for Studies and Applied Sciences in Gender, Family, Women and Adolescents (CSAGA) and the Research Center for Gender and Development (RCGAD), appear to offer the strongest leadership and energy. Such groups could help conduct societal dialogues about gender equality generally; continue to focus on the abortion of female fetuses; promote education of women; press for more substantial sex-disaggregated record-keeping; and begin “next-generation” conversations about sexual harassment and the glass ceiling.
- **Establish and support a repository for gender equality information, research studies, organizations, and activities.** Information on gender issues—such as gender equality, gender-based violence and trafficking, and women's enterprise development—while

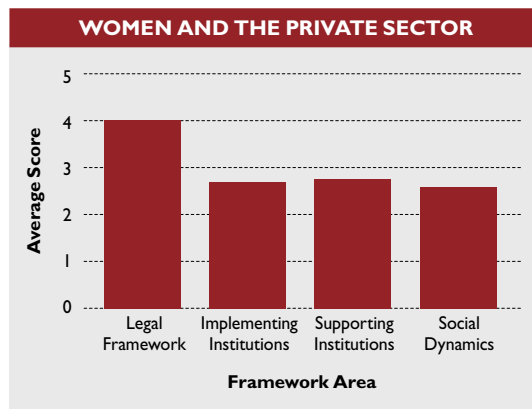
growing, is scattered and therefore difficult to find, and somewhat lacking in statistical underpinnings. Supporting the aggregation of all this information, probably under the auspices of the NCFAW would be a worthwhile endeavor. A gathering of the Vietnam-based women's rights NGOs to share information, challenges, and best practices could lead to greater coordination of efforts and impact of project outcomes. This would be especially powerful for smaller NGOs operating in rural areas, which likely do not have a view of what is going on in other regions of the country.

- **Investigate the longer-term economic effects of domestic migration.** One topic in particular that does not appear to have been significantly explored is the longer-term effects of internal migration on the economic self-determination of women. While it has been found that, in the short term, mostly rural women who travel to larger cities for factory work face grueling conditions and do not therefore spend a long time in those jobs, it is not as well known where they go afterwards. Some go back to their home villages and continue to travel back and forth seasonally, but others “graduate” to better-paying jobs as their skills improve. How many start enterprises? What sources of finance do they use to become established and to grow? What kind of enterprises do they start, and what is the net gain in employment? These are critical data that are not yet maintained in any significant form.



WOMEN AND THE PRIVATE SECTOR

Vietnam's private sector has increased dramatically in size, scope, and influence since the mid-1980s, when the implementation of market economy policies and practices—referred to collectively as *doi moi*—began in earnest. The 1999 enterprise law, updated in 2005, along with progressive updates to its investment law in 2000 and 2005, reinforced the country's long-term commitment to a market-based economy. According to Vietnam's General Statistics Office (GSO), private enterprise activities accounted for just 45.3 percent of GDP in 1995, but grew to 60 percent by 2006. Although state-owned enterprises (SOEs) still employ 28 percent of the country's workforce, their numbers are declining in the face of solid growth in the number of privately owned businesses.⁴⁵



Along with overall market-economy growth and legal and regulatory reform in Vietnam, more and more women are starting businesses. According to the GSO, 22 percent of the businesses in Vietnam are owned and operated by women. Specifically, by 2006, there were approximately 29,000 formally organized and registered women-owned businesses in Vietnam. Although statistics pertaining to growth rates of women-owned firms and their share of national employment or revenues are not maintained, the growth in the number and activities of organizations supporting women's enterprise development indicates that women-owned businesses at least are keeping pace with overall private-sector enterprise growth.

This chapter focuses on the state of women-owned enterprises in Vietnam. It looks not only at the legal framework in which they operate, but also at the extent to which the institutions that implement business laws and support enterprise-development programs incorporate the interests of women-owned enterprises. It also examines the cultural and social circumstances in which women business owners operate. Some key questions posed during this inquiry were:

- Does the legal and regulatory framework for enterprise development in Vietnam operate equally well for women and men?
- Are the public sector institutions that implement these laws and regulations aware of gender-based differences among the experiences of entrepreneurs? If so, how do they address them?
- Is there an office for women's enterprise development in the government, and do other ministries offer any programs (such as education, foreign trade promotion, credit guarantees, or procurement/purchasing) targeted at women business owners?
- Is there sex-disaggregated data on women-owned firms overall and with respect to the clients and outcomes of business support programs?

⁴⁵ The extensive and continuing influence of SOEs in Vietnam's economy is discussed at length in USAID/Booz Allen, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* (2007).

- Do NGOs provide services to women business owners, either in part or exclusively? Are these organizations sustainable and locally driven, and do they reach a broad spectrum of the female business-owner population?
- Are there women's business membership associations? Are they active in rural as well as urban areas? What services do they provide?
- How are women business owners viewed in the community? Are there any social or cultural impediments to their operation? Do they operate freely in all sectors of the economy? Are they visible participants in business-issue discussions?

Overall, the picture of women's participation in the private sector as owners and operators of businesses is largely positive. Women business owners are, by and large, treated equitably and without legal prejudice. This diagnostic found, however, that certain "gender-blind" policies, when combined with social and cultural inequities and constraints, in fact reinforce the status quo, leaving women at a disadvantage in several areas—particularly with respect to entrepreneurship training and education, access to informal networks, and access to new markets. In addition, although the legal framework itself registers quite positively with respect to gender-related issues, implementing and supporting institutions do not exhibit a significant degree of gender awareness and focus. More targeted assistance programs should be offered for women business owners in Vietnam, focused on moving beyond basic skill-building to providing growth-oriented support, mentoring programs, and improving support for women in rural areas. Research, monitoring and evaluation, and broader reporting of outcomes should support these efforts.

LEGAL FRAMEWORK

The legal framework that supports private sector enterprise in Vietnam was significantly established in 1999 with the passage of the



country's Enterprise Law, which entered into force on January 1, 2000.⁴⁶ Since then, the country's political and governmental leadership has worked to enact a number of other legal and regulatory improvements, many with an eye toward meeting the requirements needed to join the WTO, which Vietnam formally acceded to on January 11, 2007. Vietnam's laws and policies oriented toward enterprise development have, for the most part, been "gender-blind." That is, they typically do not mention women's entrepreneurship or special circumstances impacting of women-owned enterprises at all. Some exceptions to this formal neutrality include **Decree No. 90** in 2001 (devoted to the development of small and medium-size enterprises (SMEs)), the country's **Comprehensive Poverty Reduction and Growth Strategy** launched in 2002, and—perhaps most important and visible of all—the **Gender Equality Law** of 2006.

Decree No. 90/2002/ND-CP on "SME development policy," one among several implementing decrees under the Enterprise Law, contains just

⁴⁶ Id.

KEY LAWS AND POLICIES

- Enterprise Law (1999, amended in 2005)
- Decree No. 90/2001/ND-CP on support for development of SMEs (2001)
- Comprehensive Poverty Reduction and Growth Strategy (CPRGS) (2002)
- Investment Law (2006)
- Gender Equality Law (2006) (Article 12 entitled “Gender equality in the field of economy”)
- Vietnamese accession to WTO (2007)
- Resolution II/NQ/TW on “policy for women in the period of industrialization and modernization” (2007)
- Prime Minister Directive No. 10/2007/CT-TTg on implementation of Gender Equality Law (2007)
- Decree No. 56 on Support for Development of SMEs (in effect starting in August 2009)

one sentence with respect to women’s enterprise development. It states that, in implementing the Enterprise Law, there should be “special importance to support programmes for enterprises that are managed by women.”

The **Comprehensive Poverty Reduction and Growth Strategy (CPRGS)**, a major policy strategy issued by the prime minister in 2002, mentions a need to “develop programs to support SMEs that are managed by women.” It further states that such programs should:

- Provide information and support to enterprises, especially those managed by women, in developing business strategies that fit with the integration process, to help increase their competitiveness in domestic and international markets;
- Create a legal environment to conduct business on equal, competitive terms; and
- Improve women’s access to credit funds, such as the Food for hunger Eradication, the Poverty Reduction Programme, and provide the conditions for women to use these funds.⁴⁷

As detailed in the previous chapter, the **Gender Equality Law** is a wide-ranging and largely

“aspirational” law, focused more on social and economic goals than on specific edicts for action. Article 12 of the law, however, focuses on economic equality and states, in its entirety:

1. Man and woman are equal in setting up a business, carrying out business and production activities, managing business and are equal in accessing information, capital, markets and labour sources.
2. Measures to promote gender equality in the field of economy include:
 - a. Enterprises employing many female workers shall be given tax and financial preferential treatment according to the regulations of the law.
 - b. Female workers in rural areas shall be given credit aid, encouraged to expand agriculture, forestry and fishery according to the law.

In addition, the Vietnamese Communist Party issued **Resolution II/NQ/TW** in April 2007. Entitled “Work of Women in the Period of Accelerating Industrialization and Modernization,” it calls upon government leaders at all levels to promote small businesses owned by women and to enact “favourable policies to support women in the development of small and medium businesses.”

Thus, while there is a substantial legal framework supporting women in Vietnamese society and in their economic pursuits, for the most part, these women-specific laws, decrees, and resolutions have not provided much in the way of specific program or regulatory guidance to government ministries or officials. There have been relatively few program actions focused directly on supporting women’s enterprise development. The policies show great promise from a gender perspective, but actions have not yet fulfilled those promises.

Furthermore, Vietnam lacks sex-disaggregated data on women business owners and their enterprises. While GSO has conducted a business census every year since 2000, the survey captured the gender of the business owner

⁴⁷ As summarized in Vietnam Chamber of Commerce and Industry, International Labour Organisation, *Women’s Entrepreneurship Development in Vietnam* (2007).

only in the 2006 census. The GSO did not collect this information in 2007, but sought it again in 2008.⁴⁸ It is not clear why an inquiry about gender is not a permanent part of the business census or whether it will be included in the 2009 census. Other surveys have been conducted among formally registered enterprises in Vietnam, but, again, not all of them capture the gender of the owner of the business. This impedes the diagnostic of entrepreneurial needs, the identification of potential gender-related gaps, and the use of such information in the formulation and improvement of policies and programs.

IMPLEMENTING INSTITUTIONS

There are three main public sector implementation agencies for issues related to women-owned businesses: The **Enterprise Development Agency** (formerly the Agency for SME Development) within the Ministry of Planning and Investment (MPI), which is tasked with supporting small business development in general; the **Ministry of Labor, Invalids and Social Affairs** (MOLISA), which is the state agency holding the overall gender equality portfolio; and the **National Committee of the Advancement of Women in Vietnam** (NCFAW), which is the inter-ministerial coordinating body for issues related to the advancement of women. Although these bodies are tasked with monitoring gender equality issues, women's development issues in general, or business development issues in general, there is not a government office that has the specific and targeted portfolio of women's enterprise development.

ENTERPRISE DEVELOPMENT AGENCY

Decree No. 56 on SME development has led to the former Agency for SME Development (ASMED) being renamed the **Enterprise Development Agency**, effective in August 2009. This agency still resides within the Ministry of Planning and Investment and is now charged with three main functions: (1) overseeing and implementing business

KEY IMPLEMENTING INSTITUTIONS

- Enterprise Development Agency, within the Ministry of Planning and Investment (MPI)
- Ministry of Labor, Invalids and Social Affairs (MOLISA)
- National Committee on the Advancement of Women (NCFAW)

registration processes; (2) supporting SME development; and (3) working to reform and restructure SOEs.

According to agency representatives, one of the main vehicles for SME development support is SME technical assistance centers and other information points that provide training, consulting, information, and networking to business owners across the country. There are **technical assistance centers** in Vietnam's three largest cities, Hanoi, Ho Chi Minh City, and Danang. In the other provinces, there are three **first-stop shops** in Binh Tuan, Lao Chai, and Thai Nguyen, and others are being planned. The technical assistance centers will have "third-level" budgetary authority directly within the Enterprise Development Agency, while the other provincial first-stop shops will be managed by provincial Departments of Planning and Investment.

Plans are also underway to establish an SME Development Fund, but a timetable has not yet been established. There is an SME Guarantee Fund, which was established in 2001 in Decree No. 90, but it has relied on the regions and provinces to set them up locally. The guarantee fund is reportedly operational in only 9 of Vietnam's 59 provinces.

The Enterprise Development Authority has not yet moved forward on any major actions with respect to women's enterprise development in particular, according to various knowledgeable observers. For example, there is not as yet any women-focused outreach or programming in place at the technical assistance centers or the first-stop shops.

⁴⁸ The 2008 census data are not yet published.

MOLISA

In 2008, the Department of Gender Equality was established within the MOLISA to direct the ministry's implementation of the Gender Equality Law, as the law itself mandates. The department develops rules and programs to implement the law and also oversees gender "focal points" at the corresponding provincial and district level departments to carry out the department's directives. The main duties of the department are to:

- Provide guidelines on the implementation of gender mainstreaming and gender equality efforts within organizations and institutions at all levels of government
- Provide information and education on gender-related policies and laws
- Train departmental staff at all levels on gender equality issues
- Conduct research and analysis, and report on the results of gender equality efforts.

The department also serves as the secretariat for the NCFAW.

NCFAW

The third, and perhaps the most important and well-connected, organization that exists to implement laws, policies, and programs related to women (and thus potentially to women's enterprise development) is the National Committee for the Advancement of Women. The NCFAW was established in 1993, and is well known and widely referred to. Its membership is comprised of 21 highly placed women: It is chaired by the minister of MOLISA; the two vice chairs are the vice minister of MOLISA and the president of the Vietnam Women's Union; and the remaining 18 members are all vice ministers or their equivalents in other government ministries and agencies. The NCFAW's mission is fivefold:

- Research and make proposals to the Prime Minister on direction and solution to interdisciplinary problems related to the advancement of women.

- Assist the Prime Minister in coordinating with Ministries, Ministry Equivalents, Governmental Agencies, and People's Committees at all levels and mass organizations to advocate, popularize and mobilize the implementation of policies and laws of the Party and the State of Vietnam related to the advancement of women.
- Assist the Prime Minister in promoting Ministries, Ministry Equivalents, Governmental Agencies, and People's Committees in provinces and cities directly under the Central Government to coordinate with each other to realize national objectives for the advancement of women.
- Report the Prime Minister the progress of the work done by the National Committee for the Advancement of Women in Vietnam every six months or upon request.
- Carry out other tasks related to the advancement of women assigned by the Prime Minister.⁴⁹

In addition to its highly placed and powerful membership, the NCFAW derives its influence and reach through local **Committees for the Advancement of Women** (CFAWs), which have been in place since 1994. These CFAWs operate in 99 percent of the country's districts and towns, and in 84 percent of communes or wards, so they are a powerful mechanism for communication, implementation, and reporting. While there has not, as yet, been a focus within the NCFAW on women's enterprise development, it is well placed to be an engine for such work.

SUPPORTING INSTITUTIONS

In addition to government ministries and departments that carry the formal mandate to implement policies and programs, a variety of players in the private sector (as well as the "semi-private" sector, as Vietnam is still a Communist and centrally controlled country) support the implementation of business support mandates. In

⁴⁹ Taken directly from the NCFAW Web site at <http://www.ubphunu-ncfaw.gov.vn/?lang=E&func=intro&catid=195&MN=67>.

KEY SUPPORTING INSTITUTIONS

- The Vietnam Women's Union (VWU)
- The Vietnam Chamber of Commerce and Industry (VCCI)
 - Vietnam Women Entrepreneurs Councils (VWEC)
 - Start and Improve Your Business Clubs (SIYB)
- National, multilateral donor agencies
- Home-grown women's business associations

addition, the international donor community—bilateral donor agencies such as USAID, multilateral agencies such as the United Nations and the ILO, and foundations—has been heavily involved in supporting both social and economic development needs in Vietnam, though such support in some cases is ending as the country moves from developing to developed status.

Although some NGOs exist to support women's economic development, they are not—as yet—reaching women across the country. Moreover, they are focused primarily on poverty alleviation, rather than on enterprise creation and growth. They do not have a high public profile or sufficient capacity to meet the needs of the country's women business owners. There are some positive developments, however, the most positive being the recent birth of home-grown women's business associations. These groups have been started by women business owners who have felt that existing support for women-owned firms has been either too focused on small start-up businesses or too slow-paced in terms of its outreach or other activities.

VIETNAM WOMEN'S UNION (VWU)

Although the VWU is not focused specifically on women's enterprise development, it is regarded as the “800-pound gorilla” with

In Vietnam we celebrate women on two days of the year—March 8 and October 20. The other 363 days are men's days.

—a woman business owner interviewed during the GenderCLIR diagnostic

respect to anything having to do with women in Vietnam. The VWU has an unparalleled national network, counting over 13 million women as its members and boasting of representation at all four levels of Vietnamese government: national, provincial (63 units), district (642 units), and commune (10,472). At the 10th National Women's Congress in 2007, a new president of VWU was elected, Ms. Nguyen Thi Thanh Hoa, and a comprehensive six-point agenda for the 2007–2012 period was established.⁵⁰

In the realm of economic development, the VWU's activities are strongly focused at the local level on workforce training and on micro-enterprise development, believing that the two main barriers to economic self-sufficiency are a lack of knowledge and lack of access to capital. The VWU provides assistance with access to microfinance by organizing savings clubs, providing technical assistance to borrowers, and providing pooling and direct lending of international donor assistance funds to local NGOs. The VWU also focuses on vocational training for women, including both general leadership development and training for business consultants, as well as supporting workforce skill development. According to the VWU, between 2002 and 2007, it has helped to provide vocational training for over 600,000 women, employment counseling for over 700,000 women, and stable jobs to over 300,000 women. Enterprise creation is not mentioned in its literature among its specific accomplishments, however.

Ultimately, the VWU is a critical, intact network that is part of the fabric of Vietnamese society. Donors have partnered with VWU in the past and will continue to access the organization, and the consensus is that the organization truly operates with the best interests of the country's women at the heart of its agenda.

VIETNAM WOMEN ENTREPRENEURS COUNCIL (WEC)

The Vietnam Chamber of Commerce and Industry (VCCI), established in 1964, has over 65,000 members in seven branches across the

⁵⁰ This can be found in the section of Women in the Private Sector on page 23



country. Its mission is twofold: to provide support to members in growing their businesses, and to represent the views of members in policy circles. In 2001, VCCI established a Women Entrepreneurs Council, which has a national office in Hanoi and chapters in seven other cities: Can Tho, Da Nang, HaiPhong, Ho Chi Minh City, KhanhHoa, ThanhHoa, and Vinh. The chair of the WEC serves as a vice chair of the VCCI, though she is not listed as a member of the Standing (Executive) Committee of the organization.

The self-described mission of the WEC is to “represent women entrepreneurs for the support and protection of their interests in international and domestic relations, as well as promote and assist women entrepreneurs in trade and investment, technological application in Vietnam and abroad.” It does so through the following activities:

- Providing advice and suggestions to the Executive Committee of VCCI on actions that can be taken to improve the situation of women-owned enterprises.
- Collaborating with ministries, institutes, and others to improve the capacity of women-owned businesses. In 2009, 10 training sessions on issues such as export

competitiveness and management capacity are planned.

- Organizing activities to support and recognize women business owners—such as coordinating national events twice a year (on March 8—International Women’s Day—and on October 20—Vietnam Women’s Day, typically either in Hanoi or Ho Chi Minh City) and bestowing an annual “Golden Rose” award to leading women business owners and women’s business leaders in the country.
- Conducting research and improving knowledge on women business owners and their enterprises (such as the 2007 publication, *Women’s Entrepreneurship Development in Vietnam*).
- Collaborate with the VWU and other organizations to provide assistance to women in “doing economic activities, helping them to upgrade their position in family and social life, making contributions to job creation and poverty reduction.”⁵¹

While it has, in a relatively short time, raised the visibility of women’s entrepreneurship, the Women Entrepreneurs Council appears to be constrained somewhat by the structure of the VCCI, which is a large, bureaucratic organization. In addition, while the WEC has engaged in a number of significant activities, it does not, as yet, bear much mention in the VCCI’s promotional materials. Most important, the WEC has neither a page nor section of its own on VCCI’s Web site nor a Web site of its own. It did at one time, but did not have the means or the staff support to keep it updated.

START AND IMPROVE YOUR BUSINESS (SIYB)

This initiative began as a partnership between the VCCI and the International Labour Organisation (ILO) in 1998. After over five years of partnership, VCCI took over the SIYB in its entirety. The SIYB is run as a collection of local “clubs” that are focused around a series of training modules taught by ILO-certified

51 From a Vietnam Women Entrepreneurs Council brochure.

master trainers. The Ho Chi Minh City club, for example, has 148 members, 28 (or 19 percent) who are women. For an annual membership fee of approximately US\$50, members receive discounts to regularly scheduled seminars on such topics as taxation, product/service pricing, managing finances, etc. Training sessions are publicized in local media and are offered to any interested persons, regardless of whether they are SIYB members. The club also works with provincial trade promotion authorities to offer members places at domestic and international trade fairs, and helps members garner publicity in local print and broadcast news media.

TYPES OF BDS SERVICES CONSIDERED VERY USEFUL		
	Women	Men
Info on policy/legal issues	80%	44%
Management training	77	46
Leadership training	75	44
Business counseling	74	56
Information on markets	59	62
Technical training	58	56
Information on technology	54	46

2002 survey conducted by the VCCI. See VCCI WEC report, *Women's Enterprise Development in Vietnam*, at 46, table 14 (2007).

The SIYB appears to be the most visible example of what should be a critical element of any national enterprise development program: entrepreneurship training and education. While there are also the first-stop shops and technical assistance centers managed by the Enterprise Development Agency, and SME Promotion Centers (SMEPC) operating in several local branches of the VCCI, the SIYB was the source of business education and training most frequently mentioned by interviewees during this diagnostic. Given that the last, and perhaps only, impact diagnostic of this program was in 2001, and that there are program statistics only up until 2003 (at which time the program had reached just under 18,000 clients), there is a critical lack of information on the reach and impact of education and training efforts—especially on how these programs affect women business owners. This need was pointed out by

the WEC in its 2007 study, which stated both that “the supply side of business development services market is facing serious limitations” and that “women seem to be less satisfied with (available) training services than men.”⁵² In addition, a 2002 study of business development service (BDS) needs by the VCCI showed that women and men had significantly different levels of interest in what they are looking for from a BDS provider.

DONORS

As in nearly every other developing economy around the world, international donor groups play a critical role in supporting the gathering and sharing of information and statistics, building organizational capacity, and helping national policymakers to set economic strategies and launch business development programs. And, in the case of Vietnam and other nations, earmarked donor funding also helps to fuel gender-focused initiatives. Most gender-related donor-supported activities in Vietnam have focused on health and social issues such as gender-based violence. Some of the most significant support related to women’s enterprise development in particular has come from the following sources:

Multilateral donor agencies

- The **International Labour Organisation** (ILO) has engaged in many efforts, including support to the VCCI in developing enterprise education curricula, to certify trainers to deliver those training programs via the SIYB program, and to assist the WEC in conducting research and publishing the 2007 report, *Women's Entrepreneurship Development in Vietnam*.
- The **International Finance Corporation** (IFC) performed qualitative research in 2005–2006 on the voices of women entrepreneurs in Vietnam and a quantitative survey among 500 women business owners focused on their characteristics and challenges.⁵³
- United Nations’ agencies, perhaps most notably the UNDP, have engaged in ongoing

⁵² VVWEC & ILO, *Women's Entrepreneurship Development in Vietnam* at 38, 39.
⁵³ IFC, *Voices of Vietnamese Women Entrepreneurs* (2005).

work with Vietnam's General Statistics Office to bolster its reporting of sex-disaggregated data, including in the annual business census. In addition, the United Nations Industrial Development Organization (UNIDO) has worked in Vietnam's rural areas in cooperation with the VWU to support ethnic minority women.

Bilateral donor agencies

- The Australian aid agency, **AusAID**, helped to convene and until recently led a Like-Minded Donor Group comprised of 14 bilateral international development agencies focused on gender-related concerns. Its own development interests include aquaculture and rural agricultural development, both of which involve a strong presence of women.
- The **Canadian International Development Agency (CIDA)** has focused many of its efforts on rural economic development and economic empowerment activities that have had a disproportionately positive impact on women and their families, including a project in NgheAn province in partnership with Toward Ethnic Women.
- The **Danish International Development Agency (DANIDA)** has funded a survey among members of the Hanoi Network of Entrepreneurial Women and is providing funding (2.5 billion VND) for implementing entrepreneurship training for women.
- The **German International Development Agency (GTZ)** has worked since 2000 with the handicrafts industry, which is heavily dominated by female labor, to provide education and training on quality, design, and other value chain improvements for the international marketplace. It has provided similar business support to the fisheries industry, also heavily populated by women.
- The **Swedish International Development Agency (SIDA)**, in

conjunction with the ILO, supported a project entitled Poverty Reduction through Integrated Small Enterprise Development. The program included a women-focused initiative, GET Ahead (Gender and Entrepreneurship Together).

Foundations

This diagnostic identified little in the way of foundation-supported activity focused on women's enterprise development. Most foundation grants targeted to women focus on health issues (such as HIV/AIDS), domestic violence, or agriculture/aquaculture skill-building rather than on enterprise creation efforts. The most interesting effort uncovered is a new program just getting underway between the Saigon co-op stores, the VWU, and Proctor and Gamble (P&G), whereby the corporation will donate money to the co-op and VWU for "community improvement" programs targeted at women based on tracking the number of P&G products sold in the Saigon co-op stores between June 2009 and 2011.

