



**POLICY OPTIONS FOR THE  
REVISION OF  
THE LAW ON GENDER  
EQUALITY IN RELATION  
TO GENDER-BASED  
VIOLENCE AND  
HARMFUL PRACTICES**







## 1. INTRODUCTION

The Law on Gender Equality (the Law) was promulgated in 2006 and has facilitated the Social Republic of Viet Nam's (hereinafter Viet Nam) progress in promoting gender equality in certain areas of life, including family, social and public sectors. The state management agency, the Ministry of Labour, Invalids and Social Affairs (MOLISA) has undertaken reviews of the implementation of the Law, including a ten-year independent review supported financially and technically by the United Nations Population Fund (UNFPA). The 10-year and 15-year reviews have revealed a number of issues to address in the revision of the legislation, including the limited focus on gender-based violence (GBV) and the absence of any mention of harmful practices, often rooted in socio-cultural traditions, that perpetuate inequality between men and women, boys and girls. At present, regulations on measures to prevent and respond to GBV are only mentioned in separated documents<sup>1</sup> and have not been included in the Law, along with a lack of comprehensive definitions of GBV and harmful practices specified in the Law.

This policy brief synthesizes key issues identified in the “Proposal on Policy Recommendations for the amendment to Gender Equality Law regarding GBV and harmful practices” and presents international human rights standards and good practices that can guide the legislative, policy, and programmatic response to GBV and harmful practices. The brief also sets out key recommendations for consideration by the Government of Viet Nam as it sets out to amend the Law.

## 2. CONTEXT

GBV is driven by historically and structurally unequal power relations between men and women and social norms, often based on gender stereotypes, that condone violence against women and other individuals, such as members of the lesbian, gay, bisexual, transgender, intersex (LGBTI) community, because of their gender identity in both the private and public spheres in Viet Nam and around the world.<sup>2</sup> GBV, particularly violence against women and children, takes many forms, including physical, sexual, emotional, and economic violence, and is widespread across the

1. Decision 1464/QĐ-TTg of the Prime Minister approving the Programme Prevention and Response to Gender-based violence in the period 2016-2020 with a vision to 2030; Decision No. 2232/QĐ-TTg of the Prime Minister approving the Programme Prevention and Response to Gender-based violence in the period 2021-2025.
2. UN in Viet Nam (2014). From Domestic Violence to Gender-Based Violence: Connecting the dots in Viet Nam, A UN Discussion Paper. See also, ASEAN Regional Plan of Action of Elimination on Violence against Women, p. 1.

nation.<sup>3</sup> The findings of the National Study on Violence Against Women in Viet Nam 2019 showed the pervasive complexity of violence against women and girls.<sup>4</sup> Nearly two in three (62.9%) women experienced violence by husbands/partners at some point in their lives, and 31.6% currently. GBV manifests itself in a variety of ways, including human trafficking, sexual or gender-based harassment in workplaces, institutions and through digital technologies (e.g. technology-facilitated harassment), intimate partner violence, including controlling behaviours, and certain forms of violence and harmful practices perpetrated against children are also gender-based. GBV has far-reaching repercussions for victims, families, and communities, including intergenerational impacts. They include negative health and economic consequences.<sup>5</sup> A 2019 study in Viet Nam researched the economic costs of violence against women<sup>6</sup> and found women who experienced physical or sexual violence spent approximately one-quarter of their annual income but also earned 30.8% less income compared to women not experiencing violence. The study also found productivity loss in 2018 due to physical and/or sexual violence among women (15 – 64 years of age) amounted to 1.81% of the 2018 gross domestic product. A survey of 1337 persons within the LGBTI community conducted by MOLISA in September 2022 indicated that 44.4% of respondents reported discrimination, including threats of violence, on the basis of sexual orientation or gender identity. The most common forms of discrimination reported were verbal humiliation (74.3% of surveyed persons); verbal bullying or emotional pressure (76.4%); threats of violence/sexual assault (67.6%); actual violent attack (64.1%); sexual assault (62.7%); and being under surveillance (58.6%).<sup>7</sup>

“Harmful practices” is a term used in international human rights law to describe practices that are based on discriminatory stereotypes and attitudes, often based on sociocultural or religious customs.<sup>8</sup>

GBV can encompass and intersect with a range of harmful practices identified globally such as female genital mutilation (FGM), forced and child marriage and gender-biased sex selection (GBSS) due to son preference. These practices are based on the same social norms rooted in gender inequality and serve as a means to control the choices and behaviours of women and girls, and sometimes boys, in ways that perpetrate physical, sexual, emotional, or economic harm.