HOME-GROWN WOMEN'S BUSINESS ASSOCIATIONS

The most positive development uncovered during this diagnostic—from the perspective of women in the private sector—is the launch of two new women's business associations: the **Hanoi Network of Entrepreneurial Women** and the **Saigon Women Entrepreneurs Club**. Both organizations have been started relatively recently by groups of women business owners who met each other in other organizations, such as the VCCI's WEC, and who wanted to start a network of, by, and for women business owners. These associations have become active and engaged in a short period of time. The Hanoi group recently celebrated its first anniversary, yet already has a printed bimonthly newsletter, Hanh Phuc & Thanh Dat (Happiness and Success), and has raised 150 million VND to build an embroidery workshop for ethnic minority women in Sinh Phinh province. Likewise, the Saigon group has a

newsletter and reports that it cooperates with the VCCI's WEC and the Ho Chi Minh Trade Promotion Agency on two key issues: access to capital and innovation. The energy and activism of these two young, growth-oriented organizations should definitely be nurtured, encouraged, and supported.

SOCIAL DYNAMICS

Underpinning and interwoven with the legal framework, implementing institutions, and supporting institutions involved in women's enterprise development are the **social dynamics** of the country—not only the strong focus on modernization, privatization, and SME stemming from *doi moi* initiatives and the recent drive to enter the WTO, but also the interplay (or lack thereof) between economic development and women's roles in society.

Four key factors appear to influence the current climate for women-owned enterprises in the country. Three show a dampening effect on women's enterprise development, while one exhibits the potential for a significantly positive impact. They are:

THE UNPROVEN ASSERTION OF EQUALITY

Time and time again during this diagnostic, interviewees reported that—with a Gender Equality Law, with gender focal points in ministries, and with an active and omnipresent Vietnam Women's Union—men and women are considered to be equal under the law and that there are no gaps or disparities between men and women. Yet, as noted, there is a singular lack of sex-disaggregated data to prove or disprove that assertion. Running counter to this “unproven assertion of equality” is on-the-ground experience reported by many program-delivery professionals in supporting institutions, who say quite clearly that there is still inequality of opportunity for many women—especially in rural areas and among ethnic minority groups. Without quantitative evidence, however, it is

difficult to pinpoint where gaps exist and to develop strategies to redress inequities.

Indeed, this lack of hard information is, in many ways, impeding the progress of women-owned enterprises in the country. It is nearly impossible to manage what remains unmeasured. How many women-owned businesses exist in specific industries, and what is their respective revenues and employment size compared to national averages? Are women-owned firms growing in numbers and in economic clout at the same or different rates as their male counterparts? What are the most important barriers to their growth and progress, and are those barriers different, or more or less severe, for women-owned firms than for all SMEs in Vietnam? The answers to such questions would go a long way to ensure that there is true equality of opportunity for both women and men entrepreneurs in Vietnam.

THE ABSENCE OF A BEACON

Is it not only difficult to manage that which is not measured, but also nearly impossible to make progress in any field or among any interest group without visibility and accountability. There is no “Office of Women's Enterprise Development” or equivalent in Vietnam's government, nor is there a person or group accountable for a women's enterprise development portfolio. There is an Enterprise Development Agency that is charged with small business development in general and a National Committee for the Advancement of Women that is charged with monitoring gender equality issues, but between the two organizations is a gap into which women's enterprise development has fallen.

Discussions with these two agencies, as well as with other women's groups and business groups, confirms this situation. While there is strong interest in small business development in general and activism with respect to overall gender equality, these two efforts have not yet blended in a way to raise the visibility of and thus the programmatic attention on



women's enterprise development. While the women's business sector is active and is becoming increasingly vibrant, it is doing so largely through the personal efforts and force of will of a small group of active and empowered women who would succeed under nearly any circumstances. A more visible and accountable "beacon" for women's enterprise development could provide guidance and support to those women who—unless given a clear path and a road map—may never turn their business idea into a formal business. Such a beacon could also propel greater numbers of small, informal, subsistence-level women-owned firms into formality and higher paths of growth, thus significantly increasing the contributions of women-owned firms to Vietnam's economy.

DUAL ROLES, DUAL BURDENS

The expectation that women have a primary obligation to take care of their children, their

homes, and their extended families appears most especially to constrain the ambitions and business growth of women entrepreneurs. Not only is there a lack of available external support, such as childcare or affordable housecleaning services, but Vietnam also lacks cultural acceptance of engaging such external support. Many women business owners reported that they could not grow their businesses to a larger size because of the conflicting demands of work and family, along with the inability to seek outside help to help juggle these demands. Women in NGOs and associations further reported that these concerns are voiced by many of their clients. While as a cultural issue this is a delicate one to address, and will take time to resolve, social constraints definitely show a dampening effect on women's enterprise development and constitute a strong undercurrent running through discussions of how to encourage more growth and development of women-owned businesses.

A LEGACY OF GIVING BACK

On a positive note, another refrain was also heard in several meetings and interviews: the well-known Vietnamese proverb, "La lanh dum la rach" or "The good leaves protect the worn-out leaves." This was used more than once in the context of successful people feeling the need to give back to those less fortunate than themselves. This was in full evidence when learning of the activities of the Vietnamese Women's Union and its development fund's focus on women in rural areas and ethnic minorities, as well as the charitable activities of the two newly launched women's business associations in Hanoi and Ho Chi Minh City. Both of these groups, comprised primarily of women who own established, growth-oriented enterprises, have an important charitable focus. In addition, many of the individual women business owners who were interviewed during the diagnostic are personally involved in charitable endeavors. This legacy of giving back is another major thread that was revealed repeatedly during the diagnostic. It bodes well for the positive impact that encouraging private enterprise development in general,

and women's enterprise development in particular, could have on opening up mentoring and other growth opportunities among subsistence level micro-entrepreneurs.

RECOMMENDATIONS

- **Create a governmental “beacon” for women’s enterprise development.**

A distinct office for women's enterprise development should be established, preferably in the Agency for Enterprise Development, which is under the Ministry of Planning and Investment, rather than in the Ministry for Labor, Invalids and Social Affairs (MOLISA—the “gender” agency). This department would still come under the purview of the National Committee for the Advancement of Women (NCFAW), which has the gender-monitoring portfolio in government and which sits in the MOLISA.

- **Strengthen the organizational capacity of the three key women’s business associations.**

The Vietnamese Women Entrepreneurs Council (WEC) within the VCCI should be strengthened, with greater staffing capacity and a Web site of its own. In addition, the two newly formed associations, the Hanoi Network of Entrepreneurial Women (HNEW) and the Saigon Women Entrepreneurs Club, should be nurtured and encouraged. More collaborative activities among these groups could include regional workshops with business education content (which would complement the national events on International Women's Day and on Vietnamese Women's Day) and international fact-finding/exchange missions to meet with other women's business association representatives in either the Asia Pacific region or elsewhere.

- **Offer more women-targeted educational programming.** Research by the WEC and ILO found that women are not

as satisfied as men with the available business education programming. It has been shown in other countries that women-focused, relational (as opposed to transactional) business support services provide nascent women business owners with confidence and counseling, new women business owners with important management skills, and growth-oriented women business owners with contacts, compatriots, and new market opportunities. There are delivery mechanisms in place via SIYB clubs and the VCCI's SMEPCs, and a new national Office of Women's Enterprise Development could perhaps manage the programming and coordination.

- **Increase support to post-start-up, growth-oriented women business owners.** The fact that women in Hanoi and Ho Chi Minh City have found one another and spontaneously formed their own business associations speaks to their desire for more camaraderie, collaboration, connection, and peer support. Providing tools for these associations and their members would likely spark additional growth in the economic clout, social involvement, and community activism of their members and thus have a positive ripple effect in increased visibility and acceptance of women as contributors to the economic vibrancy of Vietnam.

Based on interviews with some of the members of these associations, and international experience in other similar women's business associations, it is suggested that support be directed toward:

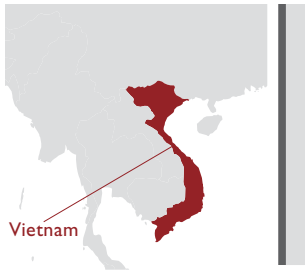
- Fostering facilitated peer roundtable discussions, where members would share business challenges and successes.
- Providing specific growth-focused educational programming on such issues as employment law, building an executive management team, providing export promotion activities and exploring new international

markets, serving on boards and commissions, and accessing growth capital.

- Forming mentor-protégé relationships, perhaps between these women and counterparts in other countries where they would be the protégées, and domestic mentoring programs where they would be the mentors.
- Organizing one or more international fact-finding and relationship-building trips for the leaders of women's business associations in Vietnam to meet and discuss areas of common interest with women's business association leaders in other countries.

- **Add sex-disaggregated data to the Vietnam Provincial**

Competitiveness Index (PCI). As noted in this report's introduction, the PCI has proven to be successful in driving competition between cities to create reforms and improve their competitiveness. Incorporating gender in the PCI make it one of the success factors and will bring it to the fore of the goals that provinces strive to achieve. Highlighting gender in this way incorporates it quickly across all the provinces.

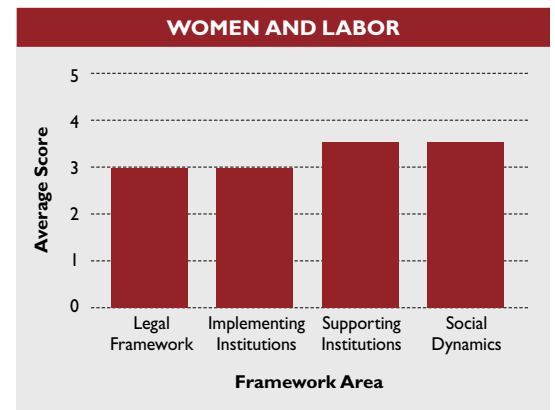


WOMEN AND LABOR

This chapter focuses on the state of women in Vietnam’s workforce, specifically examining the country’s legal framework for labor and employment and the extent to which institutions and social dynamics treat working women fairly and support them effectively.⁵⁴

Among the key issues considered during this inquiry are the following:

- The extent to which Vietnam’s legal framework for labor and employment treats women equally not only in language, but also in impact;
- Whether the labor and employment regime’s implementing institutions—namely, the “tripartite” assembly of government, employers, and unions—serve women as equal participants in the labor force and respond to the particular needs of women;
- Whether the community of supporting institutions—NGOs, professional associations, education and training associations, the media, donors, and others—serve to strengthen the labor conditions faced by women so that they may thrive and grow in the labor force; and
- The extent to which various social dynamics—cultural norms, vested interests, worker skills, and other factors—impact the place of women in Vietnam’s labor market.



there are large gaps in knowledge about macro-level gender differences in the workforce, an issue that both the government and donor community should address. Then, on the positive side generally, Vietnamese women have relatively high rates of literacy and education and increasing access to professions traditionally dominated by men. However, traditional gender roles are strongly reinforced by both the legal framework and cultural norms, and women remain widely vulnerable to sexual stereotypes and harassment. They also are poorly served, in general, by certain key institutions, such as the Ministry of Labor, Invalids, and Social Affairs (MOLISA) and the country’s trade unions.

This diagnostic further confirmed that important *differences* exist among the labor and employment opportunities afforded Vietnamese women, depending on their situation in society. That is, labor conditions and opportunities for advancement depend on whether women live in urban or rural environments; whether they work in the agricultural, industrial, or service sectors; and how they are impacted by other major distinguishing conditions, such

⁵⁴ This chapter uses the term “labor” generally to refer to a traditional industrial work environment, where workers are engaged in factories or more traditional workplaces and are likely represented by a labor union or covered by some type of collective bargaining agreement. “Employment” refers to most other types of formal work, such as work in services, and includes smaller, office-based employers. “Employment” also refers to workplace issues that may arise on an individual level, such as employee contracts, sexual discrimination, or sexual harassment. Although these terms refer generally to different segments of the arena for work, they also tend to be used interchangeably. Thus, in general, this chapter addresses overall work conditions for women in Vietnam.

Sector	% GDP	% Labor Force
Agriculture	19	55.6
Industry	42.7	18.9
Services	38.4	25.5

As detailed in this chapter, there are some conclusions that may be drawn *generally* about women in Vietnam’s labor force. Preliminarily, just as there is a dearth of sex-disaggregated statistics pertaining to private enterprise in Vietnam (as discussed in the previous chapters),

as disability, geography, or minority status. In some instances—such as legal reform⁵⁵—circumstances must be reconciled so that women across all these areas can expect equal treatment and opportunity, regardless of where they work. In others, special attention should be paid to specific, sector-based issues of women.

The GenderCLIR indicator scores for Women and Labor show relative strength in the areas of supporting institutions and social dynamics, as compared to legal framework and implementing institutions, as indicated by the graph set forth at the beginning of this chapter. There is considerable room, however, for continued strengthening of all areas.

LEGAL FRAMEWORK

ACCESS TO THE LEGAL FRAMEWORK AND INTERNATIONAL LABOR STANDARDS

To a far greater degree than is found in many less developed environments, Vietnam provides ample access to its regime of labor laws and regulations, both to internal actors and to foreigners. In addition to readily available paper texts and online access to law, both in Vietnamese and in English, there are many materials dedicated to explaining the key aspects of the Labor Code and other relevant laws to existing and potential employers. Publications prepared by such organizations as the Vietnamese Chamber of Commerce and Industry (VCCI), the American Chamber of Commerce (AmCham), the U.S.-Vietnam Trade Council (USVTC), and local institutions such as the Investment & Trade Promotion Center of Ho Chi Minh City set forth general instructions to employers about recruitment, labor contracts (formation and termination), working hours, minimum working age, annual leave, compulsory insurance, and employment of foreigners.

To a lesser extent, there is a growing body of compliance materials aimed at strengthening domestic employers' understanding of their occupational safety and health obligations. For

example, a Danish-supported publication prepared by the Bureau for Safe Work within the MOLISA strives to assist employers in evaluating and addressing health and safety conditions in factories.⁵⁶ In addition, there is an increasing awareness of and access to international standards, such as those promulgated by the International Standards Organization (ISO) and the International Labor Organization (ILO), adherence to which is increasingly a formal or informal requirement for access to foreign markets. An ample supply of domestic and foreign law firms exists to supplement this information and assist employers in complying with the law.

The issue of access to law is one that is especially important to women in the labor force: where information and institutional transparency are lacking, abusive conditions are more likely to thrive. Of course, a significant portion of Vietnam's workforce is employed outside of the formal sector. Accordingly, the actual reach of labor and employment laws and institutions often extends just to a fraction of the economy. This fact underscores the shaping and implementing of Vietnam's work-related and other regulatory reforms with the goal of minimizing barriers that keep micro-enterprises and their workers locked into the informal economy. Such workers need social protections at least as much as those in the formal sector.

INTERNATIONAL LABOR CONVENTIONS

The Vietnamese government's motivation and commitment to acceding to international norms, as exhibited during the run-up to WTO accession in 2007 and even before that, is uncommon among less developed countries. In 1992, Vietnam joined the ILO and has since ratified 15 ILO conventions, including core conventions on equal remuneration, discrimination in employment and occupation, minimum age, the "worst forms of child labor," and forced labor. Vietnam is also a member of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the international

⁵⁵ Several types of legal reform are cited throughout this chapter where the laws give preference to women but may inadvertently have a negative effect, such as preferences in hiring, restrictions related to pregnancy or child-rearing, certain occupations that may include immersion in water, mining, etc.

⁵⁶ See Bureau for Safe Work, MOLISA, *Checklists on Occupational Safety and Health*, available at <http://www.ambhanoi.um.dk/NR/rdonlyres/DB98DD1C-BA64-423B-85A4-CB8285B30C86/0/ChecklistsMOLISA.pdf>.

KEY LAWS AND CONVENTIONS

- International conventions on labor and the rights of women
- Constitution (1992)
- Labor Code (1994, as amended and supplemented in 2002 and 2006)
- Social Security Law (2006)
- Draft Law on the Elderly
- Gender Equality Law (2007) and accompanying implementing directives of the Prime Minister and the Central Party

treaty that obliges its members to take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises. A National Committee for the Advancement of Women in Vietnam (for which MOLISA is the Secretariat) is charged with promoting adherence to the CEDAW.

Vietnam's receptiveness to the guidance of international standards—at least as they pertain to economic growth and development—bodes well for efforts to implement its more recent commitments to gender equality in its domestic law.

CONSTITUTION

The Vietnamese government's commitment to preserving and protecting the rights of the country's workforce is enshrined in the country's Constitution of 1992. In its first 14 articles naming the components of the country's political regime, the Constitution specifically identifies the National Assembly and People's Councils (Art. 7), the "Fatherland Front" (Art. 9), and "trade unions" (Art. 10) as cornerstone institutions in Vietnamese society. This placement of trade unions among the country's key political institutions contrasts with the "right to assembly" found in the U.S. Constitution, which established for the trade union movement a far greater degree of independence from government control. Indeed, this diagnostic found no sense or expectations that labor unions in Vietnam may have interests or concerns that conflict with those of the government, as discussed further in this chapter's discussion of implementing institutions.

LABOR CODE

Vietnam's comprehensive Labor Code has been in place since 1994, with certain amendments enacted in 2002 and 2006. A major legal revision to the Labor Code is underway, presenting an important opportunity to bring a greater degree of gender equity to the legal framework for labor and employment. Vietnam appears to be poised to take some steps toward greater legal equality for women with respect to matters such as the retirement age, which currently differs between men and women, and also with respect to other matters such as women's access to less traditional jobs and equal legal treatment of parental obligations. However, the country does not appear to intend to integrate true gender equality into its labor and employment regime. It can be argued that the benevolent intentions of the Labor Code—such as its protective attitude toward pregnant women and mothers of young children—reflect cultural values concerning which the Vietnamese neither seek nor desire interference from foreign "experts." Yet the views of women from throughout the workforce who were interviewed during this diagnostic indicate that Vietnamese women have in fact grown increasingly tired of the social expectations that demand so much from them, both in the workplace and at home, while men carry virtually none of the same obligations, especially in the highly demanding arena of parenting and family care.

At first glance, the Labor Code appears substantially equal for men and women, setting forth no differences in the major conditions of employment, such as formation and termination of labor contracts, minimum salaries, and compulsory insurance. The Labor Code even specifically prohibits "gender discrimination against female employees" (Art. III). There are, however, a series of key provisions that, though benignly intended, serve to perpetuate Vietnam's extreme adherence to traditional gender roles, which ultimately make women more costly to employ than men, thus undermining their opportunities for employment. In addition,

the Labor Code does not effectively reinforce certain aspects of equal employment opportunity, such as the importance of making all jobs open to members of both sexes and directly addressing sexual harassment.

Examples of how the law distinguishes between men and women—ultimately to the detriment of women—include the following:

- Under the Labor Code, women are supposed to be given preference in hiring, where a job “can be filled by either a man or a woman.” (Art. 111(2).) Though well intentioned, there is little awareness of this provision and it is resoundingly ignored. At the same time, this sex-based preference, if enforced, may breed resentment among employers of women as job applicants and result in artificial attempts to deem them *less* qualified than other male applicants.
- Employers are not allowed to use women for “heavy or dangerous jobs or which necessitate exposure to noxious substances or harmful effects on the reproductive and child-rearing functions of women.” (Art. 113(1).) Again, although the intentions may be good, this provision both interferes with job choices afforded women (by keeping them out of heavy and dangerous jobs, regardless of whether they are pregnant) and codifies the notion that women are not to be perceived as independent from “child-rearing functions.” The law does not consign men to such limitations, thereby supporting their legal access to all lines of work.
- The prohibition of women from working in “mines or jobs requiring constant immersion in water” (Art. 113(1)) similarly reinforces stereotypes about the place of women in the labor force and restricts their access to true work equality.
- Women (though not men) are entitled to four to six months of paid maternity leave, as well as unpaid leave thereafter. (Art. 114.) In fact, women are *not allowed* to

return to work until at least two months following the birth of a child. By not affording men access to legally sanctioned time-off following the birth of a child, the law perpetuates the cultural norm that men are to experience none of the child-rearing expectations placed on women.

- Beyond seven months of pregnancy, women are not allowed to work overtime or at night, or to engage in significant travel. (Art. 115.) This provision exists regardless of the nature of the job and the preferences of the woman.
- The law states that, “in places where a large female labor force is employed,” employers are obliged to provide childcare or help their employees seek outside care. (Art. 116.) This is yet another example of how the Labor Code places different expectations of participation in family life on men and women. Rather, it is assumed in the law that women, but not men, must balance the obligations of child-rearing with work.

The gender-distinguishing provisions within the Labor Code continue: its “Specific Provisions on Women Labor” encourage employers to provide flexible work conditions (including part-time work and take-home work) to women, but not to men (Art. 109(1)); require “women’s affairs” to be specially monitored in workplaces with heavy female representation (Art. 118); and, ultimately, set forth a fundamental objective that employers shall help “female employees effectively promote their professional capabilities and harmoniously combine work with family life” (Art. 109(2)). At the same time, men are expected to handle all the “dangerous” and “heavy” work and are not afforded the same opportunities to spend time with their children. Indeed, men who wish to explore non-traditional roles and opportunities are constrained by Vietnam’s legal framework. Moreover, the law does not appear to protect women from stereotypical expectations in job notices, which often specifically state whether an employer seeks a man or a woman for a certain

position, thus closing off opportunities to the other sex. This is a common practice within the public and private sectors.

Another critical issue relating to the employment of women, as noted earlier in this report, is the **age of retirement**. Pursuant to the Labor Code and the **Social Security Law**, the standard retirement age for women is 55, while the age for men is 60. Under the Labor Code, private sector workers may continue to work if their employers agree. Legally authorized early retirement begins at age 50 for women and 55 for men. Vietnam's pension scheme also favors women: although men and women are both entitled to 45 percent of their respective reported average wage, for each year above 15 years of contribution, women's replacement rate is increased by 3 percent, while the replacement rate for men only increases by 2 percent. Thus, women with only 25 years of contribution obtain the maximum replacement rate authorized by the system, while men need 30 years to achieve the same result.⁵⁷

In the recent past, efforts to equalize the age of retirement have been opposed by various constituencies. The interest in extending the age of retirement for women turns significantly on the type of work they do: factory laborers who engage in long, hard, physically taxing work tend to oppose extending the age, while women who work in rewarding and interesting jobs are more receptive. The more privileged group of service and professional workers may oppose extending the age only insofar as, if it is changed, they will no longer be able to "double dip" into retirement benefits and payment for their continued work.⁵⁸ (Women in the agricultural sector are often overlooked in this debate, because their informal work over the years rarely results in contributions to the social security system.) Consensus for equalizing the age tends to emerge from general concern over the long-term viability of the social security system.⁵⁹ A draft **Law on Elderly**, under consideration at the time of this diagnostic, proposes to equalize the age.⁶⁰ If

that law is enacted, the Labor Code and Social Security Law will similarly have to be changed.

GENDER EQUALITY LAW

As noted in the previous chapter, Vietnam's Gender Equality Law entered into force in 2007. It is wide-ranging and, as previously characterized, largely "aspirational," focusing more on general social and economic goals than on specific edicts for action. Nonetheless, pursuant to Article 12 of the law, "enterprises employing many female workers" receive "tax and financial preferential treatment according to the regulations of the law." Whether this provision will reinforce the paternalistic legal structures enshrined in the Labor Code, or will genuinely serve the needs of working families under existing social conditions, remains to be seen as the law is implemented. The provision does suggest that a comprehensive social dialogue that reexamines gender roles in Vietnam—thereby allowing both men and women to pursue activities that may have been closed to them in the past and permitting children to benefit from the significant involvement of both parents—is many years off.

IMPLEMENTING INSTITUTIONS

Based on a model established by the ILO, implementation of a labor and employment regime is commonly regarded as a "tripartite" effort, involving a country or region's government, its community of employers, and the relevant workforce (as generally represented by labor unions). In Vietnam, there is a relatively new (2008) **National Industrial Relations Committee**, which was established for the purpose of addressing industrial disputes and includes tripartite representation. This discussion of implementing institutions is organized according to the tripartite model.

MINISTRY OF LABOR, INVALIDS AND SOCIAL AFFAIRS (MOLISA)

Pursuant to Article 181.1 of the Labor Code, the MOLISA is charged with carrying out the state administration of labor in all branches of

⁵⁷ A strong analysis of the retirement age issue, including a well-drafted case for equalizing the system, was recently published by Vietnam's Institute of Labor Science and Social Affairs in conjunction with the World Bank. See World Bank/ILSSA, *Women's Retirement Age in Vietnam: Gender Equality and Sustainability of the Social Security Fund* (2009).

⁵⁸ Id.

⁵⁹ "Draft law sets minimum age for VN seniors at 60," Vietnam News, at 1 (July 17, 2009).

⁶⁰ Id.

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Labor, Invalids and Social Affairs
- Labor unions
- Employers
- Courts

employment and localities within the country. Article 180 of the Labor Code defines the ministry's main functions as follows:

- a. to achieve a full grasp of the position and evolution of labor supply and demand as the grounds for determining national policies, plans or projects on human resources, distribution and use of labor in the overall social context;
- b. to promulgate laws and regulations and to provide guidance for their enforcement;
- c. to draw up and implement national programs for employment, migration for work in new economic zones, and for employment in foreign countries;
- d. to determine policies concerning remuneration of labor, social security, occupational safety and health, and other policies in the labor and social fields; and policies concerning the development of labor relations within undertakings;
- e. to organize and carry out scientific research on labor and social matters, and the gathering of statistics and information on labor and the labor market and on the living standards and income levels of workers;
- f. to carry out inspection and supervision of the application of labor legislation, to impose sanctions on breach of labor laws, and to settle labor disputes in accordance with the provisions of the Code; and
- g. to further international cooperation relations with foreign countries and with international organizations in the labor field.

In implementing these tasks, the MOLISA (and its regional partners, the Department of Labor, Invalids, and Social Affairs) exhibits various strengths and weaknesses. Among the MOLISA's strengths is the extent to which it has thoughtfully engaged the assistance of outsiders

to support and strengthen its core mission. For example, as noted, the World Bank recently assisted the MOLISA in its research pertaining to the retirement age. The Danish development agency (DANIDA) has supported the MOLISA's efforts to promote occupational safety and health in the country's many factories. Also, the MOLISA has similarly worked with the ILO and the United Nations Development Programme (UNDP) to improve factory conditions, combat trafficking of women and children, eliminate child labor, and improve industrial relations.⁶¹ The MOLISA also accepts help from the ILO in addressing its new implementation obligations under the Gender Equality Law.

In general, although MOLISA/DOLISA facilities in the two largest urban centers, Hanoi and Ho Chi Minh City, are adequate for most ministry workers to do their jobs effectively, rural offices typically lack important tools of enforcement, including computers, adequate vehicles, and staff to carry out meaningful workplace inspections. Although the MOLISA has made some effort to educate factory operators about their obligation to provide a safe and healthy work environment, several private employers interviewed during this diagnostic stated that they encounter little to no health and safety enforcement activity on the part of the MOLISA. In Ho Chi Minh City, DOLISA officials acknowledge that its inspection equipment is outdated and that it does work effectively with other agencies to promote worker safety.⁶² Factory accidents are reportedly on the rise in 2009, but statistics are not well maintained and efforts to address the issue are not widely discussed or well funded. There does not seem to be considerable attention devoted to the preservation of acute eyesight and fine motor skills that are needed for many industrial jobs.

In the area of labor relations, the MOLISA was active in responding—following considerable complaints by the large community of foreign factory owners, as represented by AmCham—to a series of “wildcat” strike

61 See Embassy of the Socialist Republic of Vietnam in the United States of America, “Vietnam Labor Rights Issues” (online newsletter, August 28, 2006).

62 “City lacks labour safety inspections,” *Vietnam News* (July 19, 2009).

actions in many factories (primarily foreign-owned and mostly in the south) in 2008.

In addition to its traditional functions, as noted in the previous chapter, the MOLISA is charged with implementing the Gender Equality Law. The MOLISA's Department of Gender Equality was established in 2008. Using "focal points" at the ministry's provincial and district offices, the department is tasked with implementing gender mainstreaming and equality efforts at all levels of government; providing information and education on gender-related policies and laws; training departmental staff at all levels on gender equality issues; and conducting research and analysis, thereafter reporting on the results of gender equality efforts. The MOLISA's effectiveness in this area cannot yet be determined: although internal training, with the assistance of the ILO, has begun, there does not seem to be significant awareness in provincial-level offices of government about what changes they are expected to implement. Moreover, given the inherently gender-biased, paternalistic nature of the Labor Code, it is not clear how full implementation of the Gender Equality Law will make a significant impact on the long-term working conditions for Vietnamese women. There is no expectation, for example, that provisions concerning maternity leave will change in the revised labor code; the idea of encouraging "family" or "parental" leave upon the birth of a child or other major life event is not on anyone's agenda at this time.

LABOR UNIONS

Article 10 of Vietnam's Constitution of 1992 enshrines the place of labor unions in society, stating as follows:

The trade union,⁶³ being the socio-political organisation of the working class and the toiling people, joins State organs, economic and social bodies in looking after and safeguarding the rights and interests of cadres, workers, employees and other labouring people; it participates in State administration and social management, in

the control and supervision of the activity of State organs and economic bodies; educates cadres, workers, employees and other labouring people to work well for national construction and defence.⁶⁴

Given this historical and constitutional cornerstone, the role of labor unions as an independent voice of workers in Vietnam cannot be assessed under expectations similar to those found in societies where labor unions are viewed as institutions that are independent from the state, or, indeed, where more than one political party is allowed to participate in government. Rather, although there is an umbrella organization for organized labor—the Vietnamese General Confederation of Labor—and workers, particularly those in factories, often do belong to labor unions, there is no movement of workers that can be said to be independent from the control of the state and the Communist Party. On a national level, unions tend to participate in policy dialogue pertaining to workers and will likely have a role in shaping future amendments to the Labor Code. In factories, unions serve little purpose beyond providing some off-campus services to workers, such as support for weddings, funerals, and illnesses, and sponsoring social events, such as annual "R&R" trips for industrial workers or holiday parties.

During the labor unrest of 2008, the leaders of the wildcat strikes were, according to private sector employer representatives, difficult to locate for consultation. The formal unions were generally committed to restoring stability, rather than addressing the concerns of the workers. Most formal unions are said to work in concert with the government and employers—particularly SOEs—to encourage labor stability as their fundamental goal. Their top leadership is largely male—even within factory workforces dominated by women—and there does not seem to be substantial efforts to represent or address special concerns of women, such as occupational safety and health concerns

63 Certain translations indicate that this reference pertains specifically to the Vietnamese General Confederation of Labor.

64 A somewhat different translation of this provision is available at [http://www.vietnamlaws.com/freelaws/Constitution92\(aa01\).pdf](http://www.vietnamlaws.com/freelaws/Constitution92(aa01).pdf).

(including eye safety and preservation of fine motor skills), security, training, or opportunities for advancement.

EMPLOYERS

Vietnam's community of employers includes significant numbers of state-owned enterprises (SOEs), foreign-owned enterprises, and large, domestic factories and other employers. It also is comprised of a large number of SMEs, which employ in the range of 10 to 200 people. Compliance with the legal framework is mixed: anecdotally, SOEs tend to adhere to the social security law, but are less vigilant about protecting the health and safety of its workers, while SMEs often hire workers "off the books" and avoid compliance with most work-related laws.

For their part, foreign-owned companies and domestic companies seeking to export to foreign markets are under considerable pressure from human rights and consumer groups to not only comply with Vietnamese law, but also do more to support their workers. For example, the U.S.-based apparel company Ann Taylor has reportedly made factory-based childcare a condition of its relationship with Vietnamese manufacturers. Stung in the 1990s by poor publicity following exposure of its relationship with Vietnamese factories operating under poor working conditions, Nike has also endeavored to provide a more hospitable, progressive work environment for its employees. Nonetheless, conditions at all apparel factories remain arduous and the pay remains quite low, as further discussed in this chapter's Social Dynamics section.

Employers are significantly involved in labor-related policy development. In particular, the **VCCI's Bureau for Employer's Activities** participates in discussions of a new (or amended) Labor Code, expected to be enacted in 2010. The bureau also engages in various labor-related services to employers, including training in labor relations and providing information about social insurance obligations. The bureau works with various organizations of foreign employers in Vietnam so that they know

how to meet their social insurance obligations and otherwise comply with the Labor Code.

COURTS

This diagnostic examined the resolution of commercial disputes generally (see this report's chapter on Women and Commercial Justice), but achieved only limited enlightenment about the intersection of courts and other dispute resolution mechanisms and women and labor issues. In short, the Vietnamese population is not satisfied with its courts. Their reputation for fast, fair, and independent resolution of disputes, including labor disputes, is not strong. Foreign employers generally perceive the Vietnamese courts as hostile to their interests and far more likely to rule in favor of a domestic employee rather than a foreign employer. Accordingly, they make every effort to avoid the courts.

SUPPORTING INSTITUTIONS

GENERAL STATISTICS OFFICE

The GSO is charged with maintaining statistics on all aspects of Vietnamese society and publishes an annual yearbook "reflecting the general socioeconomic dynamic of Vietnam."⁶⁵ As noted at various junctures in this report, sex-disaggregated statistics the GSO maintains is infrequent and inconsistent. It also does not yet pursue much information concerning public opinions—rather, it focuses primarily on tracking the relative economic participation of six socioeconomic regions in Vietnam. The World Bank has called for Vietnam to improve its monitoring of social impacts of economic changes through the introduction of regular labor force surveys. Even if the GSO were not inclined to take on this work, it would be a valuable source of information from a private polling enterprise or research institution.

HUMAN RESOURCE PROFESSIONALS

Along with the proliferation of large industrial employers in Vietnam, the human relations

65 GSO, *Statistical Yearbook of Vietnam* at Foreword (2008).

KEY SUPPORTING INSTITUTIONS

- General Statistics Office
- Human resource professionals
- Vietnam Women's Union
- NGOs
- Donors
- Research institutions

profession has grown significantly in recent years. Around 70 percent of HR professionals are women, and the HR community has developed professional associations and training and educational programs. The increasing professionalization of the field suggests that greater consistency and mindfulness of the law, including with respect to gender equality, is working its way into Vietnamese labor relations. Although HR departments may tend to reside chiefly in larger companies, the expectations for transparency and legal compliance they engender may “trickle down” in the future to less formal SMEs.

VIETNAM WOMEN'S UNION

As discussed at various other points in this report, the VWU is a highly influential organization that is active in most aspects of women's lives—including health, education, and enterprise development—and that has a powerful network of influence throughout the country, including in some of the most remote areas. Among the major initiatives led by the VWU is vocational education. The VWU sponsors free training for tens of thousands of women each year and helps run at least 37 vocational training centers situated throughout the country. The trades that the VWU emphasizes tend to center on traditional areas of “women's work,” including sewing, food service, and administrative jobs. Yet it is likely to be receptive to greater female inclusion in programs directed towards such male-dominated vocations as plumbing, electrical work, car repair, and similar fields. In July 2009, the VWU submitted a request to the government for funding to continue its vocational training efforts through at least 2015.

NGOs

Vietnam has a healthy and growing community of organizations devoted to promoting the interests of women at all sectors of society, including the labor arena. Those that work in the rural areas face the particular challenges of receptiveness to modern concepts of work and enterprise, as well as relatively low levels of education. In the urban areas, there is strong and enthusiastic interest in the capacity-building services offered by NGOs, including skills training and training on gender equality. NGOs must be authorized to operate under Vietnamese law, a requirement that discourages formation of groups that may be perceived as threatening to the political or social order. Many NGOs enjoy the support of a wide variety of donor organizations, including multilateral and bilateral assistance agencies.

DONORS

Many donors work to support the interests of women in Vietnam, as noted throughout this report. With respect to issues specifically pertaining to labor and employment, the **International Labor Organization** has a strong presence in Vietnam and strives to advance the working conditions for both men and women in Vietnam. A significant aspect of its work, which it performs in collaboration with the Vietnamese government and the VCCI, is devoted to strengthening entrepreneurship in Vietnam—that is, directing workers to the less traditional calling of private enterprise rather than to work in factories, agriculture, or services.

For example, in conjunction with the MOLISA, the ILO recently sponsored a project entitled “Extension of Microfinance and Microinsurance to Informal Women Workers,” which emphasized formation of household businesses and other micro-enterprises. In addition, the ILO strongly encourages all micro and small businesses, including household enterprises, to join the formal sector so they may strengthen their access to credit and other growth opportunities.



The ILO's efforts on behalf of small enterprise development reflect a worldwide trend: although vocational training and industrial work remain core concerns of the ILO, the organization has increased its efforts directing workers to independent callings, rather than suggesting that they await traditional employment in jobs that may or may not exist.

The ILO remains active, however, in strengthening the conditions of factory work in Vietnam. One program in the south is dedicated to helping employers improve conditions for workers, including promoting awareness of occupational safety and health and supporting opportunities for training and advancement. In addition, since the enactment of the Gender Equality Law, the ILO has sponsored gender-awareness training to government officials and members of Parliament. It is also involved in providing technical support to government officials to prepare and implement action plans that incorporate gender issues. During this diagnostic, an ILO representative admitted that activities and

programs pertaining to gender tend to be “top down” and “supply-driven” but that recipients, when introduced to activities and training, tend to be enthusiastic about the issue.

A number of other donors are active in supporting women's labor and employment issues. In 2008, ActionAid supported a major study of the special concerns of migrant female workers, discussed in the next section. The Danish aid agency, as noted, has been active in promoting occupational safety and health in factories. Vietnamese **research agencies**, including the MOLISA's Institute of Labor Science and Social Affairs and the National University of Economics' Institute for Population and Social Studies, receive funding from the **World Bank, UNDP**, and the **Swedish** and **French** governments, among others. The **UNDP** also supports a new Women's Leadership Program, which promotes research about women, scholarship for female researchers (through study at the University of Cambridge), research grants and mentoring, and networking among female professionals.

SOCIAL DYNAMICS

SPECIAL CONCERNS OF RURAL WOMEN WORKING IN THE AGRICULTURAL SECTOR

Well over half of Vietnam's workforce toils in the agricultural sector, an area where formality of enterprises is rare and, accordingly, there are few protections directly afforded by the Labor Code. Vietnamese farm work tends to be enormously challenging, relatively low in productivity, and poorly compensated. Rural poverty runs deep. Moreover, the traditional expectations of women as the sole provider of care for the family, including their children and elderly relatives, are magnified in rural areas. As explained by one experienced aid professional, there remains especially in rural areas a “very, very strong feeling that children are not the man's responsibility.” At the same time, domestic violence (in which both women and children are the victims) is a common, but rarely

discussed matter, one that is almost never addressed by the court system (notwithstanding the Domestic Violence Law, entered into force July 1, 2008). There is also less interest in the rural areas in educating women beyond primary school than is typically found in the urban centers. Moreover, the rural sector experiences magnified health burdens, particularly with respect to avian influenza and HIV/AIDS.

In recent years, NGOs and donors working to support economic development in rural areas have tended away from traditional workforce development programs—such as vocational training—in favor of enterprise development, so that women may start their own businesses rather than harbor expectations of finding work with a formal employer. In fact, household enterprises are quite common in the rural sector. These enterprises rarely grow beyond informal, home-based establishments, however, due to a number of reasons cited by interviewees. These include the heavy burden of child-rearing, a general lack of experience in private enterprise, opposition to or “pushback” against growth from other family members, and a lack of opportunity due to weaknesses in supply chains and access to markets. At the same time, a number of local institutions do serve the interests of women, including rural NGOs and the well-organized Vietnam Women’s Union.

Against this backdrop, the labor and employment needs of rural women begin with increased access to education and further include increased options in childcare and eldercare. Skill training cannot be neglected, as employers routinely report that they need workers who offer more than basic skills—they want individuals who can help them grow through specialization in important skills, such as English-language, management, trades such as electricity and plumbing, and so forth.

Perhaps even more challenging to implement, women in the rural sector need a stronger voice in seeking the support of men and confronting the cultural problems of preferences

for male offspring (which leads to Vietnam’s alarmingly high rate of termination of female fetuses), domestic violence, and opposition to the economic empowerment of women. At the same time, rural women need, just as men do, continued support for economic development, including streamlined conditions for doing business, training in business-related skills, improved access to credit, and better access to markets.

SPECIAL CONCERNS OF WOMEN WORKING IN THE URBAN OR SEMI-URBAN INDUSTRIAL SECTOR (INCLUDING MIGRANT WORKERS)

Vietnam’s swift and dramatic transition from a mostly agricultural society to one in which manufacturing contributes to more than 40 percent of GDP has taken place largely through the industrial work of its women, who staff nearly 80 percent of the garment, shoe, and electronic industries. A vast segment of the women working in Vietnam’s factories (around 60 percent) may be classified as “migrant female labor,” which refers generally to women typically age 15 to 55 who move from one district to another and who live in the migration destination for at least one month.⁶⁶ Most female migrant workers are quite young; a recent survey found that 96 percent are age 18 to 30.⁶⁷ Although the majority of these workers seek to improve their living standards and hope to change their lives in urban areas, most find, once they begin work in their place of migration, that they are assigned to manual work (95 percent) and difficult, colorless living environments, which brings about little change in their perceived quality of life.

Many migrant female workers, particularly those who are not married, return to their homes of origin after just a few years. While working away from home, they reportedly find grave challenges to their security and sexual health. Rates of abortion among single migrant female workers are considered high.⁶⁸ Social and health services directed to migrant female workers, the numbers of which are not officially tracked, do not exist to any significant extent.

⁶⁶ *Research on the actual situation of migrant female workers and its relationship to human trafficking*, C&D/ActionAid at 3 (December 2008).

⁶⁷ *Id.* at 8.

⁶⁸ *Id.* at 28.



Indeed, whether they are migrants or locally based, young women who find work in factories tend to work there for relatively short spans of time. One general manager of a garment factory said that his employees (who typically work six days a week, including considerable amounts of overtime) usually leave their jobs after no more than four to six years. This is because the work is tedious, long, demanding, and often unfriendly or rough, he admitted, particularly at the beginning. There is also little attention paid to on-the-job hazards, such as rapid deterioration of eyesight and fine motor skills. Moreover, factory work pays quite poorly: although the jobs provide a stable paycheck for women who, especially in rural environments, are not accustomed to economic stability, the minimum wage, typically US\$55–65 per month, does not go far, particularly for women who must send money home and bear the expenses of living away from home. Vietnam's significant inflation in 2008—over 24 percent, rising from around 8.3 percent the previous year—was the primary impetus of that year's wave of wildcat strikes. (Resolution of the world food crises has since reduced the country's rate of inflation.)

Although the majority of factories in Vietnam contribute to the country's social security

system, as much as 30 percent of industrial employers employ workers “off the books” and fail to make those contributions. SMEs in the industrial sector are also far less likely to comply with labor and social security laws.

Notably, it is the community of factory workers that strongly opposes a raise in the retirement age for women. In general, these workers do not wish to extend their time spent in arduous, physically taxing jobs.

Women in the industrial workforce need support from a variety of angles, beginning with childcare, security, housing, health, and personal financial management. They also would benefit from increased access to skills training—including on-the-job training, employer-supported extra training, and training from other sources—that enables them to specialize and grow, rather than be relegated to low-skill positions. There is increasing need to match skills-training to the specific needs of employers, particularly as Vietnam aims to grow into an economy that promises value-added or high-skilled labor, beyond its persisting reputation as a source of cheap labor in world markets.

SPECIAL CONCERNS OF URBAN WOMEN WORKING IN THE SERVICES SECTOR

Although the working conditions for women in Vietnam's agriculture and industrial sectors are enormously difficult by international standards, conditions for urban women working in Vietnam's service sector have improved considerably. The national policy that discourages Vietnamese families from having more than two children has resulted in expanded educational opportunities for women, and many university classes, including the law schools, are now dominated by women. Particularly in government offices and NGOs, women hold positions of discretion and authority. Even in services requiring less education and skill, such as taxi driving, there has been an increase in receptiveness to women's participation. There has been a gradual integration of traditional labor roles in

the urban areas, according to researchers interviewed during this diagnostic.

Yet urban women in the service sector are still significantly constrained by Vietnam's core cultural values. Like women throughout the country, they carry a disproportionate amount of household responsibility, thus reducing their opportunities for advancement. Gender stereotypes also contribute to a "glass ceiling" in many organizations. Sexual harassment is barely acknowledged as an issue: young women are accustomed to the notion of being hired and fired based on their youth, looks, and willingness not to complain about inappropriate male behavior. Moreover, even sophisticated urban women have not escaped the scourge of domestic violence, an issue that is rarely discussed or enforced at large.

There are, as previously mentioned, many programs in Vietnam that reach out to urban women who desire to grow professionally. These should continue to be encouraged through opportunities to network and share experiences with other women, build management skills, and confront continued barriers to advancement, such as sexual stereotypes and sexual harassment.

OTHER GROUPS WITH SPECIAL CONCERNS

During this diagnostic, a number of women-owned companies were encountered that make a point of employing mainly physically disabled people for the majority of their staff. It was difficult to gain a full understanding of how such businesses work—whether, for example, there is economic incentive for employing disabled workers, or whether such engagement is, as was typically represented, entirely altruistic. Disabled workers were often referred to as "children," indicating that disabled adults in Vietnam operate under a paternalistic structure not so different from the paternalistic (and stereotype-based) conditions that dictate the employment of women.

Women in Vietnamese minority groups face a plethora of conditions that undermine their opportunities for advancement. Often, they live in environments that do not encourage the education of girls and women. They may not speak Vietnamese, a great disincentive to advancement, whether as workers or entrepreneurs.

Interviewees also suggested that there are regional differences in the way Vietnamese society treats women. There is not a consensus, though, about which region is "better"—during one interview with a group of women, some attested that men from the north are more helpful in tackling household chores, while others said that men in the south were more helpful! Vietnamese men do not lend themselves to gender stereotyping anymore than the women do, it appears.

RECOMMENDATIONS

- **Strengthen the collection and dissemination of sex-disaggregated data pertaining to Vietnam's workforce.** As long maintained by the World Bank, sex-disaggregated data and gender-sensitive indicators are important to diagnose the extent of gender disparities and to inform analytical work in different areas of policy. There should be more gender orientation of statistics collected by Vietnam's General Statistics Office, as well as stronger efforts by donors and NGOs to discern statistical gender differences in the various labor-related areas they address. As recently recommended by the World Bank, Vietnam should improve the monitoring of social impacts through the introduction of regular labor force surveys.⁶⁹
- **As a component of the Labor Code revision process, encourage public debate about gender roles in society.** The upcoming revisions to the Labor Code present an important opportunity to consider the major differences confronting women and men in the labor

⁶⁹ World Bank, *Taking Stock: An update on Vietnam's recent economic developments* (June 2009).

market. In tripartite discussions concerning the Labor Code, policy debate should be encouraged to include the viewpoint that current paternalistic provisions in the law, or provisions that essentially deem women, not men, responsible for child-care, are contrary to the objective of true gender equality. Encourage discussion of this topic through the media and in educational programs, such as law schools and human resources curriculum. The discussion should extend to issues such as sexual harassment and the “glass ceiling” in the traditional urban workforce.

- **Examine the state of occupational safety and health awareness and enforcement in Vietnam, particularly as it concerns the workplace hazards impacting work in the garment, footwear, and electronics industries.** Compile a list of all the major health and safety interventions that have taken place over the past five years, as sponsored by the state, donors, and NGOs, and evaluate

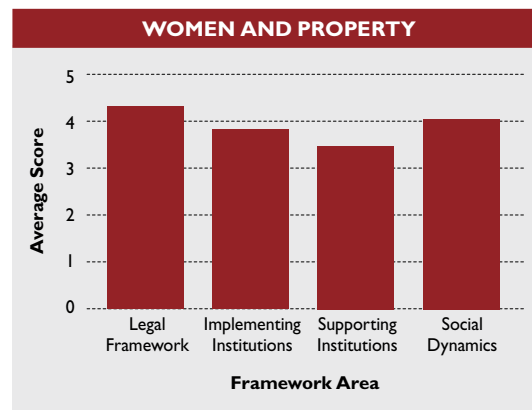
their effectiveness. Base future interventions on those activities deemed to have actually succeeded in bringing down the rate of industrial or workplace accidents or raising the health of workers.

- **In the rural areas, improve female access to education beyond primary school and training in skilled jobs.** Such an effort will not only boost the overall skill level of the labor force, but also enable agricultural workers to protect themselves against certain work-related risks, such as unsafe use of pesticides.
- **Continue efforts to support and increase the capacity of Vietnamese courts, incorporating increased awareness in the courts of principles of gender equity.** Laws that support the rights of women—indeed, all Vietnamese people—are only as strong as the institutions that enforce them. There is high demand for a court system that is more efficient, effective, and independent in executing its duties.



WOMEN AND PROPERTY

This diagnostic addresses three types of property rights that are fundamental to the meaningful participation of women in Vietnam's economy: real property, moveable property, and intellectual property. Moveable property (which includes vehicles, equipment, inventory, and other property that may be used to secure loans to individuals and enterprises) is addressed in this report's chapter on Women and Credit. This chapter addresses the place of women in the country's **real property** regime, including the extent to which women have access to own, use, and trade in land, as well as women and **intellectual property rights** (IPR) in Vietnam, that is, the extent to which they are able to take advantage of legal protections afforded scientific inventions, industrial property, copyrights, and related rights.



In general, the differences in access to and use of real and intellectual property between men and women in Vietnam are not as significant as gender differences identified elsewhere in this report. With respect to real property, efforts over the past decade to ensure that women's rights to land use and proof of land rights have resulted in important improvements, although implementation of legal changes—especially educating rural women about their rights to the land they hold with their spouses—must continue. For the most part, however, the fact that Vietnam still suffers from various problems relating to its regime of land use, including official corruption, is an issue that tends to impact men and women alike.

As for intellectual property, women are, in a variety of ways, gaining access along with men to knowledge of this field and the opportunities it presents. Again, the limitations of intellectual property in Vietnam—including the continued exploitation of intellectual property owned by foreigners and a lack of awareness over the issue generally—tend to impact men and women alike. That said, increased outreach to women scientists, entrepreneurs, and professionals on issues of IPR would serve to enhance the government's implementation of Vietnam's relatively new legal regime for IPR. Indeed, the enthusiasm and desire for growth exhibited by Vietnam's expanding cadre of women-owned businesses (detailed in this report's chapter on Women and the Private Sector) present an opportunity to proponents of IPR in Vietnam.

The GenderCLIR indicator scores for Women and Property, shown in the graph in this section, are relatively high. Nonetheless, there are many ways the country can strengthen the environment for property ownership that could benefit women and men alike.

REAL PROPERTY

Vietnam faces a host of issues relating to land that impacts the ability of enterprises to grow

and thrive. The Land Law of 2004 sets forth a relatively clear system for land use rights and transactions, and the country's land use registries have become increasingly effective in registering the property rights of Vietnamese citizens. This is enormously important for individuals and small enterprises that wish to draw on their primary source of wealth as collateral for loans that may allow their activities to thrive and grow. As a practical matter, secure land rights impact the economic choices of women who are faced with decisions about their livelihoods: intuitively, a woman who is aware of her full rights to her property is more likely to use it as a grounding for her livelihood, whereas women who do not have land rights are more likely to migrate to jobs or opportunities elsewhere.