3. Reports of the government agencies and local governments: MOLISA (2022). Findings of the Survey on the Implementation and Recommendation for the Amendment of the GE Law of 2006; MOLISA (2020). The Programme on the Prevention and Response to GBV in the Period of 2021-2025; Ministry of Culture, Sport, and Tourism, Report No. 208/BC-BVHTTDL dated 06/9/2021; Reports on 10 Year Implementation of the GE Law by provinces, Hanoi, 2018; Reports on 15 Year Implementation of the GE Law by provinces, Hanoi, 6/2022.
4. MOLISA, GSO and UNFPA (2020). Summary Report: Results of the National Study on Violence against Women in Viet Nam 2019 - Journey for Change.
5. UN in Viet Nam (2014), From Domestic Violence to Gender-Based Violence: Connecting the dots in Viet Nam, A UN Discussion Paper.
6. MOLISA, GSO and UNFPA (2020), Results of the National Study on Violence against Women in Viet Nam 2019 - Journey for Change. p. 104.
7. MOLISA (2022), Survey on experiences of equality and discrimination for gay, bisexual and transgender people in Vietnam.
8. United Nations (8 May 2019), Joint Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, para. 7. Available online (pdf): United Nations: <https://documents.un.org/doc/undoc/gen/g19/134/42/pdf/g1913442.pdf?token=MnlttJUYtVIUmEBQXN&fe=true>





The UNFPA publication “State of the World Population 2023” (SoWP 2023) Report<sup>9</sup> provides statistics on child marriage and FGM. The report provides data on the prevalence of FGM among females between 15 and 49 years of age in the Arab States and two regions in Africa. Data was not available for the Asia and Pacific region, and at the country level, data on FGM prevalence was provided for 30 countries.<sup>10</sup> No data was available for Viet Nam; however, one country in Asia and the Pacific region (the Republic of Maldives) reported data.<sup>11</sup>

Child marriage is a harmful practice occurring in Viet Nam that affects girls, boys, men, and women is early and forced marriage. Studies have found a significant proportion of Vietnamese women marry during adolescence before the legal age of marriage.<sup>12</sup> Child marriage is more common among women of all ages (11.2 % of women surveyed had married before 18 years of age) than among men (2.4% of men had

married before 18 years of age); rural women and men are much more likely to marry before the ages of 15 and 18 than their urban counterparts; and women with lower education and coming from poorer households are more likely to marry before the age of 18.<sup>13</sup> In the SoWP 2023, data on child marriage illustrates that 18% of girls in the Asia-Pacific region marry before 18 years of age,<sup>14</sup> while the prevalence in Viet Nam is 15%.<sup>15</sup>

GBSS has been found as the primary cause of Viet Nam’s sex ratio at birth (SRB) imbalance. According to the 2019 Population and Housing Census, the SRB in Viet Nam was 111.5 male births to 100 female births,<sup>16</sup> while the natural or “normal” ratio is 105 or 106 male births to 100 female births.<sup>17</sup> Few countries have higher SRB figures than Viet Nam in the SoWP data: only Azerbaijan, China, and India have a greater SRB imbalance.<sup>18</sup> Translating the SRB imbalance into missing female births results in alarming statistics: among the selected thirteen countries with available data, experts estimate 1.2 million female births are missing annually globally, with estimates of 40,800 missing female births in Viet Nam over the period 2013-2017.<sup>19</sup> There are three main factors driving GBSS in Viet Nam: smaller family trends and fertility decline, new prenatal technologies, and son preference.<sup>20</sup> Son preference is deeply ingrained in Confucianism and patriarchal family systems, as well as societal norms that value boys more than girls.<sup>21</sup> The SRB imbalance in Viet Nam will have a long-lasting impact on the country’s population structures and has the potential to sustain or increase gender inequality.

9. UNFPA (2023), State of the World Population Report: 8 Billion Lives, Infinite Possibilities, the case for rights and choices. Available online (pdf): <https://www.unfpa.org/swp2023>.

10. Ibid., pp. 158-162.

11. Ibid., pp. 160, 162. There was also no regional data on FGM provided for Eastern Europe and Central Asia or for Latin America and the Caribbean.

12. GSO and UNICEF (2021). The Survey measuring Viet Nam Sustainable Development Goal indicators on Children and Women (SDGCW) 2020-2021.

13. Ibid.

14. State of the World Population Report, p. 158.

15. Ibid., p. 162.

16. UNFPA (2020), State of the World Population Report: Against My Will, Defying the Practices that Harm Women and Girls and Undermine Equality, p. 46. Available online (pdf): <https://www.unfpa.org/publications/state-world-population-2020>. See also, UNFPA Viet Nam (2020). Factsheet: 2019 Population and Housing Census, Sex Imbalances at Birth in Viet Nam, Trends and Variations, p. 1.

17. Ibid., UNFPA Viet Nam (2020), Fact Sheet.

18. UNFPA (2020), p. 46.

19. Ibid., p. 50.

20. UNFPA Viet Nam (2020), p. 1.

21. UNFPA (2019). Global Programme to Prevent Son Preference and the Undervaluing of Girls: Improving the sex ratio at birth in select countries in Asia and the Caucasus, Viet Nam Country Profile, 2019.