The shortage and fragmentation of land in this country of more than 86 million people, however, complicated by confusing, conflicting and often corrupt practices pertaining to state-owned land, renders the topic fraught with challenges.⁷⁰ Ultimately, problems facing Vietnam's land regime have considerably less to do with gender than with other issues. Especially since the implementation of a major initiative this decade to promote the inclusion of both spouses' names on Land Use Rights Certificates, most issues pertaining to land use and possession are best addressed on a broader scale, one that is gender-aware and inclusive, but not exclusive to women.

LEGAL FRAMEWORK

LAND LAW

The cornerstone legislation pertaining to real property in Vietnam was passed by the National Assembly on November 26, 2003, and entered into force on July 1, 2004. The Land Law replaced previous iterations of the law, which was first enacted in 1993 and significantly amended in 1998 and 2001. The 2004 law contains a number of changes from its previous version, including changes designed to improve land

KEY LAWS AND REGULATIONS

- Land Law (2004)
- Constitution (1992)
- Decree No. 181-2004, providing for implementation of the Law on Land
- Various other decrees, circulars, decisions and laws pertaining to land use and real property

policy for the agriculture sector, narrow the distinctions between Vietnamese and foreign investors in access to land, address concerns about state recovery of land for certain purposes, and others.

The core principle underlying land law in Vietnam (as also enshrined in the **Constitution**) is that ownership of land resides with the people and the state administers the land on behalf of the people. Thus, rather than owning land themselves, the state assigns individuals "land use rights" for an unlimited period of time. Holders of land use rights may transfer them in a number of specific ways: they may exchange, transfer, lease, sublease, inherit, donate, and mortgage their land use rights (see Land Law, Art. 61). All land use rights must be registered in a local land registry. The holder of a land use right is entitled to a **Land Use Right Certificate (LURC)**—also known as a "red book"—which may be assigned not only to individuals but also to people's committees of districts and municipalities.

Gender-related changes to the land law were conceived as early as 1997, when World Bank-sponsored research on the relationship between women and land was first conducted in earnest. The research made a number of findings. First, it established that women were typically disenfranchised from holding land use rights, because, among other reasons, LURCs generally only had one name on them—that of the head of household, usually a male. Second, the research and subsequent outreach found that women were not aware of their rights to their family's real property. Particularly in the rural areas where

⁷⁰ See, e.g., Saigon Giai Phong, *HCMC faces illegal use of land* (English Edition, July 24, 2009).

women are typically less educated than men and otherwise face more outright discrimination, women were often unaware that their marital status or inheritance rights entitled to them to formal recognition on LURCs. In 2001, the government enacted Decree No. 70, which required registration of family assets and land use rights to include the names of wives as well as husbands. This provision was later enshrined in the Land Law. **Decree No. 181-2004**, providing for implementation of the Law on Land, specifically requires the following:

Article 43 *Recording names of people using land on certificates of land use right*

3. In the case of the land user being a family household or individual:
 - a. Where the family household or individual is using agricultural land as allocated by the State without collection of land use fees, or where the land use right is a common asset of husband and wife, then both the full name of the husband and the full name of the wife shall be recorded [on the LURC]; and if the family household requests that only the full name of the husband or wife be recorded, there must be written agreement from both husband and wife certified by the people's committee of the commune, ward, or township.

6. In the case of many land users with a common land use right, then the names to be recorded [on the LURC] shall be the names of all such people ...
 1. If the land user was issued with a certificate of land use prior to 1 July 2004 and if recording the name on the certificate of land use would be inconsistent [with the remainder of Article 43], then if there is a need procedures shall be conducted to amend the name on the already issued certificate of land use right.



Five years after the Land Law's entry into force, there is increasing, though not complete, awareness of married women's property rights. Issues that may cause confusion at the registry and other real property institutions include what becomes of an LURC when a couple is divorced, especially during the period of court resolution of ownership issues, which can take many months or even years. Inheritance also presents questions that must be resolved before issuance of a new LURC. Another topic that seems under-explored is whether and under what circumstances one spouse can purchase and hold real property independent of the other spouse.

Government inspection agencies are charged with investigating certain issues, with the final arbiters being the courts. In fact, land disputes constitute as many as 75 percent of cases pending in the Vietnamese courts.

OTHER LAND-RELATED LEGISLATION

For many reasons, including Vietnam's complex history of colonialism, war, changing land-ownership policies, and commitment to socialism, access to land and other real property rights in Vietnam are enormously costly and fraught with legal complications. For example, in some instances, the law requires rights to real property to be documented not only through an

LURC, but also through a House Ownership Rights Certificate (HORC) or Construction Work Rights Certificate, typically issued by people's committees or departments of construction in the provinces. A long list of additional circulars, decrees, decisions, and laws⁷¹—all holding the authority of law—complicates the picture further: especially as it concerns construction on land, the universe of law and regulation is enormously complex. Other major areas of regulation include taxes on land use, a regime pertaining to official land prices, land use rents and fees, ownership and use of residential housing, and others.

Thus, it is the more educated or wealthier classes, especially those with access to lawyers and other professionals who can help them navigate the system, that have an advantage with respect to access to and use of real property in Vietnam. Poorer, less educated people—which in the rural areas include women in particular—are disadvantaged.

IMPLEMENTING INSTITUTIONS

MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT (MONRE) AND DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT (DONRE)

The MONRE (national level) was established in 2002, taking the place of a previous ministry that was charged with implementing the land law. At this time, the MONRE oversees six major areas: land resources; geology and mines; water; hydrometeorology and climate change; surveys and mapping; and environmental protection.

The MONRE, the DONRE (provincial level), and district divisions for Natural Resources and the Environment are charged with the formal registration of real property, including the preparation and filing of LURCs.⁷² The process of changing all the LURCs to reflect the names of both spouses has not yet taken place—as

a practical matter, the second name is now added when a change in registration through sale, transfer, assignment, or other such action takes place. Land use officials in urban areas attest that they are well aware of the dual-name requirement and that women are treated equally by their offices when it comes to ensuring that both names appear on the certificate and even when their names do not appear on the certificate. Nonetheless, women are disadvantaged by the status quo because, in order to use their property as collateral for a loan, they face an extra, time-consuming step to add their names to the LURC.

LAND-USE TITLE HOLDERS

(Percentage of LURCs held in male, female, or joint names)

Land Type	Male only	Female only	Joint
Agricultural land	66	19	15
Household land	60	22	18

Source: World Bank (2006), using Vietnam Household Living Standards Survey 2004 data

There also remains an ongoing problem of many urban land parcels remaining outside the formal land registration system,⁷³ an issue that has a negative impact on the land use rights of both men and women. In rural areas, where there may be less transferring, assigning, or leasing of land, LURCs have generally not transitioned into containing both names. Earlier in this decade, a World Bank pilot project in two communes in the NgheAn province reissued close to 2,600 LURCs to comply with the dual-name requirement. Lessons learned from this project have provided guidance to continuing, government-sponsored efforts to enforce the requirement.

One practical impact of the dual-name policy is that no mortgage or other change in status can be permitted where an LURC is not signed by both spouses and both spouses do not consent to the transaction. Whether this policy is faithfully carried out as a practical matter is difficult to assess. Vietnam's process of registering real property receives a high ranking in the world under *Doing Business*, 37th out of 181 countries

71 An excellent source of laws and regulations pertaining to real property in Vietnam can be found at the Doing Business online law library, available at <http://www.doingbusiness.org/LawLibrary>.

72 Historically, there has been some overlap of registration responsibilities between local divisions for Natural Resources and the Environment and local offices of the Ministry of Construction. This perceived conflict is beyond the scope of this report, but may indeed present some confusion to individuals in rural areas seeking to confirm that their LURCs are properly registered.

73 See USAID/Booz Allen, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* at 38 (2007).

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Natural Resources and Environment (national agency) and Department of Natural Resources and Environment (provincial level)
- Local people's committees
- Ministry of Construction
- Courts
- Various other land-use agencies, including zoning authorizes and environmental authorities

most recently surveyed, indicating a commitment on the part of the government to smooth and accessible processes in the transfer of land. On other hand, corruption in the country is also perceived as high. Vietnam ranks 121st out of 180 countries most recently surveyed by Transparency International's Corruption Perceptions Index—that is, in the bottom third in the world.⁷⁴ Corruption in the land-transfer process has long been noted as a particular problem,⁷⁵ one that necessarily impacts women as much as—if not more than—men. Moreover, power dynamics in traditional marital relationships may render some women incapable of influencing their husbands' decisions concerning the use of jointly owned property.

COURTS

Vietnam's court system receives a great many land cases. Common types of cases include boundary disputes, arguments over rights to use land, and disputes arising from allocations of state-owned land. For women in the rural areas in particular, although it is technically possible to appeal inappropriate transfers of land, few have the resources to bring a challenge, if they are even aware of their rights. Bringing practice into line with law will require continued public education, legal aid, and incorporation of gender concerns into public institutions to ensure female participation as a counterweight to current male dominance. For further discussion of Vietnamese women's role in the court system and other means of dispute resolution, see this report's chapter on Women and Commercial Justice.

SUPPORTING INSTITUTIONS

Vietnam has no significant gaps in its supporting institutions for real property. Services and organizations exist over the full range of needs, from initial mapping to development and eventual sale. **Mappers, surveyors, engineers, builders, developers, and real estate agents** generally compete with one another. These organizations, however, tend to be concentrated in the larger cities, so that it is not clear whether needs in more rural and remote areas are sufficiently addressed. Even so, the basic foundation is strong. Other real property institutions that may be of special interest to women are discussed below.

REAL PROPERTY-RELATED RESEARCH INSTITUTIONS

Supporting institutions for real property are important to women insofar as they help better understand the status of women's relationship to real property and they help propose or test possible policy solutions. The **Ministry of Construction, Bureau of Housing and Real Estate** is a public agency that conducts research on housing issues in Vietnam. Although the studies rarely focus on gender issues, the issues it studies and the impact of certain land regulations, may particularly concern women. The **Hanoi Department of Natural Resources** has performed research on gender and urban development. The **Ho Chi Minh City Institute for Development Studies** focuses on a variety of issues, including real property matters that may impact women. (Other important research institutions are identified in this report's chapter on Women's Role in Society.) One area that is only rarely confronted head-on is the pervasive family expectations on women, particularly in the rural areas, where men's traditional roles remain virtually unquestioned. Another area that needs continued research is the relationship between land tenure and women's migration patterns. Research in this area has taken place to a

⁷⁴ Transparency International, *Corruption Perceptions Index* (2008).

⁷⁵ USAID/Booz Allen, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* at 33 (2007).

KEY SUPPORTING INSTITUTIONS

- Research institutions
- NGOs
- Vietnam Women's Union
- Donors

limited extent, but the policy implications are not yet clear.

NGOs AND OTHER KEY GROUPS

Vietnam's large community of organizations devoted to promoting the interests of women, including the **Vietnam Women's Union**, can assume an important role in promoting the property rights of women. That is, almost any activity directed to the empowerment of women—from entrepreneurial development to vocational education and training and even to health—can integrate a discussion of women's property rights, for the purpose of ingraining this source of economic advancement into the public consciousness. For that matter, *all* programs directed at enterprise development, particularly as it concerns access to credit, should brief potential borrowers on the significance of the dual-name LURC.

DONORS

The World Bank has been particularly active for more than 10 years in the area of women's access to real property rights. It has also been instrumental in general development of land issues such as rural roads and poverty alleviation in rural areas. Donors should continue to assist Vietnam in strengthening and sorting out its complex system of land rights and land use management. All programs should include gender awareness and integration as among their core values, implemented through tangible activities.

SOCIAL DYNAMICS

Dynamics of land issues vary with the type of land in question. Rural and agricultural land is often tied to communal and customary issues quite different from those in an urban or semi-urban setting. Yet in all circumstances, property

rights are fundamental to growth, empowerment, and security.

CHANGING ATTITUDES TO LAND

In Vietnam, people, especially those in the rural areas, have not traditionally viewed land as a commodity. Use, rather than ownership, was most important—indeed, until relatively recently, land was held collectively by the state. Attitudes toward land use rights are gradually changing, as more and more Vietnamese cycle through urban areas where securitization of land for the purpose of borrowing money is increasingly common. Rural Vietnamese are becoming increasingly comfortable with owning land use rights, and also with buying and selling them. This process requires education of people, particularly owners of small enterprises, who need to understand the full details of mortgaging their land, including its implications and benefits. Programs directed toward rural enterprises should instruct their pupils about land as a mechanism for access to credit, as well as, in turn, the responsible use of credit.

MINORITY WOMEN AND REAL PROPERTY

Despite their heavy participation in agriculture, ethnic minority women are less likely to have security of land tenure. Land titles issued to ethnic minority households are less likely to have a woman's name included than those issued to the Kinh/Chinese majority households. In one survey, for agricultural land, 36 percent of titles held by Kinh/Chinese either were held in the name of women or jointly, in contrast to only 26 percent of those held by ethnic minorities. The discrepancy was even greater for titles for residential land, whereby 42 percent of the titles held by Kinh/Chinese were held by women or jointly, compared to only 23 percent of ethnic minority women. For many ethnic groups, inheritance customs that pass land through the male lines, and women's lack of awareness of their legal rights, exacerbate the situation. Thus, special care in land use or real property assistance programs, whether domestically administered

or through the assistance of donors, should be taken to educate ethnic minority women about their land use rights.

ENVIRONMENTAL ISSUES

In-depth examination of women and environmental issues in Vietnam is beyond the scope of this diagnostic. Nonetheless, there is much to learn about the impact of Vietnam's substantial environmental degradation of recent years (including land, air and water pollution, deforestation, and other problems) on the livelihoods of women. Similarly, opportunities to engage women in environmental protection should be explored and developed. According to one government land use professional who specializes in environmental issues, women are enormously receptive to public outreach efforts that concern the environment. The VWU is especially engaged, she said, in promoting environmental awareness throughout the country (the only group to exhibit the same level of interest in environmental protection, she said, was Vietnam's large community of retired soldiers). Particularly in the rural areas—and as the guardians of their families' health and personal welfare—women are eager to learn about responsible use of pesticides, management of indoor pollution, and reduction of household waste. As Vietnam has pushed hard toward industrialization and economic growth, business and investment interests have been perceived as receiving priority over environmental issues. Stronger orientation to environmental concerns in the future should take advantage of the enthusiasm of female constituencies to serve as guardians of their land, air, and water.

CORRUPTION

Rent-seeking in land-use agencies—less euphemistically, solicitation of gifts and other bribes by public representatives—is a serious issue in Vietnam. This includes reports of registry officials requiring bribes to release LURCs, and land use officials in Vietnam overlooking zoning or environmental restrictions to favor businesses in which they may be personally interested. The

problem of corruption reflects more than poor regulation. It also shows pervasive attitudes among public employees that their work can legitimately be used for private gain. Continued, unchecked conflict of interest and corruption, particularly in the rural areas that are less scrutinized by the media and other forces, breed not only disenchantment with government systems, but also *more conflict and corruption*. Any assistance program oriented toward land policy reform or development must include an anti-corruption component, taking into account best practices that have reduced corruption in other countries and regions.

RECOMMENDATIONS

- **Strengthen the collection and dissemination of gender-aggregated data pertaining to Vietnam's land use rights.** As noted at several points in this report, sex-disaggregated data and gender-sensitive indicators are important to diagnose the extent of gender disparities and to inform analytical work in different areas of policy. There should be more gender orientation of statistics collected by Vietnam's General Statistics Office, as well as stronger efforts by donors and NGOs to discern statistical gender differences in the various real property-related areas they address. For example, there does not appear to be a full understanding of the extent to which LURCs have been amended to reflect the dual-name requirement of the Land Law. That information should be uncovered, as well as characteristics and rates of female inheritance, female land use, access by women-owned enterprises to land as collateral for loans, and other key points of information.
- **Encourage public debate about gender roles in society.** Stereotypes and widespread expectations of gender roles serve to perpetuate the gender gaps between men and women, particularly

in rural areas. Seeking support from one another, as well as from the donor community, women's NGOs and professional associations should launch a public conversation about issues that, according to many people interviewed for this diagnostic, are not widely discussed at this time, such as gender roles in parenting and family life, domestic violence, sexual harassment, and other topics.

- **Improve female access to education beyond primary school in the rural areas.** Such an effort will not only boost the overall skill level of the labor force, but also enable rural women to assert their rights to land ownership. It also gives them the tools to manage environmental issues such as pesticide use, waste disposal, access to clean water, and indoor pollution.
- **Continue anti-corruption efforts.** As in many economies, corruption in Vietnam is a scourge that inhibits the ability of enterprises to grow and thrive. The absence of a "level playing field" means that individuals with sound ideas and creative approaches may fail in their endeavors due to the hidden, illegal conduct of others. All anti-corruption efforts, including those dealing with land, should include an anti-corruption component. Women-owned enterprises, among others, will benefit from the growth of more transparent, conflict-free institutions.

INTELLECTUAL PROPERTY

As Vietnam endeavors to uphold international expectations about IPR enforcement, it is also charged with promoting a "culture" of IPR within its own community of scientists, entrepreneurs, artists, writers, and others, one that will allow creators of intellectual property to profit economically from their work. The country's **Law on Intellectual Property**, which went into effect on July 1, 2006, along with a variety of implementing decrees, creates an

internal structure whereby Vietnamese inventors and creators may seek and obtain patents, trademarks, copyrights, and plant variety rights, so that their intellectual property may be protected from the uncompensated use by others. Public understanding of this system is new, however; men as well as women throughout Vietnam remain largely unaware of the scope of opportunities (as well as restrictions) established by the law. Proponents of IPR would likely benefit from seizing the enthusiasm and receptiveness to new ideas found in the burgeoning community of women business-owner groups, discussed in this report's chapter on Women and the Private Sector, and promoting a culture of IPR within these influential groups.

Despite government efforts in recent years toward developing a strong regime of IPR protections, Vietnam has not yet lost its reputation as a country where intellectual property, particularly trademarks, designs, and copyrights owned by foreigners, is routinely stolen for profitable industrial purposes. Vietnam remains on the most recent (2009) "Section 301 Watch List" of countries engaged in significant intellectual property violations annually compiled by the Office of the United States Trade Representative (USTR). The USTR remains concerned over Vietnam's high piracy rates, which appear to be growing; increasing rates of online piracy, concurrent with increased Internet penetration; and insufficient enforcement actions, particularly with respect to copyright.⁷⁶ At the same time, the USTR is complimentary about many of the country's actions aimed toward reducing IPR violations, including strengthened institutional capacity of enforcement agencies, revisions to the Criminal Code, and efforts to address Internet piracy.⁷⁷ This year's removal of Korea and Taiwan from USTR's Watch List signals to Vietnam that its continuing anti-piracy efforts may eventually result in the country's removal from the list, which would represent an enormously important accomplishment for this emerging economy.

⁷⁶ See USTR "Section 301 Watch List," available at <http://www.ustr.gov/sites/default/files/Watch%20List.pdf>.
⁷⁷ Id.

LEGAL FRAMEWORK

The legal framework for IPR in Vietnam is summarized in the USAID/Booz Allen report, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* (2007). In addition to the **Law on Intellectual Property**, at least **15 laws and decrees** in Vietnam address one or more components of IPR. The legal framework for IPR appears gender-neutral in its entirety.

Vietnam's legal regime for IPR primarily aims to counteract the pervasive piracy of foreign-owned trademarks, designs, copyrights, and other intellectual property that has accompanied the industrialization of the country. Less emphasized in the legal framework, but important for the long run, is the creation of an *internal* IPR regime that protects the intellectual property of the Vietnamese people. Vietnam now has institutions that, through registration, formally protect inventions, utility solutions, industrial designs, trademarks, and geographical indications by Vietnamese and foreigners. To contrast, as one example, the number of trademark applications filed by Vietnamese in 1990—423—versus those filed in 2008—15,826—is to understand the growth in internal demand for modern mechanisms of property protection.

It is generally understood among educated classes in Vietnam that registering IPR creates a right of enforcement—that is, violators of a patent or trademark may be sued for damages in court (although the courts are slow to enforce IPR rights, as briefly detailed below). Less well understood is the extent to which IPR may be used as one source of entrepreneurial growth. For example, under a well-administered system of secured transactions, a certificate of intellectual property may actually be used as collateral for a loan. Similarly, entrepreneurs who are

KEY LAWS

- Law on Intellectual Property
- Additional laws and regulations pertaining to IPR and enforcement

secure in their ownership of IPR are more likely to succeed than those who own no IPR or who are vulnerable to copying and theft.

IMPLEMENTING INSTITUTIONS

NATIONAL OFFICE OF INTELLECTUAL PROPERTY (NOIP)

Within the **Ministry of Science and Technology**, the **National Office of Intellectual Property** is charged with implementing most of the country's IPR regime, including patents, trademarks, and industrial designs. (Copyright is within the jurisdiction of the **Ministry of Culture and Information** and new plant varieties are managed by the **Ministry of Agriculture and Rural Development**.) Although the NOIP appears to be pursuing its agenda for integrating IPR into the fabric of Vietnamese society with all due seriousness, it does not appear to view women—including women scientists, women artists, and women entrepreneurs—as a group that might benefit from special, targeted outreach. The NOIP does not maintain statistics that show how many women or women-owned businesses seek patents, trademarks, or industrial design. Further, although the NOIP has an active outreach function, through which it provides information in writing and online as well as on television and radio, it has not targeted industrial areas where women have a strong representation, such as handicrafts or fashion design. The NOIP similarly does not track by gender the participation of students enrolled in

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Science and Technology and regional offices of intellectual property
- National Office of Intellectual Property
- Ministry of Culture and Information
- Ministry of Agriculture and Rural Development
- IPR enforcement agencies
- Courts

the short courses it offers or contestants in its annual contest for inventors.

On the other hand, the NOIP is significantly staffed by women—at least half of its employees are female—and is aware of a high presence of female scientists in Vietnamese society.

MINISTRY OF SCIENCE AND TECHNOLOGY AND REGIONAL OFFICES

Enforcement of the country's IP regime and public outreach on intellectual property issues are continuing concerns of regional offices such as the **Ho Chi Minh City Department of Science and Technology, Intellectual Property Office (IPO)**. The IPO works with at least five agencies that are involved with investigating and prosecuting abuse of the law, including the People's Committees, the Department of Industry and Trade Market Control Body, the Economic Police, the Customs department, and the Inspector of Science and Technology. The IPO is also engaged in promoting local, regional, and national technology contests, in which participants, including researchers, entrepreneurs, and others, are invited to solve a problem posed to them by the ministry. Women do participate in the contests, although the numbers are not tracked. Significantly, women comprise about 40 percent of a popular, voluntary training program for about 90 students, sponsored by the Ho Chi Minh IPO. Like their male colleagues, female participants in the intensive, semester-long introduction to IPR issues have backgrounds as scientists, business managers, lawyers, and software engineers.

ENFORCEMENT AGENCIES

This diagnostic did not look closely at the community of IPR enforcement agencies in Vietnam, which includes the **Ministry of Trade and Industry**, the **Customs** agency, and the **economic police**. For the purpose of promoting IPR awareness among local women-owned enterprises, the expertise gained by these

agencies can be accessed as a source of knowledge and awareness.

COURTS

This diagnostic examined the resolution of commercial disputes generally (see this report's chapter on Women and Commercial Justice), but achieved only limited enlightenment about the intersection of courts and other dispute resolution mechanisms and women and IPR. The Vietnamese professionals who are involved with the promotion or enforcement of IPR are widely dissatisfied by the courts. They assert that judges lack meaningful understanding of the details of IPR and need significant additional training to improve their reputation in this area. Foreign companies are especially wary of the Vietnamese courts' ability to appropriately resolve and enforce IPR cases.

SUPPORTING INSTITUTIONS

A potential network of supporting institutions exists for women wishing to learn more about IPR and to benefit from the opportunities it presents, but that network has not yet been charged with promulgating information and training about IPR. The same key supporting institutions identified in this report's chapter on Women and the Private Sector—including the **VWU**, the **Women's Enterprise Council** of VCCI, donor initiatives focused on enterprise development, **Start and Improve Your Business** clubs, and, perhaps most especially, the **vibrant local networks of women-owned SMEs**—are those that could most effectively educate, train, and assist women in accessing their rights to IPR. They also represent a potential source of women's participation in the annual national IPR contests. In addition, this network could be coupled with **university programs** that teach IPR (as supported by the **NOIP**), **professional associations of scientists, IPR lawyers**, interested groups such as the **U.S.-Vietnam Trade Council**, and **research institutions**, for the purpose of sharing information, connecting creative ideas

with implementers, and building wealth through the securitization and enforcement of intellectual property rights.

SOCIAL DYNAMICS

A lack of public awareness about the benefits of IPR protections causes many Vietnamese entrepreneurs and inventors—especially women—to forego those benefits, including both local and international sales and revenues that can come from new products, works, and designs. Millions of dollars are likely lost each year because Vietnamese women entrepreneurs only rarely register their intellectual property. This diagnostic did encounter one Vietnamese woman entrepreneur who had successfully gained a patent on a “double-sided” embroidery process. She was both enormously proud of this accomplishment and confident that it assisted in the growth and increased reputation of her business. Empowerment through IPR indeed represents an opportunity for Vietnamese women, one that both local and outside advocates of an IPR culture should embrace.

RECOMMENDATIONS

- **Strengthen the collection and dissemination of gender-aggregated data pertaining to IPR.** It is unfortunate that the NOIP does not currently maintain records about the numbers of patents, trademarks, and other industrial

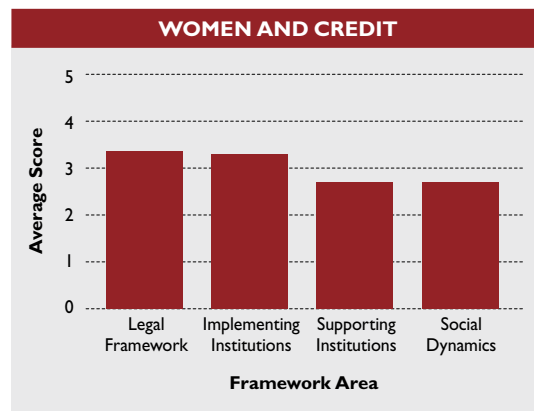
protections owned by women or women-owned enterprises. Such information would inform how women can be best served as a key constituency in the promotion of IPR.

- **Encourage those institutions that are engaged in the promotion of IPR to target organizations of women entrepreneurs, scientists, lawyers, and other key groups in their outreach efforts.** As detailed in this report’s chapter on Women and the Private Sector, there is an enthusiastic and receptive community of women entrepreneurs and business associations that would welcome increased information about opportunities in IPR. This community should be accessed and engaged as part of Vietnam’s mission to embrace IPR as a source of wealth and enterprise development.
- **Strengthen the training of judges and lawyers.** IPR systems are only as effective as the mechanisms in place to enforce them. Throughout Vietnam’s IPR community, there is dismay over the current ability of Vietnam’s courts to address IPR issues. Continuing education of existing judges is necessary, as well as integration of IPR education and training into law school curriculum and continuing education for lawyers.



WOMEN AND CREDIT

Since the enactment of Vietnam’s modern Enterprise Law in 2000 (and its update in 2005), private enterprises in Vietnam have enjoyed favorable conditions for growth and development, including strengthened access to finance. Significant legislative enactments, combined with economic enhancements in the past 10 years—most notably, accession to the WTO in 2007—have positioned the country for continued growth in the coming decades. For its part, the banking sector is undergoing a major restructuring, which includes recapitalization, introduction of market-based lending, and capacity building of financial institutions.



It is in the context of rapid and sustained economic growth and corporate sector development that the role of SMEs in Vietnam—and women-owned SMEs in particular—must be considered. They also must be viewed against a backdrop of heavy state involvement and large foreign investments in the economy. Namely, although SMEs have traditionally been regarded as predominantly local, privately owned companies, 66 percent of state-owned enterprises (SOEs) are considered SMEs and 77 percent of all foreign-owned enterprises are SMEs, according to the criteria used by the government.⁷⁸

Rapidly changing conditions impact the environment for women’s access to credit. In the banking sector, recent regulations have removed administrative interventions in lending activities. Private credit institutions now have the right to

consider, to make decisions, and to take responsibility for providing credit to SMEs. Together with traditional types of commercial bank lending, policies on new forms of credit provision—such as guarantees, discount, rediscount, and factoring—have also been issued by the State Bank of Vietnam, thus creating a legal framework for credit institutions to lend to SMEs in compliance with international best practices. Many banks, such as Agribank, Industrial and Commercial Bank (Vietinbank), and the Vietnam Bank for Social Policy, have implemented credit support programs for SMEs and established specialized divisions to undertake this task. While the focus has been on SMEs, there has been a consistent lack of pro-women lending. This market segment has not been addressed nor the opportunity to lend to women business owners to help them grow beyond the SME sector.

With the recent enactment of the Gender Equality Law, the legal right of women to their economic pursuits, including enterprise development, has been re-enforced. Yet Vietnamese women continue to experience many more barriers than men with respect to access to finance to grow their businesses. This chapter focuses on the major opportunities and constraints pertaining to access to credit for women in Vietnam. Key questions asked during this diagnostic include the following:

⁷⁸ Decree 90/2001/ND-CP on SME Development (Nov. 23, 2001).

- What are the characteristics of women-owned enterprises, particularly in the formal economy?
- Are women accessing the credit system, and do they have the ability to qualify for adequate levels of funding through traditional banks and other lending sources?
- Are banks and the business organizations currently in place attuned to the specific needs of their woman clients? What gaps need to be closed before there is an increase in the rate of borrowing from the currently estimated 25 percent of all SMEs loans made to women?

There is scant data in Vietnam pertaining to women-owned businesses, including their relative access to finance and their use of various credit products. Thus, much of what this diagnostic could unveil about women and credit is anecdotal. To better serve women in the future, data pertaining to women and credit must be significantly improved. With few exceptions banks have not differentiated their product offerings, marketing focus or service orientation by gender.

The GenderCLIR indicator scores for Women and Credit are among the lower of the subject matters covered in this report. Legal framework and implementing institutions are slightly more positive, but supporting institutions and social dynamics are quite weak. A number of recommendations for reform are set forth at the end of this chapter.

LEGAL FRAMEWORK

As a threshold matter, the legal and regulatory structure for lending determines the impact

KEY LAWS AND REGULATIONS

- Law on the State Bank of Vietnam (1997)
- Civil Code (2005)
- Decree 90 on SME development
- Land Law (2004)
- Microfinance Decree (2005)
- Gender Equality Law (2007)



financial institutions can have on the private sector. Laws and regulations allowing for more types of lending-providers, as well as the ability to offer more financial products, create the underlying conditions for businesses to succeed. Key components of a viable environment for credit include laws that provide for a stable banking system and a variety of financial institutions, credit providers, and credit products. Strengthening creditor rights through land and business registries as well as establishing a credit bureau are essential.

Vietnam has a comprehensive legal regime pertaining to access to credit, including laws governing SME development and collateralized lending. With the advent of WTO membership, much of the current legislation allows for the transitioning of more private sector financial institutions to operate throughout the country. In fact, according to Decree No. 22/2006/ND-CP, by 2010, 100 percent of foreign-owned banks will be allowed to establish operations, thereby increasing the number of credit institutions available for enterprise financing. While

this doesn't go into effect until 2010, this presents an opportunity for women entrepreneurs. Women's business organizations should be mobilizing now to prepare their members and to work with the banks to understand the benefits of investing with Vietnamese women entrepreneurs. In addition, this should in turn increase the number of financial products and services to create a more competitive banking environment for all.

Vietnam has a relatively robust legal framework for banking, which includes the following:

The **Law on the State Bank of Vietnam** established the State Bank of Vietnam in 1997 as the central bank and defines its role to:

- Promote monetary stability and formulate monetary policies
- Promote institutions' stability and supervise financial institutions
- Provide banking facilities and recommend economic policies to the government
- Provide banking facilities for the financial institutions
- Manage the country's international reserves
- Print and issue banknotes
- Supervise all commercial banks' activities in Vietnam. Lend the state money to the commercial banks
- Issue government bonds, organize bond auctions
- Be in charge of other roles in monetary management and foreign exchange rates.

The **Civil Code**, including **Decree No. 163/2006 on secured transactions**, provides a relatively sound structure for using fixed and moveable collateral to secure loans. This is an area that can be a benefit to women in business, although most women-owned businesses did not identify this as a gender-specific provision. Any business can use moveable assets as collateral while keeping possession of the assets, and any financial institution can accept such assets as collateral. In addition, the law allows businesses to grant a non-possessory security right⁷⁹ in a single category of revolving moveable

assets, without requiring a specific description of the secured assets. The law allows for the implementation of Vietnam's collateral registry, one that is unified geographically and by asset type, as well as indexed by the grantor's name of a security right.⁸⁰ Also, a **Law on Credit Institutions (1997, as amended in 2004)** governs various banking services in Vietnam.

Decree No. 90/2001/ND-CP dated 11/23/2001 addresses the increasingly vital role SMEs play in the socio-economic development of Vietnam. Despite the increasing outreach of formal financial institutions, there are still a large number of poor households without access to finance. Forty percent of households in Vietnam did not have access to formal credit sources in 2001 when Decree 90 was enacted. **Decree No. 61/2003/ND-CP dated 7/21/2003** mandates the Ministry of Planning and Investment (MPI) as the focal body in policies and issues relating to the development of SMEs throughout the country.

Vietnam's **Land Law**, which was updated in 2004 from a prior 1994 law, contains many provisions that are of interest to the country's community of entrepreneurs, including women-owned businesses, that seek access to credit. The land law is particularly important insofar as it provides for the registration of land use rights, so that Land Use Rights Certificates (LURCs) may be used as collateral against loans. In 2004, the land law confirmed that LURCs held in the name of one spouse (usually the man) must be extended to include the name of the other spouse. With the support of the World Bank, the Ministry of Natural Resources and the Environment has made a concerted effort in recent years to promote equal rights to LURCs. Although mass revision of all LURCs was deemed too cumbersome and expensive, they are now being amended whenever a transaction (sale, lease, inheritance, etc.) that results in formal registration occurs. Land registries are well informed of their obligations to treat LURCs as documents that are held equally

⁷⁹ This is a security interest in something that you do not physically hold

⁸⁰ For further discussion of Vietnam's legal framework for the use of collateral in lending, see USAID/Booz Allen, *Southeast Asia Commercial Law and Trade Diagnostics—Vietnam* (2007), available at www.bizclir.com.

between a husband and a wife. That said, the transformation of the LURC can be a long process that significantly complicates and delays a women's access to credit. (For further discussion of the Land Law, see this report's chapter on Registering Property (Real Property)).

MICROFINANCE DECREE NO. 28/2005/ND-CP ON ORGANIZATION AND OPERATIONS OF SMALL-SIZED FINANCIAL INSTITUTIONS IN VIETNAM

Legislation provides for the organization and operation of small-sized financial institutions to provide small and simple financial and banking services to low-income households and individuals. Small-sized financial institutions are defined as financial institutions operating in the banking domain with their major function of receiving savings deposits and using their own capital as well as loan capital to provide some simple banking services. Small-sized financial institutions typically provide group guaranteed lending with a compulsory savings term with loan size ranging from a low of VND 200,000 to VND 6,000,000.

Beyond the institutions authorized by the microfinance decree, the formal financial sector does not provide sustainable and widespread access to microfinance services to the poor. The formal rural financial sector comprises 5 state-owned commercial banks, about 20 rural shareholding banks, about 900 People's Credit Funds (PCFs), and about 70 credit cooperatives. The banking sector has a poor track record in terms of applying microfinance best practices: it exhibits widespread use of subsidized credit, low repayment rates, and poor management capacities.

The semiformal sector, including the large community of businesses known as "household businesses," falls outside the existing law on credit institutions. As a consequence, most microfinance activities are developed under assistance projects implemented by government ministries, mass organizations, and international NGOs. The lack of legal framework means that the transition from project status to independent microfinance institutions remains impossible.

The only choices are for these institutions to join the PCF network or to establish a fund, which gives a certain degree of autonomy, but no real independence and no legal basis to mobilize savings.

Savings mobilization and facilities are still underdeveloped. They are primarily sustained by public institutions and the government's social and economic policies. Large public institutions are more interested in providing cheap credit than mobilizing savings.

Informal and political pressures keep interest rates artificially low, which limits the capacity of microfinance programs to reach sustainability and creates an uneven playing field with other lenders. Long-term sustainability of microfinance providers in Vietnam is a major issue, with current constraints of widespread use of subsidized interest rates, government-supported rural banks, and the lack of specialization of mass organizations and other NGO programs. Other constraints for the growth of microfinance are staff capacity (in business and financial management) and limited access to training and institutional capital. It would be helpful to establish a formal network in microfinance which could be used to provide capacity-building assistance, information sharing, and advocacy services.⁸¹

IMPLEMENTING INSTITUTIONS

INFORMAL FINANCING MECHANISMS

Particularly in the arena of household enterprises and SMEs, lending is often forthcoming not from formal institutions, but from family, friends, and moneylenders. There is also a traditional Vietnamese system of rotating savings and credit associations (ROSCAs) such as Ho (in the North) and Hui (in the South), as well as informal "Phuong" groups. Some of these informal groups are created for special purposes such as weddings, funerals, or New Year's cel-

⁸¹ Asian Resource Centre for Microfinance (ARCM), *Vietnam Country Report*, available at http://www.bwtp.org/arcm/vietnam/1_Country_Profile/CountryProfile_Vietnam.pdf.

KEY IMPLEMENTING INSTITUTIONS

- Informal financing mechanisms
- Formal financial institutions, including:
 - 97 commercial banks, of which 3 are state-owned
 - 2 “equitized” state banks
 - 37 joint-stock banks; 5 joint venture banks
 - 5 foreign wholly invested banks
 - 45 foreign bank branches
- Vietnam Development Bank
- Vietnam Bank for Social Policies
- Vietnam Women’s Union
- Credit bureau
- Microfinance providers
- People’s credit funds
- Institutions that provide factoring arrangements

celebrations as are also common in other parts of the world.

In the past, informal financing mechanisms were the most important sources of rural informal moneylenders for consumption loans, especially before harvests. Loans from relatives typically carry either 0 percent or low interest rates, while informal lenders charge about 7 to 10 percent per month (two or three times the rate charged by formal financial institutions that charge 1.7 to 2.8 percent per month). Now more rural populations have been reached by the formal banking and credit sector, as discussed later in this section. Rapid expansion of these alternatives has structurally changed the rural credit markets.

FORMAL FINANCIAL INSTITUTIONS

Financial service providers in Vietnam are numerous and varied. The country has 97 commercial banks, of which 3 are state-owned; 2 “equitized” state banks; 37 joint-stock banks; 5 joint venture banks; 5 foreign wholly invested banks; and 45 foreign bank branches. There are also 30 non-banking credit institutions in Vietnam, consisting of 17 finance companies and 13 leasing companies.

Among state-owned or joint-stock banks, and major foreign banks operating within Vietnam,

growth in their SME customer base and lending portfolios will be a key driver of revenue and market share for the foreseeable future.

The Gender Equality Law was cited by all banks as their supporting evidence that women are not discriminated against when applying for loans for their business start up or to finance growth. In the majority of interviews the bankers and lenders felt that gender discrimination was not the issue on why women only constitute on average between 20-25% of their SME portfolios. The all too common refrain: “We just don’t see that many women borrowers” has not translated into any specific marketing programs or goals to increase the number of women owned enterprises. The banks use two factors as their metric for measuring success:

1) growth in the SME lending portfolio and 2) an increase in the number of SMEs accounts, neither metric has a gender component. The overwhelming majority of banks interviewed have no plans to focus on increasing their percentage of women SME business. Many cite affiliations with women business owner organizations as their only attempt to create a pipeline for business.

The only exception is Sacombank, who has been actively engaging women business owners with sustainable products, services and distribution channel over a long period of time.

There is a total lack of understanding of the potential that this share of the market brings to commercial banks. This is an area that would be ripe for development assistance. Using a Development Credit Authority (DCA) or similar model to mitigate risk and to teach the banks how to lend to this sector could assist women in growing their businesses.

Largest state-owned or joint-stock banks:

- **Sacombank.** Sacombank stands out in this study as the single bank to really focus on women. It is Vietnam’s largest private bank and has targeted women business professionals and women business owners.

Five years ago, Sacombank opened a branch office in Ho Chi Minh City for women only, and three years ago opened their second women-only office in Hanoi. For women who bank at these two locations, they are offered an Au Co account, a checking account combined with savings incentive. If the customer has a minimum account balance of 10 million VND for three consecutive months, she will receive a higher rate of interest and receive value vouchers. They offer a credit card for women, with special discounts at selected retail locations.

- **Vietnam Commercial Bank for Industry and Trade (VietinBank).** Joint-stock VietinBank was established in 1988 after separating from State Bank of Vietnam. As one of the four largest state-owned commercial banks of Vietnam, VietinBank's total assets account for over 20 percent of the market share of the whole Vietnamese banking system. VietinBank's capital resources have been rising since 1996 with the annual average growth of 20 percent, especially up 35 percent a year against that of 2008.
- **Bank for Investment and Development of Vietnam (BIDV).** The BIDV is one of the country's largest state-owned commercial banks, with more than 100 branches, transaction offices, and subsidiary locations. The BIDV was founded in 1957 and converted to a full commercial bank in 1995. The majority of its portfolio is in commercial loans—primarily construction, manufacturing, and agricultural loans. Most borrowers are SOEs; the rest of the bank's portfolio also includes loans for state-directed projects. In addition to traditional lending and leasing, the BIDV invests in companies, disperses government funds, and performs wholesale banking for World Bank projects.

- **Vietnam Bank for Agriculture and Rural Development (Agribank).** The major focus of banking services is on the rural areas, agricultural sectors, and rehabilitation and development projects by providing short-term, long-term, and special credit lines. Projects focus on the industrialization and modernization support for agricultural development. The bank contributes to comprehensive development in agriculture, forestry, and salt production. It helps to shift away from monoculture practices, gradually providing financing of full production cycle from input supply, production, and processing to domestic marketing and export of final products. The bank also helps to facilitate the reformation of state-owned and non-government enterprises, and accelerate the linkage among different sectors. Its operations includes a network of over 2,000 branches and transactions offices, staffed by 30,000 employees serving a customer base of 10MM farm households and 30,000 SMEs. Total outstanding loans as of 2008 totaled US\$16 billion, representing 80 percent of its total loan portfolio. Mobile banking units expand their lending and savings mobilization to households in remote areas.

Major banks with a private or foreign equity partner:

- **Technological and Commercial Bank (Techcombank).** HSBC, Europe's largest lender, raised its Techcombank stake to 20 percent last September, becoming the first foreign bank to own the maximum stake in a local bank allowed by the government. An increasing number of financial institutions are eager to participate in lending to the SME market. Legislation allows foreign banks to have 100 percent ownership of their own banking operations in country in 2010. Techcombank is piloting an innovative non-collateralized credit product with

the IFC. Called FAST TRACK, a business borrower may qualify for up to US\$15,000 without the required, traditional collateral.

- **Vietnam Eximbank.** Founded in November 1989, Vietnam Eximbank is a commercial joint-stock bank specializing in monetary and credit business and banking services to support the development programs for the production, processing of export goods and export-import businesses in Vietnam. Apart from Hochiminh City Headquarters, Vietnam Eximbank now has three branches in Hanoi, Danang, and Cantho, and a sub-branch in Cholon-Hochiminh City. Since its inception the bank has established correspondent banking relationship with more than 424 foreign banks in 49 countries, enabling it to play an instrumental role in developing commercial financing and international trade. The bank is expanding its correspondent banking relationship with banks in the United States. Most of its nostro accounts⁸² are with American banks or U.S.-based banks because its customers have business mainly in U.S. dollars.
- **Ho Chi Minh City Credit Guarantee Fund (CGF).** Piloted in 2006, there are now 10 CGF funds operating in major cities. In March 2007, the CGF was established as a tax-exempt, not-for-profit institution providing credit guarantees for eligible SMEs. Charter capital of the guarantee fund is primarily provided by the city budget and was 50 billion VND at inception. In 2008, the fund grew to 195 billion VND and fund management is targeting 500 billion VND by 2010. The CGF grants credit guarantees to SMEs that are manufacturing or trading companies within HCMCity and that are in need of loans from banks for their development, but are not yet able to meet the requirements for loan guarantees. The CGF grants priority to the following sectors: trades applying new technology, and

exporting companies and businesses operating in the economic sectors of the major products programs of HCM City. The funds criteria include working with eligible business owners having total assets held as a mortgage at a credit institution of at least 30 percent of the loan. The CGF has a maximum of 80 percent guarantee of the difference between the loan and the value of assets within the mortgage. The CGF fee to the borrower is 0.05 percent. It does not provide consulting services. It is compiling statistics on gender, finding that for the first two quarters of 2009, women are 30 percent of their client base and 27 percent of the loans outstanding.

Institutions with a poverty-reduction focus that lend to women:

State founded and state supported banks that focus on poverty reduction have an overwhelmingly percentage, 85% or higher, of women as their borrowers. As women remain less educated, they are more likely to be in subsistence living and in need of training, support and micro-financing to sustain their families. Yet again, there is not an intended focus on women. Just as men comprise the majority of SME lending, women are the majority of micro-fund users

- **Vietnam Development Bank (VDB).** The VDB is a non-profit lending institution with chartered capital of 5 trillion VND. Working in partnership with the Vietnam Bank for Social Policy, the VDB contributes to poverty reduction through financing infrastructure projects such as construction of irrigation and rural transportation, village infrastructure in remote areas, and export financing. The VDB channels funding through the Vietnam Women's Union which reaches its members across the country.
- **Vietnam Bank for Social Policies (VSBP).** This is a government-financed institution that provides financing

⁸² Nostro accounts are usually in the currency of the foreign country. This allows for easy cash management because currency doesn't need to be converted.

programs for the poor. Established in 2002, the VSBP has 64 branch offices and approximately 600 transaction offices in the provinces. As of 2005, outstanding loans were US\$1.152 million. In 2007, Savings and Credit groups (SCGs) borrowed from VBSP to help members in need of capital for production and business development. VBSP provides lending to the VWU which reaches its women members throughout the country.

- **Vietnam Women's Union (VWU).**

As detailed previously in this report, the VWU is a mass organization representing the interests of Vietnamese women through an extensive network of members, from central to commune level. In the area of credit, the VWU manages funds from four different types of sources, including public banks (the Vietnam Bank for Agriculture and Rural Development (VBARD) and VBSP), government programs, international organizations (NGOs, bilateral donors, World Bank, the Asian Development Bank (ADB)), and members' savings. Most international NGOs and programs use VWU to channel their funds that benefit women and mobilize their members through credit and savings groups. Examples include:

- o The IFAD has used the VWU in a number of rural development projects, channeling funds through its savings and credit groups in regions of high poverty.
- o The government of Belgium has provided financial support to the strengthening of the VWU's institutional capacity in managing credit and savings activities. Between 1997 and 2003, the Vietnamese Belgian Credit Project supported the training of 900 Women's Union staff in credit and financial management, and the use of computerized management information systems. The support covered 17 provinces and more than 200 communes. It also



provided additional funds for on-lending by the VWU.

- o Since 1990, the International Women's Development Agency (IWDA), based in Australia, has supported microfinance activities undertaken by VWU's groups, with funding from AusAID. Groups are used as vehicles for credit and savings activities, as well as for management and skill training.
- o The VWU has also received substantial funding from UNICEF to develop savings and credit groups, as well as from the Dutch organization SNV.⁸³

In Ho Chi Minh City, the VWU program aims at "assisting women in economic development and acquiring proper enrichment," and has received the support of international NGOs such as CARE International. The microcredit program managed by the VWU in Ho Chi Minh reached 38,000 members in 2004. The program aims

⁸³ Asian Resource Centre for Microfinance (ARCM), *Vietnam Country Report*, available at http://www.bwtp.org/arcm/vietnam/I_Country_Profile/CountryProfile_Vietnam.pdf.

to include 40 percent poor women in its future lending activities. The VWU also aspires to build the capacity of its staff and members to handle credit and savings activities, while achieving a 99 percent repayment rate.

Despite the number of initiatives undertaken by the VWU in microfinance, it still has the characteristics of a social organization rather than a financial provider. The VWU uses part-time staff to manage microfinance programs, often with limited experience and training in financial and credit management.

Credit bureaus contribute to the enabling environment for business by providing fast, inexpensive, and accurate information about the credit-worthiness of potential borrowers. Vietnam's bureau for credit information, a government office established in 1999 as the country's sole credit bureau, is seen to be inadequate in providing data on SMEs for credit analysis. Preparations are underway for the establishment of the country's first *private* credit bureau, which would mark a significant step forward for the banking sector.

The IFC, the private sector arm of the World Bank; the Mekong Private Sector Development Facility (MPDF), the IFC's advisory services facility; and the PCB Investment Joint Stock Company are the leaders in the effort to create a private credit bureau. Once this institution is established, training should be extended to the micro, small, and medium enterprises (MSME) community, including women-owned businesses. Bankers and MFIs need to be aware of the following: (1) mechanisms for incorporating credit information and credit scoring into the underwriting process; (2) implications for portfolio risk management with greater information about customer risk; (3) product development and customer acquisition strategies, given reduced risk; and (4) technology capabilities for integrated systems. For their part, women-owned businesses in both urban and rural districts will need to know what the new credit bureau will mean to them, including the

importance of strong record-keeping and repayment practices on all extensions of credit.

MICROFINANCE PROVIDERS

As part of government initiatives, the two state-owned banks, VBARD and VBSP, provide subsidized credit to targeted poor households. The VBSP was specifically established to provide subsidized credit to the poor and other vulnerable groups. It is exempted from profit and capital tax and uses preferential government policies to subsidize interest rates to the poor. It is difficult for other microfinance providers, such as specialized funds, NGOs, or even PCFs, to compete with state-owned banks. The dominant role of state banks in the microfinance sector prevents the emergence of new microfinance institutions. Other than Sacombank, there is not a focus on women in either the formal sector or in micro-finance.

The **formal sector** includes microfinance activities of financial institutions regulated by the law on credit organizations. The public banks, VBARD and VBSP, are the main providers of microfinance, followed by the PCF using a credit union methodology. The formal financial providers have been criticized for not being able to reach the targeted poor communities. The **semi-formal sector** is relatively small and covers between 5 and 10 percent of the overall rural credit market. It includes government ministries and programs, mass organizations, specialized microfinance funds, and NGOs.

PEOPLE'S CREDIT FUNDS (PCFs)

These are cooperative credit institutions regulated and supervised by the State Bank of Vietnam. PCFs are managed on a model of self-help, self-organization, and managerial autonomy. Fifteen potential founding members are required to set up a PCF. They must be financially sound and provide a capital base of US\$3,000. Each founding member is expected to buy a minimum amount of shares amounting to \$220. Once the PCF is registered, it will recruit more members with a minimum share

cost of \$4. The average loan size is \$55. No collateral is required for small loan amounts. Borrowers of large amounts need to provide collateral that can consist of LURCs or other assets. Maturity period for loans is less than 12 months. Current interest rates are 1.5 percent/month, while monthly savings interest rate nears 1.0 percent. These rates are determined by the State Bank of Vietnam, and are generally higher than those of Agribank and the Vietnam Bank for Social Policy. A total of 1,019 PCFs operate in each of the 68 provinces.

PCFs as shareholding credit institutions do not target the poor. By enabling a viable rural finance system to farmers and small entrepreneurial households, however, they indirectly contribute to poverty elimination.

FACTORING

Factoring is available to SMEs to obtain cash when their available cash balance is insufficient to meet current obligations and accommodate other cash needs, such as new orders or contracts. The use of factoring to obtain the cash needed to accommodate the firm's immediate cash needs allows the firm to maintain a smaller ongoing cash balance. By reducing the size of its cash balances, more money is made available for investment in the firm's growth.

Factoring can also assist SMEs in the business of trade financing, where the SME sells its accounts receivable or invoices to a third party at a discount in exchange for immediate money with which to finance continued business. Factoring differs from a bank loan in three ways. First, the emphasis is on the value of the receivables, not the firm's credit worthiness. Secondly, factoring is not a loan—it is the purchase of the receivables. Finally, a bank loan typically involves two parties, whereas factoring involves three.

The Habu Bank is one example of an institution that has a specialty factoring group. Bank representatives estimate that while there are a larger percentage of women in the trades, they do not have more than 10 percent of women

KEY SUPPORTING INSTITUTIONS

- NGOs
- Business associations and SME-driven initiatives
- Small Enterprise Education and Promotion Network
- Vietnam Women's Entrepreneur Council of VCCI
- Informal networks of women business-owners

as customers. There has been no effort to target women for their services. While there are numerous and varied types of financial institutions in the formal business sector, there are wide gaps between the formal and informal financing sectors. Accessing the necessary credit to bridge from a micro-business to the level of an early-stage business with a banking relationship is where women are acutely disadvantaged as they represent the majority of household businesses receiving microfinancing.

SUPPORTING INSTITUTIONS

CREDIT-RELATED NGOS

There are more than 50 international NGOs involved in microfinance, focusing on credit and applying various lending models (village banking, Grameen Bank, solidarity groups) to target mostly women. Savings have had a more limited focus, partly due to the legal restrictions on mobilizing voluntary savings. Despite the success of some schemes operated by NGOs, they only reach 5 percent of the microcredit market in Vietnam.

BUSINESS ASSOCIATIONS AND SME-DRIVEN INITIATIVES

In addition to the support initiatives of the government and development partners, Vietnamese SMEs are beginning to be pro-active in seeking to help themselves. This includes the establishment of numerous business associations intended to assist members in overcoming a range of challenges, such as access to information on overseas markets, training, collaborative marketing, and so on. Most business

associations are structured around a specific business activity, such as seafood, footwear, garments, or plastics, but there are also some location-specific business associations, such as the Young Business Association of Hanoi and a similar entity in Ho Chi Minh City. But the concept of business associations is still relatively new in Vietnam, and so, like many SMEs themselves, they are learning how best to develop. Many business associations have yet to meet the demand of entrepreneurs, which has led to the development of new independent Women Business Owners (WBO) networks such as the ones in Hanoi and HCM City.

Associations' activities also help foster confidence in SMEs and make an important contribution to SME development. Some business associations have branches in multiple provinces (e.g., Vietnam SME Association, Vietnam Association of Rural Industrial SME (VARISME), Vietnam Association of Craft Villages, and the Young Entrepreneur Association (YEA)).

The Vietnam Women's Entrepreneurs Council (WVEC) of the Vietnam Chamber of Commerce (VCCI) conducted a study of women and their enterprise development in 2007.⁸⁴ Among the study's key findings was the need to integrate gender equality issues into the programs delivered by business associations, business development providers, and NGOs.

There especially needs to be more guidance provided for women in the informal sector on land and business registration. Informing them of their rights to have land titles registered in both the husband's and wife's names, and directing them in the execution of adding their names to the LURCs, will go a long way in helping women gain equal access to financial services.

Overall, while there are numerous education and business skill offerings, there is lack of real support for the required knowledge and skills necessary to support broad-based access to credit for women.

SOCIAL DYNAMICS

In Vietnam, while it has been determined there is no data on specific numbers of bank loans to women, interviews with bankers were consistent in indicating that women represent between 20 percent and 25 percent of business borrowers. The use of financial leverage allows for substantial growth opportunities, but women continue to “bootstrap” their businesses longer and fail to achieve comparable levels of sustainability.

There are several reasons why women in Vietnam do not access credit from larger, formal venues at the same rate as men. First, commercial lenders often find women's skills in key areas related to building a business lacking and thus avoid taking on the perceived risk of lending money to them. Women often acknowledge having poor management skills, no HR policies and employee training, and a lack of knowledge and information about marketing and capacity-building. They also often cannot afford to hire qualified experts to assist them.

Second, although the Gender Equality Law provides the policy for women to participate in enterprise development, in practice there remain serious impediments for women to fully comply with lenders' legal requirements. This is evidenced in the low rate of women's names being included on LURCs, the main asset for collateralizing a loan for business development. Although the Land Law of 2004 mandates that family assets and land use rights must be registered in the names of wives as well as husbands, the fact that most LURCs do not yet reflect this mandate (see table in this report's chapter on Registering Property) means that women must take the preliminary, time-consuming step of adding their names to the LURC prior to being able to take out a loan. Often this is just too cumbersome a process for a busy SME-owner to undertake.

Third, users of commercial loan products tend to be larger, well-established companies, which are far less common among female

84 VCCI Vietnam Women's Entrepreneurs Council, *Women's Entrepreneurship Development in Vietnam* (September 2007).

85 IFC, *Voices of Vietnamese Women Entrepreneurs 15* (2005).

entrepreneurs than their male counterparts.⁸⁵ Interviews conducted with women business owners and bankers during this diagnostic confirmed that family responsibilities are a main priority of the woman, and starting or managing a business is not a viable option for them while they are starting or growing their families. Women typically stated they first considered business ownership when their families were well established. Others who had come from an entrepreneurial family were more inclined to start their businesses at a younger age and work with the extended family for childcare. “Owning my own business right now would be like having another child” was one comment shared by women in their early career years.

Fourth, banks are not doing an effective job of reaching out to potential women borrowers. Women report they would like a relationship with their bank, one in which the lender gets to know them as individuals and also has a clear understanding of the business. Women reported a lack of engagement and interaction with banks, a factor that discourages their accessing banks for financing.

On the other hand, women’s experiences with access to small amounts of capital sourced through MFIs are statistically the opposite from their experience with access to capital in the formal sector. Microfinancing is a significant means of poverty alleviation for women in Vietnam: notably, 85 percent of micro-loans are to women, who repay at a rate of 95 percent, according to interviews conducted with MFI regional managers.

Accordingly, there remains ample room for the creation of a new hybrid credit product to transition women from poverty to income-generation. Such a mechanism would demonstrate to the formal credit institutions the opportunity for further capital for SME status.

In Vietnam, women have witnessed other women’s successes. If a woman wants to be successful in Vietnam, it is understood that she

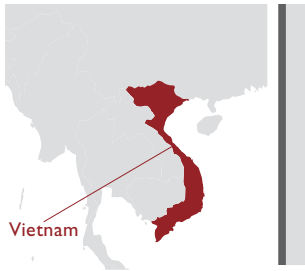
will have to work harder. Family issues are just one of the hurdles. Women engaged in operating medium-sized businesses encounter cultural barriers to doing business. As noted previously in this report, men generally spend more time socializing after work, meeting colleagues for a drink where information is shared, connections are made, and deals are negotiated. Women’s free time is primarily spent with family, and it is not common for women to join in the after-work informal meetings. Therefore, they lack access to the informal power network.

RECOMMENDATIONS

- **Partner with universities and develop a curriculum for entrepreneurs’ skill development that can be delivered through existing women’s business associations.** To ensure women have the ability to compete and obtain adequate capital for growth, they need these critical skills:
 - o leadership with a strategic focus
 - o financial acumen
 - o technological capabilities
 - o organizational practices
 - o sound financial management skills
- **Develop and support research in the collection and analysis on data on key gender issues throughout the country.** Awareness of the need for good data collection on women’s access to capital is critical to raise the level of women’s participation in accessing initial startup capital and at the sustainable stage. Because of the awareness of the Gender Equality Law, the perception is that women have access to the formal banking array of loans and services. But there is a need to address gender equality and why women are remaining underserved.
- **Create a dedicated marketing program to target women SMEs.** Larger banks should leverage their sizable branch network to conduct seminars on access

to capital and the suite of available financial products. They should host quarterly networking events for women to develop relationships with local bank managers and lenders.

- **Continue to promote the creation of a new private credit bureau.** The absence of a mature private credit bureau is a limiting factor to access to capital for women and men. Strengthening credit information lowers the risk of lending, which in turn results in lower interest rates and greater access to capital. Mobilizing credit information should be a high priority of the Vietnamese government.
- **Provide financial and curriculum support for recently established women business organizations in urban provinces.** Stronger managerial skills and business know-how on the part of women business owners will result in an increased number of bank loans to them.



WOMEN AND TRADE

This chapter focuses on the role of women in Vietnam in regional and international trade. This includes the ability of women and women business owners⁸⁶ to participate in the formulation of trade policy, as well the ability of women entrepreneurs to take advantage of the opportunities of international trade.



Among the key issues considered during this inquiry are the following:

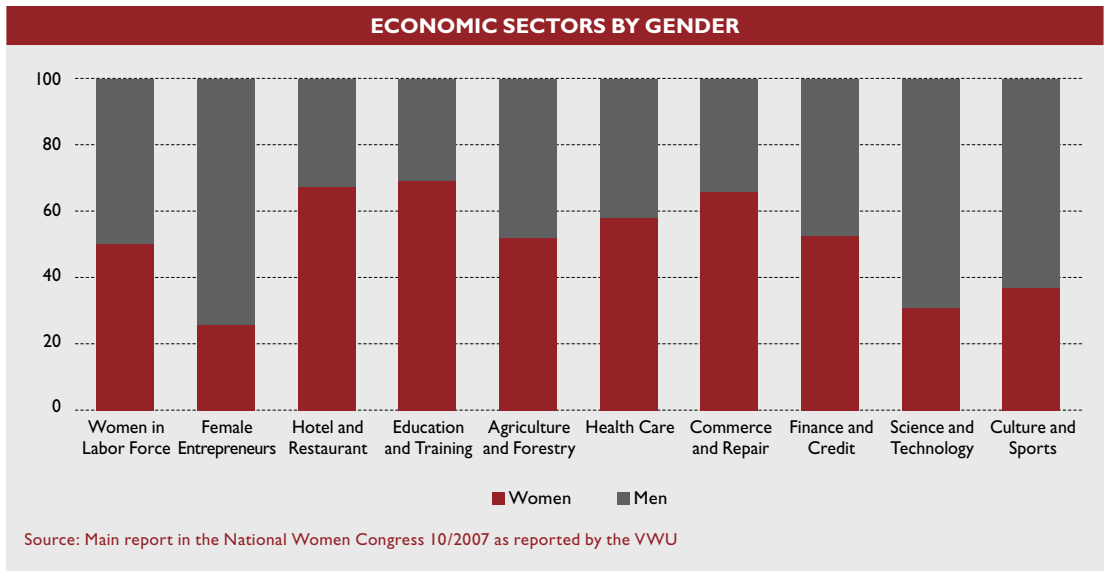
- Can women and women business owners participate meaningfully in the formulation of trade policy?
- Do the formulation of trade policy and the negotiation of trade agreements consider the impact on women? This would include women in rural areas who are often farmers, fishers, or women engaged in handicrafts in addition to the urban entrepreneur.
- Are institutions effective in representing women's issues? Can women meaningfully participate in associations that are advocates for their interests?
- Do women business owners have access to the critical changing market information that enables them to be competitive?
- Is the government supportive of women business owners in policy and practice?
- Are there other social dynamics that, if everything else were equal, still inhibit women's success in taking advantage of international trade opportunities?

- Are there opportunities that international trade brings to a market that can catapult women entrepreneurs to the next level of achievement if they are taken advantage of?

During this diagnostic, a number of common conclusions emerged when discussing international trade. First and foremost, as in other areas of economic interest, there is a lack of sex-disaggregated data for the different economic sectors. In general, trade liberalization benefits those businesses and industries that are most competitive and also creates competition for businesses and industries that lag behind. Without sex-disaggregated data coupled with market analyses, it is difficult to negotiate trade agreements and create policies to support those industries most susceptible to competition, which are often women-dominated. While trade can be an opportunity that can truly benefit a sector, the government and the private sector must have the information to act on this; otherwise the weakest and most disadvantaged groups and industries suffer.

Second, much of Vietnam's rural sector is heavily populated by women who do not have the resources to take advantage of the benefits of trade without government assistance. Education is a key ingredient of competitiveness, and while education is relatively equal in urban areas, girls in the rural areas in Vietnam do not usually attend school beyond high school. This disparity in education creates an imbalance in the rural areas between men and women's ability to be competitive within the workplace. This imbalance also affects the economic sectors that

⁸⁶ This chapter uses the term "women entrepreneurs" and "women business owners" as interchangeable and with the meaning of running a business. The term "woman/women" refers to the individual.



are dominated by women and which then face increased competition from foreign enterprises.

Third, this diagnostic confirmed that Vietnam is progressive in its gender laws and policies. The difficulty is going from policy to practice. Vietnam is rapidly changing due to its accession into the World Trade Organization (WTO), the Association of South East Asian Nations (ASEAN), and the Asia-Pacific Economic Cooperation agreement (APEC). International trade can have a positive and catalytic effect on the policies of a country. While the policies are changing as a result of these influences, social stereotypes linger on. There are “triple burdens” in Vietnam—caring for children, caring for a husband, and caring for a husband’s parents. This affects the full specter of society in its belief in what women can do but has an even greater impact in the sphere of international trade. The Ministry of Trade and Industry still advertises for jobs as “men preferred” since travel is involved in international trade and it is presumed that women need to stay home to take care of their family. There is a common belief that success in business is antithetical to happiness at home, which presumes that the “normal” woman prefer happiness at home and cannot have both. International trade requires mobility to attend trade fairs for enterprises and travel for government officials to participate

in negotiations, so the presumption that women cannot leave their family for extended periods of time has a detrimental impact on their ability to participate in trading and the ability to negotiate trade agreements, thereby affecting both the public and private sector.

Another area that can have both positive and negative impacts on women in international trade is the use of export processing zones, free trade zones, and industrial parks. In Vietnam, women are the principal workers in the factories located in the industrial parks as they require low-skilled labor. While this creates employment opportunities for women, there can be negative consequences if labor standards are not maintained and conditions are poor for workers, as discussed further in this chapter’s Social Dynamics section.

With Vietnam’s entry into the WTO, and membership in ASEAN and APEC, additional technical assistance by donors as well as opportunities for learning and development are available to members of those organizations. Vietnam needs to affirmatively incorporate gender considerations in donor assistance and learning opportunities and take advantage of them. An example is the publication, “APEC e-Business: Opportunities for Women in Viet Nam.” This booklet acts as a one-stop briefing center,

providing information on the status of women's business and the progress being made in expanding e-business opportunities for women in the Asia Pacific region, including best practices and specific information and recommendations for Vietnam. It is part of an APEC-wide project entitled "Initiative on e-Business of Women Enterprises in South East Asia." These regional and multinational trade forums will help to catalyze change for women entrepreneurs by bringing international best practices, learning and expertise.

The GenderCLIR scores derived from this diagnostic show that grave constraints in the trade sector hold back the full participation of women. Three of the four facets of the review tend toward finding more negative than positive attributes within the trade regime as it pertains to women, with only the implementing institutions falling at the line between negative and positive.

LEGAL FRAMEWORK

ACCESS TO THE LEGAL FRAMEWORK AND INTERNATIONAL TRADE AGREEMENTS

With Vietnam recently joining the WTO and participating in the ASEAN Regional Forum and APEC, the country's legal framework is up to date and transparent. The laws relating to trade in particular are available to the public and most have been updated recently as part of the accession process.

GENDER EQUALITY LAW

As discussed in the sections on Women in Society and Women in the Private Sector, the Gender Equality Law, passed in 2007, is wide-ranging and largely "aspirational" yet sets the stage for economic equality, per Article 12. In many ways the Gender Equality Law creates a level gender playing field for trade as it does in other areas. The participation of the private sector and business associations in the drafting of this law, including the Vietnam Women's Union and the Vietnam Chamber of Commerce



and Industry, is a very positive sign that this is an area that interests women entrepreneurs and will benefit them.

WTO ACCESSION PACKAGE

The WTO Accession package includes documentation of the comprehensive requirements to meet WTO standards for transparency, due processes, and liberalization of goods and services. The compilation of the materials that constitute the accession package enables the WTO members to vote on a country's accession. This provides a large benefit to entrepreneurs as this material is readily available to them, especially women-owned businesses that are not as connected to large international business interests. The WTO Accession package include information about the economic policies in place, the legal framework, the policies affecting trade in goods, trade-related intellectual property rights, policies affecting trade in services, and transparency provisions in additions to the schedules for goods and services. USAID, the National Committee for International Economic Cooperation, and the Support for Trade Acceleration (STAR)

KEY LAWS

- Gender Equality Law (2007) and accompanying implementing directives of the Prime Minister and the Central Party
- WTO Accession Package
- Regional trade agreements
 - APEC
 - ASEAN

project published the entire set of documents, and they are available on the Ministry of Trade and Industry's Web site. The ready availability of these documents is an important factor for gender equality. This enables women business associations and entrepreneurs access to the policies, laws, and schedules that affect trade for the country.⁸⁷ It is interesting to note that the requirement for entry into the WTO is gender neutral, and there is no requirement that gender be addressed in the requirements for WTO Accession.

TRADE AGREEMENT⁸⁸

Accession to the World Trade Organization and adherence to international norms have often been credited with helping developing countries to achieve economic reforms that would have been difficult to achieve but for the desire to be part of the multilateral framework. In addition, regional trade agreements often can continue to create more opportunities and deepen reform. *Opportunities for Vietnam to strengthen women's economic empowerment can be enhanced as part of these regional arrangements.* There is, however, a downside to international trade as the liberalization of trade creates competition for domestic markets. If a country identifies which sectors will have winners and losers early on, it can plan a mitigation strategy to help the weaker economic sectors to compete. As much as trade is lauded for bringing positive reforms and economic gain for a society, it is often criticized for having a negative gender impact as women are usually predominant in the weaker economic sectors which are less flexible in an economic downturn or when faced by greater competition.

APEC—A POSITIVE FORCE FOR GENDER EQUALITY

Among APEC members we already have some of the most successful practices of social development and vibrant businesses in the world. Let us build upon these successes. **Addressing discrimination against women is simply smart economics.**

—Dr. Noeleen Heyzer, Under-Secretary-General and Executive Secretary of ESCAP

REGIONAL TRADE AGREEMENTS THAT INCLUDE TECHNICAL ASSISTANCE AND SUPPORT FOR GENDER

For a developing country like Vietnam, being a signatory to the APEC and ASEAN agreements not only affects the legal framework but also includes assistance and provisions that can improve the business enabling environment. Both APEC and ASEAN also provide benefits for building the capacity of women entrepreneurs. Vietnam, through its public and private sector, needs to engage actively in order to benefit from membership in both these regional groups.

Asia-Pacific Economic Cooperation

(APEC)⁸⁹ is an influential regional organization that has a strong gender focus. A recurring Senior Officials Meeting Task Group focuses on gender. This Group convened a Sector Ministerial Meeting on Women in 2002. There is also a Gender Focal Point Network for the region. APEC has generated momentum in Vietnam on gender equality in trade and in other business-related fields. Interviewees in the Ministry of Trade and Industry felt that APEC had really helped in building the capacity of women and in heightening the issue of gender in trade. APEC's "Enhancing the Capacity of Women in Export" project was noted as one of the positive factors. *The challenge for Vietnam is to take full advantage of the opportunities presented by participating in the initiatives, both by the private sector and the government, to bring home the best practices, technology and information to help them move forward.*

⁸⁷ See www.wto.org/english/thewto_e/countries_e/vietnam_e.htm.

⁸⁸ A full list of trade agreements that Vietnam notified in its WTO Working Party Report can be found at http://docsonline.wto.org/DDFDdocuments/t/WT/ACC/VNM48.doc#_ToC149713541

⁸⁹ A full description can be found at the APEC Web site at <http://www.apec.org/apec/>. APEC is comprised of 21 members: Australia, Brunei Darussalam, Canada, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, the United States, China, Hong Kong, Chinese Taipei, Mexico, Papua New Guinea, Chile, Peru, Russia and Viet Nam. Viet Nam along with Peru and Russia are the most recent members, joining in 1998.

The Asia-Pacific region has consistently been the most economically dynamic region in the world. Since APEC's inception in 1989, APEC's total trade has grown 395 percent, significantly outpacing the rest of the world. Women entrepreneurs and women's business associations need to participate in APEC's activities to benefit from this dynamism.

APEC has three main pillars of activity: 1) Trade and Investment Liberalization, 2) Business Facilitation, and 3) Economic and Technical Cooperation. APEC's stated goal is to drive economic growth and improve *employment opportunities and standards of living* for the citizens of the region. There are initiatives in APEC that could help women-owned businesses and women's business associations particularly in the Business Facilitation and Economic and Technical Cooperation pillars. Some initiatives in the **Business Facilitation** pillar will affect the way that women entrepreneurs do business so they need to be aware of them and be able to take advantage of the programs and procedures. In addition, participation in the initiatives helps business associations to share important up to date information with their members. An additional benefit, in the Business Facilitation pillar is the focus on the investment and business enabling environment. Participating in this can help women entrepreneurs advocate best practices that will help their businesses and effectively strengthen their role in public private dialogue. The following are ones that are most relevant:

- an electronic/paperless system
- the Single Window Strategic Plan to help exporters and importers
- the *APEC Customs and Trade Facilitation Handbook*
- the *APEC Tariff Database*
- the Investment Facilitation Action Plan to improve **the investment environment** in member economies
- the APEC Privacy Framework, which provides guidance and direction to both APEC member economies and

WEATHERING THE STORM: ADVANCING WOMEN'S ECONOMIC OPPORTUNITIES IN THE CURRENT FINANCIAL CLIMATE

So how can we turn the current crisis into an opportunity to advance the economic opportunities for women in our region? Women represent an untapped resource for most economies in Asia Pacific. ESCAP's research indicates that **restricting women's access to work, education, and health services comes at significant economic costs**. Our region loses between \$42 and \$47 billion a year by restricting women's access to employment. Up to \$17 billion a year are lost in the region due to gender gaps in education.

The huge scale of government spending in the pipeline for many countries offers an unprecedented chance to design development policies that will bring about more inclusive and sustainable development. It is important to distinguish between measures required to help stimulate economic recovery in general, versus those that specifically target women. It will also be important to distinguish between short- and long-term responses.

—Keynote Address to APEC Women Leaders Network, Dr. Noeleen Heyzer, Under-Secretary-General and Executive Secretary of ESCAP, August 5, 2009, Singapore

businesses on implementing information privacy protection policies and procedures (facilitating information flows will facilitate trade and e-commerce)

- the APEC Structural Reform agenda, which focuses on reforming domestic policies and institutions that adversely affect the operation of markets and the **capacity of businesses** to access markets and to operate efficiently.

APEC's Economic and Technical Cooperation (ECOTECH) activities are designed to build capacity and skills in APEC member economies at both the *individual* and *institutional* level, to enable them to participate more fully in the regional economy and the liberalization process. In 2008, APEC was implementing a total of 212 capacity-building

projects with a total value of US\$13.5 million. Some of these projects are directly aimed at women and can be tailored specifically for the country. For instance, APEC sponsored a brochure, “e-Business: Opportunities for Women in Viet Nam” that was tailored for women in Vietnam. Other regional initiatives and projects can be viewed as models to empower women entrepreneurs, such as the network of APEC Digital Opportunity Centers (ADOC). These centers act as local information and communication technology (ICT) resource centers, providing citizens and businesses of the region with access to ICT technologies, education, and training. Our interviews showed that women in Vietnam lagged behind men in critical ICT skills. This is an area where utilizing best practices from APEC can significantly make a difference for women entrepreneurs and enhance their competitiveness.

ASEAN ECONOMIC COMMUNITY (ASEAN)⁹⁰

Full participation in ASEAN as a regional entity, and its initiatives, can enhance the equitable participation of women in both the local Vietnamese market and the regional economy. The ASEAN Economic Community’s goal is economic integration to create a stable, prosperous, and highly competitive ASEAN economic region in which there is a free flow of goods, services, and investment, and a freer flow of capital, *equitable economic development, reduced poverty* and socio-economic disparities in year 2020. Creating a single market and production base will make ASEAN a stronger segment of the global supply chain.

In order to accomplish this, the ASEAN Socio-cultural Community Blueprint recognizes that certain aspects of society need to be strengthened and they address “women, youth and people with disabilities”. Provisions specifically related to women include the following:

- Promote equal access to education for women and girls and enhance the

exchange of best practices on gender-sensitive school curriculum;

- Develop a consolidated plan for regional cooperation for skills development for women, youth, and persons with disabilities;
- Implement capacity building programs to increase ICT literacy in ASEAN, including women, children, the elderly and people with disabilities;
- Strengthen entrepreneurship skills for women, youth, elderly and persons with disabilities;
- Establish a women entrepreneurship network by 2010 and create favorable conditions for women entrepreneurs in the region, including by providing at the national level, access to micro credit, technology, trainings, markets and social protection services;
- Conduct research studies on the impact of economic integration and globalization from a gender perspective in order to have concrete bases in formulating appropriate gender-responsive interventions;
- Develop appropriate actions and preventive measures against the use of the internet and pornography which exploit women, children, and other vulnerable groups;
- Strengthen ASEAN cooperation in protecting female migrant workers;
- ASEAN is committed to promoting social justice and mainstreaming people’s rights into its policies and all spheres of life, including the rights and welfare of disadvantaged, vulnerable and marginalized groups such as women, children, the elderly, persons with disabilities and migrant worker;
- Promotion and protection of the rights and welfare of women, children, the elderly, and persons with disabilities;
- Safeguard the interests and rights as well as provide equal opportunities, and raise the quality of life and standard of living, for women, children, the elderly, and persons with disabilities.

⁹⁰ More information about ASEAN can be found at <http://www.aseansec.org/64.htm>. Member countries include: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam

- Work towards the establishment of an ASEAN commission on the promotion and protection of the rights of women and children;
- Continue to implement the Work Plan to Operationalize the Declaration on the Elimination of Violence Against Women in the ASEAN Region;
- Use sex-disaggregated data, among others, to promote awareness on gender equality, women's role and contribution in the development of the region at the policy level;
- Promote and enhance the percentage of women's participation in all fields and at all levels, including political, decision-making as well as socio-economic empowerment of women; and
- Incorporate a gender perspective into national and regional policies and enhance the participation of women in programs and projects.

The Blueprint is comprehensive and addresses the main concerns in Vietnam for women, as well as the region. Embracing the regional opportunity that ASEAN presents to work together on these issues is an opportunity. As noted above, the issues are both economic and social. Due to a lack of economic empowerment, women and girls are vulnerable and are faced with other problems. There is an increase in the trafficking of persons in this region due to a lack of economic alternatives. Only by addressing the underlying issues will this be solved, and ASEAN presents a regional forum and backing to address this.

IMPLEMENTING INSTITUTIONS

With the Gender Equality Law in place, the legal framework requires equality for women in all areas. One of the salient provisions is that in each ministry, there should be a Committee on the Advancement of Women. In the Ministry of Trade and Industry and other trade-related institutions, these committees were not thought

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Trade and Industry (MOTI)
- National Committee for International Economic Cooperation (NCIEC)
- Customs Agency
- Other trade-related institutions:
- Ministry of Finance (MOF)
- Ministry of Planning and Investment (MPI)
- Ministry of Post and Telematics (MPT)
- Ministry of Science and Technology (MOST)
- Ministry of Agriculture and Rural Development (MARD)
- Ministry of Aquatic Products (MAP)
- Ministry of Health (MOH)
- Provincial People's Committees (PPC)

of as active by the interviewees and often they were not sure what they did.

MINISTRY OF TRADE AND INDUSTRY (MOTI)

The MOTI is the main governmental institution that deals with all aspects of trade including imports and exports and trade in services. It is the principal ministerial authority in bilateral, regional, and multilateral trade negotiations. Given that trade has become increasingly important to the Vietnamese economy post-WTO accession; this is a ministry that needs to actively understand the effects their policies have on the livelihood of both men and women. There is not sex-disaggregated data or analysis of sectors based on gender. Thus, gender is neither a consideration in policy setting nor a factor in trade negotiations. Many of the economic areas affected by trade liberalization are dominated by women, so failure to understand the gender impact can have a disproportionate impact on women as laborers and women as entrepreneurs.

Women do not have accessibility problems in finding or receiving information from the Ministry of Trade and Industry. In fact, as previously mentioned, access to the laws and policies are up-to-date and posted as a result of WTO accession.

The MOTI follows the Gender Equity Law in principle for its staff. The common answer to most questions regarding working conditions was that the Gender Equality Law addressed the issue and that men and women are equal. However, policy and practice are often different. Many of the MOTI advertisements state that “men are preferred.” The presumption is that women are unable to perform as well as men since travel is part of the job. In addition, several departments are reputed to prefer men. Nonetheless, it was reported that women currently apply and are able to obtain jobs in the MOTI as they tend to perform better on the entrance exam, despite the preference for men. There are increasing numbers of women joining the ranks of the MOTI as employees. Women still struggle to get the highest-level jobs, although there are several women who serve at the next tier down or the deputy level in the ministry. The gender equality policy exists but has not been “operationalized”; there are still more men than women at the political level and no female vice-ministers. There is not a mentoring program in place but there was interest in the concept.

One of the MOTI’s key roles is to represent the country at the WTO in Geneva. Vietnam’s WTO team in Geneva suffers from the same issues as the ministry does in that it does not have access to analysis or significant sex-disaggregated data to help them shape and understand the effect of the negotiations on women entrepreneurs. A positive note is that the negotiation team in Geneva has many women on it. They serve as technical experts and come from the Ministry of Finance, the Ministry of Environment and Natural Resource Management and Agriculture. The chief negotiator is a man. The female trade counselor and head of the trade office in Geneva is considered a very strong presence and a role model for younger women.

The MOTI and other trade-related ministries have experienced external pressure from the

APEC to incorporate the women’s perspective in the trade policy formulation process. The APEC has a framework on the advancement of women that is helping to raise consciousness of the issue. Greater and broader participation by the ministries in the working groups of APEC and ASEAN will lead to more equitable trade policies. The ministries should affirmatively look for opportunities to involve their employees and the private sector.

In order to address the lack of engendered policies and input, the MOTI can receive better input on new laws and policies by ensuring that they utilize the new Law on Laws to promulgate drafts to the VCCI, the VWU, women’s business associations, and other business associations to receive public comment on gender issues *prior* to the passage of the law.

The Customs Agency and the other trade-related agencies had the same profile and issues as the MOTI, primarily that women were not elevated to the highest level. The **Ministry of Planning and Investment** is the ministry responsible for the services industry. Services present an important opportunity for women. Women often find that the service industry allows them to handle their double or triple burden more easily than trade in goods, as some services can be performed from home. There has not been any focus on this sector from a gender perspective. The services sector has been growing in Vietnam, often in support of the new larger factories established in the fisheries and garment and textile sectors.

The inter-ministerial **National Committee on International Economic Cooperation**⁹¹ (NCIEC) is the highest forum for trade policy formulation. The NCIEC is an advisory body of the Prime Minister and only agencies of the government are represented. Ministries involved in WTO accession negotiations have established both a WTO task force and WTO “focal points.” Overall coordination of the accession negotiations is carried out in the framework of NCIEC, but on a day-to-day basis MOTI is the

91 More information can be found at <http://www.nciec.gov.vn/index.nciec>.

main coordinating body. MOTI is responsible for disseminating information about the WTO accession and other trade negotiations to the provinces, the business community, and civil society.⁹² The NCIEC also has the mandate for coordinating crosscutting issues. Ensuring that women entrepreneurs and Women's Business Associations have input into this process is critical. Currently, there is no evidence of any focused gender input into the NCIEC.

SUPPORTING INSTITUTIONS

Vietnam is a country rich with associations that women participate in—for both business and for social support. According to the VCCI, there are approximately 200 business associations in Vietnam.

The **Vietnam Chamber of Commerce and Industry (VCCI)**, though not wholly independent from the state, is an effective advocate on behalf of the interests of the private sector and is a very robust association. It has a number of publications that provide frank and high-quality analyses of issues impacting the economy.⁹³ The VCCI's *Vietnam Business Forum* is a weekly online publication that provides information of interest to foreign investors. To ensure that exporters and manufacturers in Vietnam have information to enhance their competitiveness and expand international markets, the VCCI's Vietnam Business Forum provides a new newsletter, *Vietnam Export Newsletter*, free of charge via email to VCCI member companies, exporters, officers, and export-related companies three times a week. The VCCI's participation in the *Provincial Competitiveness Index* lends significant credibility to the initiative among its target audience, i.e., public officials within individual provinces. The VCCI plays a role in marketing Vietnam to potential foreign investors through tradeshows, participation in trade missions, and other methods.

The VCCI has the potential to strongly inject gender into trade ensuring that foreign investors

know about women-owned and -operated businesses. In addition, ensuring that trade missions have an equal or significant number of women entrepreneurs would contribute significantly to gender equality in trade.

The **Women Entrepreneurs Council (VWEC)** has been previously described in this report's chapter on Women and the Private Sector. Given that it is a part of the VCCI, it should be strengthened to truly harness the capabilities of the VCCI and to strategically share those with women's business associations. Trade fairs for women, a promotion campaign for “engendered goods,” and the creation of a network of information-sharing and mentoring are just a few of the ways the VWEC could ensure that the information, initiatives, and benefits of the VCCI will be shared by women entrepreneurs.

VIETNAM TRADE PROMOTION AGENCY (VIETRADE)⁹⁴

This agency is charged with raising the image of Vietnam as a country associated with three values—quality, innovation, and leadership—and a reliable sourcing destination for diversified and high-quality goods and service. The VIETRADE is a governmental organization responsible for state regulation of trade and investment promotion for development of industry and trade. It provides a wide spectrum of services to assist Vietnamese and foreign enterprises in their business development and expansion. The main office is in Hanoi City and there are branches in Ho Chi Minh City and Dan Nang. An Export Promotion Center (PROMOCEN) in Hanoi, the Vietnam Trade Center in New York, and the Trade and Industry Television Program are part of VIETRADE's support system. The main activities include the following:

- Proposing to the government policies and measures for the development of business support activities, national branding programs, and investment for development of industry and trade;
- Providing business information to trade support institutions and enterprises;

⁹² EU Needs Assessment, Section IV.2.
⁹³ Id. at 79.

⁹⁴ More information can be found at www.vietnamvalue.gov.vn.

- Conducting market research and analysis for the purpose of formulation national trade promotion policies;
- Assisting Vietnamese and foreign enterprises to identify business opportunities, customers, suppliers, and partners through dispatching trade missions abroad, hosting foreign business missions to Vietnam, and organizing business meetings, seminars, and conferences;
- Regulating all commercial advertising activities, sales promotion activities, and trade fairs in Vietnam;
- Administering the National Branding Program, assisting the Vietnamese enterprises in building, promoting, and protecting product brands;
- Administering the National Trade Promotion Program;
- Assisting and guiding local industry and trade department, trade support institutions in Vietnam, and overseas trade representative offices;
- Training Vietnamese enterprises and trade support institutions in trade promotion and in investment promotion for industry development; and
- Promoting the national branding strategy.

The VIETRADE is a key organization for women's businesses that export as well as business that are interested in expanding via domestic or foreign investment. This organization serves as a lynchpin for the business associations and other ministries. Ensuring that women's businesses are included in the National Branding Program and the National Trade Promotion Program, and that women entrepreneurs are trained prior to and included in trade fairs will go far putting into practice the gender equality law as it pertains to trade.

VIETNAM TEXTILE AND APPAREL ASSOCIATION (VITAS)

One example of a sector-driven business association that can positively impact women is the VITAS, which represents a high proportion of

women business owners and women employed in the textile and apparel industry. In April 2009, Le Quoc An, the VITAS chairman, made a fact-finding tour of Japan where he noted that domestic garment companies had a "rare opportunity" to penetrate and step up exports to the Japanese market. The Vietnam-Japan Economic Partnership Agreement (VJPEPA) provides an opportunity for both countries to benefit. Analyzing the trade agreements to ensure that sectors can take advantage of them is an important function of business associations, and the dissemination of this analysis to stakeholders is important. The VITA reported⁹⁵ that the sector's largest market, the United States, has shrunk considerably, but that Vietnamese garment and textile industries have focused on new markets in Japan and other countries, including the Middle East, Russia, the EU, and other Asian markets. They are focusing on increasing export contracts and enhancing production in coordination with the MOTI and the Trade Promotion Agency. In addition, investments are being made in materials for the textile and garment sector to increase the percentage of domestic inputs for export products. There is a hope to build two more industrial complexes for textile and garment dying in northern Thai Binh Province and southern Tra Vinh Province. Le Quoc An⁹⁶ noted that the textile and garment industry also plans to apply more advanced technology in production, increase capacity of factories, transition to producing higher-quality products, and increase the salary for workers. Given that the majority of workers in textile factories are women, this sector will have a great impact on women as individuals and as business owners.

The **U.S. Vietnam Trade Council (USVTC)** is also a strong and effective voice on behalf of foreign and domestic private investors in Vietnam. Established in 1989, the USVTC was instrumental in organizing private sector support for the negotiation of the U.S.-Vietnam Bilateral Trade Agreement and again played an important role in support of Vietnam's efforts to accede

⁹⁵ Viet Nam News, July 22, 2009, at 15.
⁹⁶ *Id.*

to the WTO. The USVTC provides significant training and technical assistance to key officials and ministries, and its publications, most especially its *Catalog of Legal Updates*, are “required reading” for potential foreign investors. This is an important resource that could be drawn upon by the women’s trade organizations.

FREIGHT FORWARDING AND LOGISTICS

Fully integrated freight transportation infrastructure is essential to accelerate Vietnam’s fulfillment of its potential as a trading nation. There is a lack of skilled labor, a shortage of finance, and a general lack of expertise. Several international firms are moving into this area, but it is an area that is ripe for employment of women.

Several international chambers of commerce, including the **American Chamber of Commerce** and the **European Chamber of Commerce**, are important resources for foreign investors seeking to do business in Vietnam. These groups provide significant information and networking opportunities, and also represent the interests of foreign investors to various government organizations engaged in legislative reform.

The same key supporting institutions identified in this report’s chapter on Women and the Private Sector—including the **VWU**, the **local grown initiatives such as the Hanoi Network for Women Entrepreneurs**, **donor initiatives** focused on enterprise development and trade, youth entrepreneurs, **Start and Improve Your Business** clubs, and, perhaps most especially, the **vibrant local networks of women-owned SMEs**—could most effectively share information and programs to help women improve their ability to export or benefit from trade.

MEDIA

Vietnam has a relatively robust media, including newspapers, magazines, television stations, and Internet-based media, which give a significant amount of attention to trade as a desirable

WORKSHOP ON “ANALYSIS OF AGRICULTURAL STATISTICS BY GENDER”

Swedish International Development Cooperation Agency (SIDA) and the United Nations Food and Agriculture Organization (FAO) conducted a workshop on “Analysis of Agricultural Statistics by Gender” to strengthen the capability of gender statistics in the field of agriculture and the rural area in May 2009, in Ha Noi.

The workshop was chaired by the Director of the Agricultural, Forestry and Fishery Statistics Department of the GSO. The workshop focused on: (1) Overview of SIDA-FAO’s “Analysis of Agricultural Statistics by Gender” project; (2) Briefing project activities at GSO; (3) Generalizing the draft “Work frame for analyzing agricultural statistics by gender”; (4) Sketchy gender data of the agriculture and rural area in Viet Nam; (5) Overview of Gender in agricultural, forestry and fishing censuses and surveys; (6) Overview of indicators of agricultural gender analysis; (7) Gender indicators in the questionnaire set used in the 2006 Rural, Agricultural and Fishery Census; (8) General introduction of the 2006 Rural, Agricultural and Fishery Census database; (9) Gender issue in the 2006 Household Living Standard Survey; and (10) Strengthening the capabilities of analyzing statistical data by gender.

—General Statistics Office

concept. Among Vietnam’s relative strengths compared to other emerging markets is the wealth of information available about its laws and economy, and the many sources (including implementing, supporting, and donor institutions) that provide it. Donor-supported improvements, such as the publication of some court decisions, better use of the *Official Gazette*, and development of libraries and Internet resources, have strengthened the information environment, yet there still does not seem to be a clear and open commitment to the free flow of information at all levels of government.⁹⁷ While there is information about the laws and events, there has not been significant coverage of the success of women business owners in trade nor information about opportunities for women to participate in trade fairs.

⁹⁷ Southeast Asia Commercial Law and Trade Diagnostics—Vietnam. See full report at http://www.bizclir.com/cs/publications/bizclir_assessment_vietnam.

DONORS

USAID. Through the STAR project,⁹⁸ USAID has helped Vietnam since 2001 with implementation of the U.S.-Vietnam Bilateral Trade Agreement, the WTO agreements, and the Trade Investment Framework Agreement. Information regarding the process and all of Vietnam's WTO accession documents has been published by the project in one volume, available on the Web sites of the Ministry of Finance, the MOTI, and the National Committee for International Economic Cooperation (NCIEC). The program does not have a specific gender focus.

SIDA. Through a regional program that includes Cambodia, Laos, and Vietnam, SIDA is focusing on developing sex-disaggregated statistics in agriculture. This will be very helpful in analyzing the impact of trade agreements and analyzing market opportunities for women.

SOCIAL DYNAMICS

WINNERS AND LOSERS IN TRADE

The opportunities presented in opening up markets and joining the WTO, APEC, ASEAN, and free trade agreements, can change the landscape significantly for women. In general, the most competitive businesses and industries have increased opportunities and the least competitive lose market share and can go out of business. For women-owned businesses that are competitive, this is a very positive dynamic—they may have access to other markets that they would not have had but for the trade liberalization. In addition, there is technology transfer and other learning opportunities when businesses and business associations take advantage of the opportunities of the greater dynamic of regional trade arrangements. The APEC and the ASEAN offer gender-specific opportunities plus other assistance in trade facilitation that helps businesses continue to grow and expand. However, less competitive businesses including those in the rural areas can often face greater competition. As noted earlier in this report's chapters on Women and the Private Sector and

the Women and Labor, there is a gap between the urban and rural areas in terms of education. Education is critical as a competitiveness factor. Knowledge and understanding of ICT and business acumen are absolute prerequisites for companies to be competitive, but these are not the skills that the average woman learns in primary or secondary school in the rural area. There are also decreased employment opportunities due to restructuring of the labor market. Women in the rural areas are then drawn to opportunities in urban areas that do not have the labor protections in place. The nexus to sex-disaggregated data and analysis related to the trade negotiations can help Vietnam's policymakers understand and create plans on helping the least competitive sectors become more competitive and diversify.

SPECIAL CONCERNS OF WOMEN LEARNING ABOUT TRADE AND NETWORKING

While the VWU provides support for women, there is insufficient support for sharing experiences in business and trade. A culture of mentoring in business does not exist. Many women in government and the private sector bemoaned that the men go out for drinks and share experiences and learn from each other. The Hanoi Network of Entrepreneur Women came about as an expression of the need for this type of support. Active mentoring and networking programs need to be incorporated in government and private sector programs.

LACK OF COMPETITIVE MARKET INTELLIGENCE FOR WOMEN'S BUSINESS ASSOCIATIONS

In order to take advantage of trade opportunities, businesses must be flexible and able to adapt to changing market circumstances. This requires access to current information. The information exists but often businesses do not know how to access it. The women's business associations need to be better integrated into the regular business associations, work with the VCCI and VIETrade, and other trade promotion

⁹⁸ See www.starvietnam.org.

agencies. In addition, they need to participate in regional forums such as ASEAN and APEC to stay up to date and share new ideas with their members. Women's business associations should also link to other organizations that provide trade information such as the International Trade Centre in Geneva.⁹⁹ Because women business owners are so busy with the triple burden, business associations can play an important role in providing a central place for current trade information. They can also serve to help individual businesses connect to APEC and ASEAN initiatives to enable more private sector individuals to participate and bring back the international perspective to their companies.

LACK OF ADVOCACY IN TRADE POLICY

One of the issues related to women's status in Vietnam has been their reticence and willingness to take a back seat in decision making in the family and in business. This spills over into the lack of confidence in advocacy. Confidence-building and advocacy training would improve women's business associations' ability to push for necessary reforms and programs that would help women to be more competitive.

RECOMMENDATIONS

- **Collect sex-disaggregated data on Vietnam's economic sectors.** It is impossible to accurately predict the impact of negotiating trade agreements until the full impact on the sector is better defined from a gender perspective. Having the data will enable economic analysis and econometric modeling to be done prior to negotiating trade agreements and when there are anticipated market changes.
- **Specifically incorporate gender issues into the mandate of the National Committee on International Economic Cooperation (NCIEC).** The NCIEC with its crosscutting and coordination mandate and donor support in the MDTF has the resources

and potential reach to incorporate gender across all the trade ministries and has reach to the provinces and rural areas. This is a key organization to strengthen its gender focus.

- **Connect all associations that touch women entrepreneurs (women's business associations, women's associations, and business and trade associations that involve women) to the opportunities presented by participation in the regional trade forums—the APEC and ASEAN.** There is a wealth of information and learning that is available by participating in the networks provided by the APEC and ASEAN. The APEC e-Business Forum is a good example of how participation can yield positive results for Vietnam. Connecting all these associations provides a network for women entrepreneurs that brings international experience to women entrepreneurs no matter where they reside or in which area they work.
- **Incorporate a process for public input based upon gender into the comment period in the Law on Laws.** A process for public comment that ensures that gender interests are incorporated in the laws and the regulation needs to be designed. Relevant women's organizations (the VWU and others), business associations that handle sectors that are predominantly female and those that have a high percentage of women run businesses need to be informed and have an opportunity to provide comments.
- **Create a branding campaign for "engendered fair trade" and dissemination strategy.** Create a strategy for trade promotion of women's businesses, including training women entrepreneurs on trade promotion, promoting greater inclusion in trade fairs, providing information on women-owned businesses to

⁹⁹ USAID provided access to the International Trade Centre's tools for all developing countries. See www.intracen.org.

foreign investors, and focusing on engendered fair trade. Multinational corporations and investors look for opportunities to show corporate social responsibility, and being able to link these two groups together would provide a growth opportunity for women-owned businesses.

- **Link women's groups to market intelligence and trade data.** Create a strategy to link the various women's groups to market data and intelligence. Information on markets and products that are competitive for women is lacking, although the data exists. Properly identifying the market and tooling the product to meet those market demands are critical for competitiveness and success. There are many sources of market information; USAID has provided some tools on market data for free, but many of the associations do not know they exist and so members have no access to them.
- **Increase educational opportunities for women linked to increased**

business opportunities and trade.

Increased access to education, language skills, and vocational training for women and girls will lead to increased competitiveness for the country. Ensuring that this educational and vocational training is extended to the rural areas will also make the country more impervious to shocks as workers are more mobile and increase the possibility for increased employment. Increased economic opportunities in the rural areas can play an important role in decreasing the opportunities for trafficking in persons.

- **All discriminatory references to only males or females should be removed from advertisement and internal hiring policies.** The regulations pertaining to advertisements and qualifications for jobs in all MOTI positions need to be changed to make it impermissible to say "men preferred" as a criteria, and apply this across the government and private sector.



WOMEN AND COMMERCIAL JUSTICE

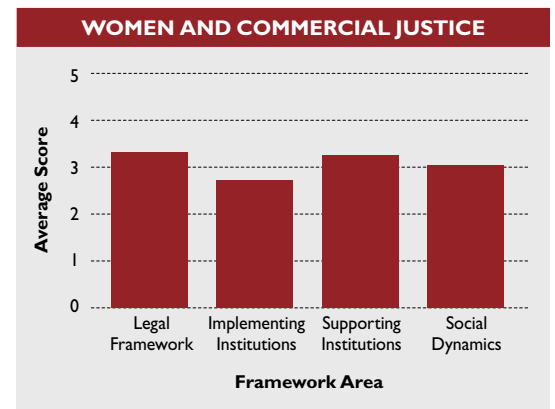
In order to effectively participate in a market economy, women must have, and be aware of, their rights as individuals, family members, students, workers, professionals, and entrepreneurs. This chapter addresses Vietnamese women's access to information about their legal rights and access to the institutions that can assist them in enforcing those rights. Although the GenderCLIR indicators show that Women and Commercial Justice is one of the country's stronger areas of review, continued commitment to strengthening courts and alternative dispute resolution (ADR), particularly as they serve the female population, is necessary.

LEGAL FRAMEWORK

CONSTITUTION AND STATUTORY LAW

Every constitution adopted by Vietnam since 1946 has recognized gender equality. As noted in this report's chapter on Women's Role in Society, Article 63 of the current (1992) **Constitution** provides that male and female citizens have equal "political, economic, cultural, social and family" rights and specifically bans discrimination against women. The principle of non-gender discrimination is also set forth in many of Vietnam's statutes, including **Article 5 of the Civil Procedure Code**, **Article 8 of the Civil Code** and **Article 8 of the Law on the Organization of the Courts**. As also discussed previously in this report, the **Gender Equality Law** went into effect in 2007, providing that principles of gender equality apply in all fields of social and family life (Art. 1).

There are also a number of laws that provide special protection or affirmative rights for women. The **Labor Code** (1994, with subsequent amendments) devotes several articles to women's rights in the workplace (Chapter X). The **Law on Marriage and Family** provides women with special protections prohibiting men from initiating divorce proceedings when a woman is pregnant or has a child



under 12 months of age (Article 85, Article 6 of Resolution No. 2/2000/NQ-HDTP). The Gender Equality Law provides for increased training for women (Article 13(3)(b)); for special aid for women in rural areas (Article 12(2)(b)); and for tax breaks and special incentives for enterprises hiring "many" women (Article 12(2)(a)).

The **Law on Domestic Violence Prevention and Control** (Domestic Violence Law), which went into effect in 2008, gives priority to the protection of women and children (Article 3-3). The Domestic Violence Law provides women with the right to obtain a protective order against acts of domestic violence (Articles 20 and 21); provides for the provision of health, housing, counseling, and other services; and provides for civil and, in severe cases, criminal penalties against the perpetrator.



ACCESS TO INFORMATION

In Vietnam, the *Official Gazette* (Gazette) publishes laws passed by the National Assembly, as well as executive decrees, presidential proclamation, and other regulations related to the implementation of laws. The Gazette has increased the frequency of its publications dramatically over the last few years. There are also *Official Gazettes* in 63 of Vietnam's 64 provinces—20 of which are available online.¹⁰⁰

Copies of laws can also often be obtained by interested parties from ministries charged with implementation of the law or from trade unions, the VCCI, the Vietnamese Women's Union and other groups. The Supreme Court of Vietnam also maintains on its Web site (www.sotaythamphan.gov.vn) an online version of its bench book with extensive links to Vietnamese law. Other links to Vietnamese law can be found at The World Law Guide (Lexadin) ([http://www.lexadin](http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwevie.htm)

<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwevie.htm>) and at World LII—Vietnam (<http://www.worldlii.org/vn/>).

The Law of Laws requires a 60-day public comment period and regulatory impact assessment on all pending legislation and regulations. Members of the public and interested parties, such as business clubs, the VCCI, labor unions, and the VWU, therefore, have an opportunity to comment on pending laws that affect their members. In addition, the National Assembly has reached out to interested parties regarding the drafting of laws, including asking the VWU to participate in the drafting of the Gender Equality Law.

However, laws like the Gender Equality Law are not always clear. For example, Article 12(2)(a) of the Gender Equality Law provides that enterprises employing “many” female laborers will be entitled to preferential tax and financial treatment. However, the law does not define the term “many.” That definition was published later in Circular 23, Article 5—defining “many” to be 50 percent or more. Therefore, while laws are generally available to the public, all information needed to understand the implementation and enforcement of the laws may appear in a number of different circulars, ordinances, and decrees from a variety of different sources including government ministries, departments, and the Politburo of the Vietnamese Communist Party. Knowing how to find such documents may present a challenge for women and small business owners who do not generally retain lawyers. Providing a compilation of these laws would be a good first step, followed by a simplification and streamlining that would retain the protection.

Court fees are set by governmental decree and are charged and collected by the court where the case is filed. The amount of the fees and costs varies, based on the amount in dispute or by the nature of the dispute. Certain types of cases are exempt from court costs, including some types of labor and family law cases. There is currently a draft Ordinance on Legal Expenses and Court Fees which has been

¹⁰⁰ USAID/STAR, *Supporting Vietnam's Legal and Governance Transformation, a Successful Partnership between Vietnam's Office of the Government and the USAID/STAR Project 21* (2006) (hereinafter 2006 STAR Report).

KEY LAWS

- Constitution (1992)
- Civil Procedure Code (2004)
- Civil Code (2005)
- Law on the Organization of the Courts (2002)
- Gender Equality Law (2007)
- Labor Code (1994, with subsequent amendments)
- Law on Marriage and Family (2000)
- Law on Domestic Violence Prevention and Control (2008)
- Law on Laws (2008)
- Judgment Enforcement Code (amendments in draft)
- With respect to all of the above, implementing decrees, circulars, decisions, and other regulations

pending since at least 2008. One of the controversies about that proposed law are provisions that would permit courts to retain a portion of the fees charged to fund court operations.

ACCESS TO ALTERNATIVE DISPUTE RESOLUTION (ADR)

Arbitrations in Vietnam are governed by the 2003 Ordinance on Commercial Arbitration and provisions of the 2004 Civil Procedure Code. Vietnam has signed the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards. Foreign businesses can select foreign arbitration, and parties to disputes (whether Vietnamese or foreign) with “foreign elements” can select the substantive and procedural laws of the foreign venue to govern an arbitration proceeding. However, disputes involving only Vietnamese businesses and Vietnamese law must use Vietnamese arbitration tribunals. There are plans to revise the Ordinance on Arbitration to permit any party to elect foreign arbitration with the revisions currently expected in 2010.

Under the 2003 ordinance an award made by a Vietnamese arbitration tribunal does not have to be certified or otherwise endorsed by a Vietnamese court to be enforceable. However,

under the rules of arbitration (Rule 21(2)) promulgated by Vietnam’s largest arbitration tribunal, the Vietnam International Arbitration Center (VIAC), a party not satisfied with the decision of the arbitration tribunal may request review of the decision by the Provincial Court.¹⁰¹ As a result, there is always a risk that an arbitration award will be challenged in court by the losing side, leading to delay in finally resolving a dispute. Foreign arbitration awards must be recognized by the Vietnamese Court under the 1995 Ordinance on Formalities and Procedures of Recognition and Enforcement of Foreign Arbitral Awards.

The parties may select their own arbitrators, including arbitrators with subject-matter expertise. The VIAC has 123 arbitrators who serve in six centers throughout the country. VIAC arbitrators must complete a VIAC training program and have a bachelor’s degree and five years of experience in their field of expertise. Of the 123 arbitrators, just 30 are women. Perhaps the low number of women arbitrators can be explained by the types of cases most frequently brought to the VIAC for arbitration. The types of cases in order of frequency are: (1) disputes about purchase or delivery of goods; (2) provisions of services; (3) payment disputes; (4) transportation; (5) insurance; and (6) construction. The number of women professionals in most of those areas is not high in Vietnam.¹⁰²

Enforcement of arbitration awards (domestic and foreign), like civil court decisions, is made by the Enforcement Agency of the Ministry of Justice. As noted by the CLIR Vietnam Diagnostic, the Enforcement Agency is not viewed as particularly effective or transparent in its enforcement functions.¹⁰³ A revision to the **Judgment Enforcement Code** has been drafted but not yet enacted by the National Assembly. It is scheduled for discussion in the 2009 session of the National Assembly.

While there is no court-annexed arbitration program in Vietnam, conciliation is to be promoted between the parties in all civil cases.

¹⁰¹ As explained in more detail later, the provincial courts are the second-tier courts in the Vietnamese court system.

¹⁰² From Draft 2008 World Bank and ILSSA *Gender Analysis of the 2006 Vietnam Household Living Standard Survey: How do Women Fare in Education, Employment and Health* (2008 ILSSA Report), which indicates that most women work in retail sales, garment production, and hotels and restaurants, rather than in construction and transportation.

¹⁰³ USAID/Booz Allen, *Southeast Asia Commercial and Trade Diagnostics—Vietnam 65* (2007).

BASIC STRUCTURE OF NON-MILITARY VIETNAMESE COURTS

Supreme People's Court					
Criminal	Civil	Economic	Labor	Administrative	
People's Courts of provinces, cities directly under the central authority					
Criminal	Civil	Economic	Labor	Administrative	
People's Courts of districts, prefectures, towns, and cities under provincial authority					

(Civil Code, Article 11). Furthermore, in some substantive areas of law, the parties must first pursue mediation before filing an action in court. For example, labor disputes must go through two levels of mediation before an action can be filed in court.

ACCESS TO COURTS

Multiple laws govern the structure of the Vietnamese court system. Among the most important are the Civil Procedure Code (2005), the Law on the Organization of the People's Courts (2002), and Ordinances on Judges and Assessors of the People's Courts (2004). Additionally, in 2005, the Politburo of the Vietnamese Community Party issued a "road map" for reform of the courts, a policy document providing for improvements to the court and legal system to be accomplished through 2020.¹⁰⁴

The Vietnamese court system is a basically two-tiered system with the People's Supreme Court being the court of final appellate jurisdiction and the division of the court that handles central administrative matters, such as appointment and removal of judges, maintenance of statistics, etc. The District People's Courts are first instance courts and, therefore, the most common type of court in rural and small urban areas. The Supreme Court has specialized criminal, civil, economic, labor, and administrative courts. The Provincial People's Courts function as appellate courts for the district courts and also have specialized divisions for criminal, civil, economic, labor, and administrative courts.

District courts issue written decisions that are available to the parties, but generally not available to the public. That policy is gradually changing, at least in commercial cases involving sectors

of the economy affected by Vietnam's accession to the WTO. As a result, some case decision can now be accessed at <http://e-lawreview.com>.

IMPLEMENTING INSTITUTIONS

THE JUDICIAL SYSTEM

Women serve as staff members, judges, apprentice judges/law clerks, and lay assessors in the Vietnamese court system. The number of women judges and women staff members at the Ministry of Justice in Vietnam has steadily increased between 2004 and 2007. There has also been an increase in the number of women judges, including an increase in the number of chief and vice chief judges at the provincial court level.¹⁰⁵ However, the number of women in leadership positions still remains comparatively low. Women often become deputy directors, vice ministers, and vice judges rather than directors, ministers, and chief judges. For example, a court may have a majority of women judges, but the chief and vice chief judges may still often be men.

Women make up the majority of law students in Vietnam, but they represent only about 33 percent of the 5,300 lawyers licensed to practice in court. That discrepancy can be explained, in part, by the fact that obtaining an undergraduate law degree is only the first step in obtaining a license to practice law. Post-graduate lawyer training, an apprenticeship, and passage of an exam are all required before a lawyer may appear in court. Not all law graduates, therefore, become licensed lawyers. It may be that a substantial number of women with undergraduate law degrees do not complete lawyer training due to family

¹⁰⁴ See 2005 Resolution 49/NQ/TW of the Politburo on judicial reform.

¹⁰⁵ Pham Thi Thu Hang of Enterprise Development Foundation, VCCI (Goal 3 Paper) at 3.

KEY IMPLEMENTING INSTITUTIONS

- Judicial system, including courts, judges, law clerks, court staff, etc.
- ADR tribunals
- Institutions charged with implementing the Gender Equity Law
- Institutions charged with implementing domestic violence prevention, prosecution, and victim support

obligations. In addition, the recent emphasis by the Vietnamese government to increase the number of lawyers may attribute to the increasing enrollment of women in law school.

Women lawyers and law school graduates are eligible to be members of legal associations, such as the Vietnam's Lawyers Association (VLA), which includes both lawyers licensed to appear in court and jurists who are not licensed practitioners but are qualified to provide legal advice and counseling. Women lawyers who are qualified to make court appearances also have free access to membership in local bar associations. The government has plans to triple the number of licensed lawyers over the next few years, as part of its strategy to reform the legal system and courts. Since women currently make up the majority of students in law schools, it is likely that the majority of new lawyers, whether certified to appear in court or not, will be women.

Individuals, including women, can represent themselves in Vietnamese courts, and there are no special statutory constraints that bar women from pursuing their legal remedies in the courts. However, it is unlikely that many women, especially poor women in rural areas, will know that the court is available to assist them in cases of domestic violence, much less understand how to proceed to prosecute such a case in the court. Therefore, while the right of self-representation is available, it is of little value for poorer women who often lack the information necessary to use the courts. This is a common dilemma for women in other countries as well.

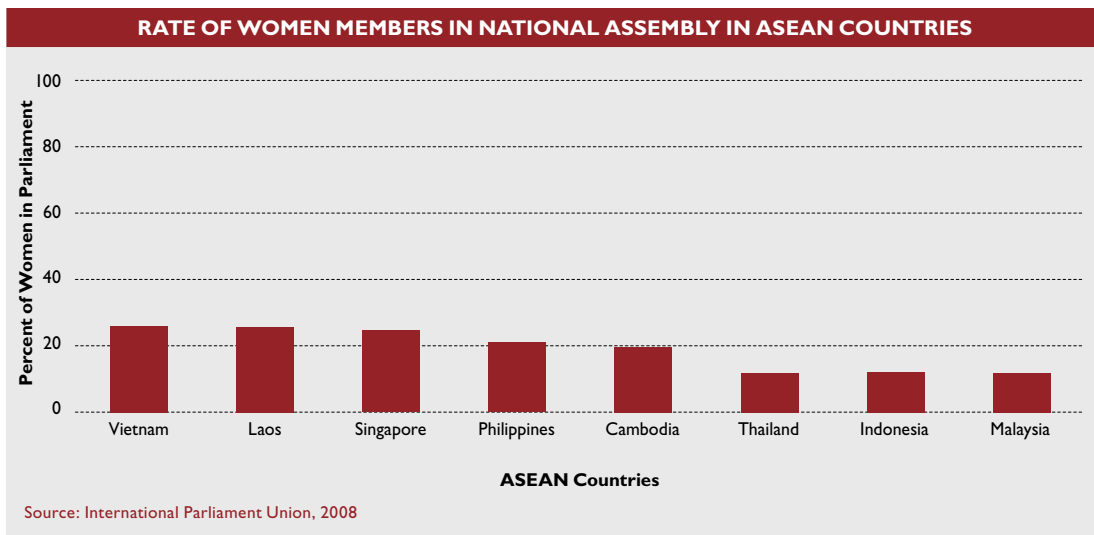


Courts appear to be an area where women are increasingly coming into leadership positions.¹⁰⁶ Notwithstanding the increased number of women judicial officers, SMEs rarely use formal procedures in conducting business and, therefore, also rarely use the courts to resolve business disputes. The use of written contracts for domestic businesses (other than loan agreements with banks) is uncommon. There is a credit bureau in Vietnam operated by the Ministry of Finance, but it is rarely used by parties other than banks.

The cultural reasons for the non-use of organized dispute resolution systems is discussed in greater detail in the Social Dynamics part of this chapter and in other parts of this diagnostic. However, in addition to the non-litigious nature of Vietnamese society, a lack of information about laws and courts may be a major reason why women do not use formal dispute resolution procedures. In almost every interview conducted in this diagnostic, a concern was raised that poor women, women in rural areas, and women in ethnic minority populations did not have adequate information about their legal rights.

Corruption and rent-seeking were rarely mentioned in the interviews as being a barrier to

¹⁰⁶ While the number of women in leadership positions in mid-level management positions in government ministries generally dropped between 2005 and 2007, during that same time period, the number of women judges increased as did the number of women judges in leadership positions.



court access.¹⁰⁷ At the same time, courts were not generally viewed by the interviewees as being highly competent or as a co-equal independent branch of government. District courts hear cases with lay assessors who are elected by the local government. The lay assessors hear cases on an “equal footing” with the judges,¹⁰⁸ even though they may have little legal training or subject-matter expertise. The co-equal participants of politically appointed lay assessors raises questions about the district courts’ independence from political influence. Also, courts may not be adequately independent from the executive branch. For example, the Ministry of Science and Technology has a new pilot program in which any intellectual property case pending in a court in the pilot program district is to be sent to a special office of the ministry for review and advice before the court hears the case. Such programs may be viewed as providing the courts with technical expertise, but they may also result in having the ministry rather than the court decide the merits of the case.

However, as part of the legal reforms implemented to permit Vietnam to become part of the WTO and to enter into a bilateral trade agreement with the United States, the Vietnamese courts have been steadily moving toward more independence. Since 2002, district and provincial court judges have been appointed to their five-year terms by the Chief Justice

of the Supreme Court instead of by the local political units of government. The courts’ budget is now established by the National Assembly instead of the Ministry of Justice. While there is no separate judicial code of ethics, the 2002 Ordinance on Judges and Assessors of the People’s Courts imposes ethical obligations on judges, including barring them from engaging in ex parte contacts. (Articles 15.) Judges may be removed from office for misconduct in handling a case, criminal conviction, or for “breaching moral standards.” One of the functions of the Inspection Bureau of the Supreme People’s Court is to receive complaints about judges and courts and to evaluate judicial performance.

ALTERNATIVE DISPUTE RESOLUTION TRIBUNALS

Even though ADR provides more privacy to the parties, and the potential for faster dispute resolution, the number of cases heard by the VIAC is low—60 cases in 2008 and 30 cases as of July 2009. The VIAC does not keep separate gender statistics on the cases it hears, so it is impossible to determine what percentage of women-owned businesses has used VIAC’s arbitration services. The VIAC does not generally do educational outreach targeted specifically to women’s business groups, but would do so if a request was made.

¹⁰⁷ However, in the 2008 Corruption Perceptions Index, Vietnam’s score was 2.7 out of 10—a very low score.

¹⁰⁸ Law on the Organization of the People’s Courts, Art. 4.

Local governments may appoint “grassroots” mediation councils. Such councils are available to mediate all types of disputes including those that might be considered “small claims disputes.” In the past, such mediation councils were dominated by men, but women now are increasingly being appointed to serve. Grassroots mediation councils do not appear to have any links to the formal court system.

INSTITUTIONS CHARGED WITH IMPLEMENTING THE GENDER EQUALITY LAW

The Gender Equality Law is supposed to be implemented under “unified state management.” (Article 9.) To that end, a gender equality department has been established in the **Ministry of Labor, Invalids and Social Affairs (MOLISA)**. It was unclear at the time of the diagnostic if that department was fully functioning. The Gender Equality Law also requires that all ministries and ministry-level agencies become involved in the law’s implementation. (Article 19(3).) According to one drafter, the law requires each ministry-level agency to adopt a specific policy on its implementation rather than just relying on organizations such as the VWU to advocate for the rights of women in their ministries. Some ministries and departments apparently have established committees in response to that policy directive, but others continue to rely on the VWU to handle “women’s issues.” People’s committees at the local government level are also charged with implementing the Gender Equality Law in accordance with direction from the government. (Article 9(4).)

Another key group in implementing the Gender Equality Law is the **National Committee for the Advancement of Women (NCFAW)**, which advises the prime minister on the advancement of women and coordinates government policies on the advancement of women. The VWU is a member of the NCFAW. The NCFAW has worked successfully to recruit more women to run for the National Assembly: Vietnam has long had the highest percentage

rate—approximately 26 percent—of women members in the Southeast Asia region.

INSTITUTIONS CHARGED WITH IMPLEMENTING DOMESTIC VIOLENCE PREVENTION, PROSECUTION, AND VICTIM SUPPORT

The Domestic Violence Law gives multiple institutions the right to mediate domestic violence disputes. Mediation services can be provided by the “family and clan” (Article 13); by mass organizations, such as labor unions and the VWU (Article 14), or by “grassroots” reconciliation teams established by the Local People’s Committee.

Both the district courts and the Local People’s Committee have the power to issue emergency protective orders. The Local People’s Committee may issue a three-day protective order upon a written request of the victim. The district court may issue a four-month protective order upon a written request of the victim.

The Domestic Violence Law also imposes responsibilities on multiple agencies and groups to provide support services to victims of domestic violence. The VWU is to provide counseling services, promote educational services, and encourage compliance with the Domestic Violence Law. The VWU is also to propose enactment measures to the government and to jointly supervise the law’s enforcement with the Ministry of Culture, Sports and Tourism. (Article 33.) That ministry is responsible for unified government management of the Domestic Violence Law. Its tasks include inspecting and supervising enforcement of the law and supervising the preparation of statistical reports about domestic violence. (Article 36.)

SUPPORTING INSTITUTIONS

THE NATIONAL ASSEMBLY

The role of the National Assembly in passing legislation is critical to the implementation of Vietnam’s gender equity principles. Over the



past decade, the procedures of the National Assembly have become more transparent. In addition to the 60-day public comment period regarding draft laws and regulations, the Law on Laws and Law on Local Laws require publication in the *Gazette* of legal instruments for 15 days before they become effective.¹⁰⁹ In 2005, an anti-corruption law was passed which requires high-ranking government officials to disclose their assets and the assets of close relatives.

VIETNAM WOMEN'S UNION

The VWU was heavily involved in the drafting of the Gender Equality Law. It organizes women's groups at the local and provincial levels, including business clubs. It also provides training on a variety of commercial subjects, including income generation and business management. It provides training about women's rights, including training about the Gender Equality Law, family law, and the Domestic Violence Law. It also manages a number of large micro-lending funds and was instrumental in establishing a domestic violence shelter in Hanoi. It has an extensive network of offices throughout the country and has, therefore, the ability to provide services to women in rural and ethnic minority communities.

¹⁰⁹ 2008 USAID/STAR Report at 21.

¹¹⁰ According to VWU, women currently make up 49.16% of the Vietnamese labor force. See <http://www.hoihpn.org.vn/newsdetail.asp?CatId=78&NewsId=10103&lang=EN>.

VIETNAMESE LAWYERS ASSOCIATION

Like the VWU, the Vietnamese Lawyers Association (VLA) is a quasi-governmental organization. It is the broadest organization of law-related professionals in Vietnam. Its members include lawyers licensed to practice in court, as well as jurists and counselors. The VLA provides legal consultations to members and non-members in the areas of trade, business investment, and labor. The VLA also comments on policy and pending legislation to the executive branch of government and to the National Assembly. Much of the VLA's work focuses on assisting members of labor unions and women workers.¹¹⁰ The VLA also provides training programs about law and mediation, especially in the area of family law. Educational outreach is conducted in a variety of ways, including reaching out to public media and presenting seminars which include role playing on gender issues.

VIETNAMESE CHAMBER OF COMMERCE AND INDUSTRY

The VCCI is a semi-autonomous private sector organization with approximately 65,000 members. It has seven offices that offers services to the business community, including offering training programs with the International Labor Organization on how to start a business. The VCCI consults with the National Assembly on the drafting of commercial laws, including laws on trade and taxation. The VCCI also founded the VIAC, the largest commercial arbitrator tribunal in Vietnam. It has worked closely with the National Assembly and the executive branch of the Vietnamese government on drafting the many reforms made to Vietnamese commercial law.

LEGAL AID

The Vietnamese legal aid system, which was established in 1997, is administered by the Ministry of Justice. Legal aid services include assistance in the areas of criminal, housing, land, family, labor, and consumer protection matters. In 2006, a law was passed setting up legal aid centers in all of the provinces. In addition,

KEY SUPPORTING INSTITUTIONS

- National Assembly
- Vietnam Women's Union
- Vietnam Lawyers Association
- Vietnamese Chamber of Commerce and Industry
- Legal aid
- Donors
- Gender Action Partnership

five offices were formed exclusively for the purpose of providing services to women. It is anticipated that the legal aid program will be heavily involved in providing services related to the implementation of the Domestic Violence Law.

DONORS AND OTHER COLLABORATIVE GROUPS

Legal and court reform. Donor groups in the area of court and legal reform include USAID/STAR, which was involved in the extensive revision of Vietnamese commercial law between 2001 and 2006. USAID/STAR also assisted in the improvements and expansion of the *Official Gazette*. Other major donors include the governments of Denmark and Japan in the areas of judicial training and capacity-building for the courts. AusAid funded the development of the Supreme People's Courts bench book. The UNDP has also been involved in judicial reform programs, especially at the district court and administrative court levels.

Gender Action Partnership. The key support organization for harmonizing and implementing the Gender Equality Law is the Gender Action Partnership (GAP), comprised of members of the government, the donor community, United Nations' agencies, and civil society organizations like the VWU. The GAP was formed to provide support for the promotion of gender equality by promoting dialogue and policy review on gender issues among its partners and within the government.

Countries funding programs supporting implementation and awareness of the Domestic

Violence Law include Spain, Switzerland, Canada, Ireland and Sweden. There is a 15-member group—DOVIPNET—made up of NGOs, journalists, and others whose main objective is to promote the awareness and implementation of the Domestic Violence Law.

SOCIAL DYNAMICS

Because gender equality is a core legal principle in Vietnam, gender bias does not appear to be a barrier to use of the formal dispute resolution process. In reality, however, few women use the courts or ADR to resolve disputes. In Vietnam, there is a strong cultural aversion to engaging in a public dispute. Furthermore, most businesses in Vietnam do not generally use formal written agreements, which necessarily result in informal dispute resolution.

The work performed by two-thirds of urban women-owned enterprises and almost three-quarters of rural women's enterprises are done by the women themselves.¹¹¹ Such small enterprises may not have the information or the resources to access the formal dispute resolution process. Furthermore, the amounts in dispute for such businesses may simply not justify anything more than informal mediation.

While self-employment remains the largest category of employment for all Vietnamese, including women, the number of women participating in the wage economy is steadily increasing. According to the 2008 Draft ILSSA Report, 42 percent of urban women in 2006 were engaged in wage employment. Arguably, the Gender Equality Law should be having an impact on such women. For example, Article III of the Labor Code provides that priority must be given to hiring a woman who "fills all the norms" for a job. Since employers still run advertisements targeting male applicants, that section does not seem to have had much real-world impact. There is also a provision in the Labor Code (Article 116) that requires enterprises with a "large female labor force" to help in the organization of daycare services for their employees,

¹¹¹ 2008 Draft ILSSA Report at 17.

but the law has had no apparent effect. One of the issues repeatedly raised by interviewees in this diagnostic was the lack of adequate childcare resources for children between four months (when paid maternity leave ends) and three years of age (when kinder care begins).

In short, to date, the enactment of the Gender Equality Law appears to have had little impact on private sector businesses, which is not really surprising because, as one of its drafters noted, the law is primarily a statement of policy rather than an implementation statute. In the public sector, ministries have formed committees for the advancement of women, but participation is voluntary and the majority of participants are often women. As one interviewee noted, “women talking to women” will not substantially raise awareness of gender equality issues among men. Given the cultural traditions of Vietnam, in which women are viewed as primarily (and often solely) responsible for the care of children and housework, gender awareness among men is critical to real, as opposed to de jure, gender equality.¹¹²

Access to the courts is even more difficult for rural women and women in ethnic minority communities. Almost every interviewee mentioned that women in those sectors lacked adequate information about their economic, personal, and property rights. Information and access is especially critical for women confronted with domestic violence issues. Because the majority of Vietnamese households are still located in rural areas,¹¹³ the number of women without adequate access to justice is potentially quite high. Nevertheless, while much remains to be done in terms of implementation of the Gender Equality Law and Domestic Violence Law, the basic legal structure, guaranteeing women equal rights, has long been in place in Vietnam. While most of the interviewees acknowledged that there was still a large gap between the gender equality ideals

of Vietnamese law and the reality of women’s treatment in society, they also reported that things have been steadily improving over the last decade, especially for women in urban areas.

RECOMMENDATIONS

- **Dedicate more resources to the implementation of the Gender Equality Law and Domestic Violence Laws, especially in rural and ethnic minority population areas.** The numerous associations of women entrepreneurs, NGOs, professional associations, and other key organizations provide a strong structure for integrating increased training and public outreach.
- **Increase public outreach and training on gender equality issues for men.** As recommended in other chapters of this report, consciousness-raising should go beyond women’s increased awareness of their rights, and include increased understanding by men about the opportunities and advantages presented by true gender equality.
- **Provide more continuing education for district judges, lay assessors, and mediation committee members on gender issues and family violence issues.**
- **Support ongoing legal education for the judiciary on substantive commercial law issues, including intellectual property, to maximize judicial independence.**

In 2007, the UNDP conducted training on the Domestic Violence Laws for chief judges and vice-chief judges of the Supreme People’s Courts. However, the training is most needed at the district court and grassroots mediation committee level because those are the institutions that issue protective orders.

¹¹² Close to half of all males do no housework and the males who do housework spend half as much time on it as women (1.5 vs. 2.4 hours). *Id.* at 13.

¹¹³ According to the 2008 Draft ILSSA Report, 73 percent of Vietnamese households in 2006 were located in rural areas.

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