## 3. LEGAL AND POLICY FRAMEWORK GAPS

### 3.1 LACK OF COMPREHENSIVE DEFINITIONS OF GBV AND HARMFUL PRACTICES

**Gender.** Currently, there is a limited definition of gender in the law (currently: “Gender indicates the characteristics, positions, and roles of man and woman in all social relationships”). Gender is a social construct and thus it is increasingly accepted that gender and sex assigned at birth are not the same concepts and that an individual’s gender identity is integral to gender. The trend in gender theory and emerging international human rights analysis is to define gender more broadly and not as sex at birth or as a binary concept.

**Gender-based violence.** GBV is not defined in the current Law. In Article 10 (3), the Law refers to GBV as an act to be prohibited, but it does not define GBV in Article 5 (interpretation of terms) or elsewhere in the text. Furthermore, the Law does not clarify how GBV will be addressed.

**Harmful Practices.** Harmful practices are not defined in the Law. Likewise, specific practices, such as GBSS and early or forced marriage are not explicitly addressed in the Law. A key challenge in addressing son preference and GBSS and early and forced marriage in Viet Nam is to transform social norms that sustain these practices. In relation to GBSS, it is important to ensure a balance between effective law enforcement that bans the practice and also protects women’s reproductive rights.<sup>22</sup>

### 3.2 INSUFFICIENT PREVENTION MEASURES

The Law does not include any provisions on coordinated prevention efforts in cases of GBV and harmful practices, rather the law promotes gender equality through education and “prohibited acts.” The gaps in terms of prevention of GBV and harmful practices include:

**Weak inter-institutional coordination.** One of the most significant and cross-cutting issues identified in the review of the Law was the tendency to overlook the linkages between different forms of GBV and harmful practices. Gender equality programmes and interventions in Viet Nam are addressed by different ministries and agencies, as is evident in the specific responsibilities assigned to government agencies in the

22. UNFPA Viet Nam (2019). Global Programme to Prevent Son Preference and the Undervaluing of Girls: Improving the sex ratio at birth in select countries in Asia and the Caucasus, Viet Nam Country Profile.

Law. Additionally, different ministries are responsible for addressing specific forms of GBV.<sup>23</sup> As a result, different types of GBV are recorded, approached, and addressed in a disjointed way that limits a comprehensive approach to GBV prevention. A consistent and inter-institutional approach to statistical data reporting, referral mechanisms, training, and policies to change social norms enhances the effectiveness of GBV prevention and subsequent protection and services to survivors and responses to perpetrators.

**Statistical data.** The regular collection of statistics by different agencies is a critical starting point for evidence-based decision-making. At present there is no comprehensive national GBV database that integrates data to centralize statistical information gathered from different ministries, including domestic violence data from the Ministry of Culture, Sport and Tourism (MOCST), GBV data from the MOLISA, criminal statistics from the police (Ministry of Public Security – MPS) and Ministry of Health (MOH) information. In Viet Nam, nearly 50 institutions provide services to survivors of GBV, but statistics on cases are incomplete.<sup>24</sup>

**Reporting violence for prevention.** While the UNFPA supports reporting by survivors of GBV, based on the survivor-centred approach, it is important to note that States Parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child have the due diligence obligation to prevent further violence by private and State actors. In Viet Nam, the Law on Children, in article 48, states that child protective measures consist of “... reporting cases where children are abused or in danger of violence, exploitation or abandonment...”. Article 51 requires agencies, organizations, educational establishments, and individuals to provide information, report and denounce acts of harm against children. It also requires the police and Offices of Labour, Invalids and Social Affairs (LISA) to respond to reports. Furthermore, the lack of a clear definition of GBV, harmful practices, and specific responsibilities related to their prevention in the current Law present limitations for statistical data collection, as mentioned above, but also how to report cases to the appropriate authorities.

**Training for professionals.** The 10- and 15-year reviews of the implementation of the Law both noted that the capacity of government officials requires

strengthening. Furthermore, the lack of gender and victim sensitivity training for people/service providers who work with or come into contact with GBV survivors was noted as a gap in the pilot of the Sunshine House model. For example, police, legal aid, health and social workers should receive specialized training to be able to de-escalate and prepare prevention plans for the safety and security of survivors. Increasing knowledge and skills through training would help prepare GBV prevention and response policies and programmes.

### **Eradication of stereotypes and transformation of discriminatory gender social norms and practices.**

While the Law assigns education and awareness-raising initiatives to specific ministries, the Law does not identify policy options or temporary special measures to address the root causes of GBV and harmful practices, including toxic masculinity. Changing social norms involves communication strategies and a variety of policy options to enhance gender equality in various fields and at various levels, including individual, inter-personal, institutional, and structural levels. Policy options to change gender social norms and behaviours include equality in education, and employment opportunities, enhancing rights to land ownership, equality in the division of property at divorce and inheritance, and engaging men and boys in GBV prevention

## **3.3 INSUFFICIENT COORDINATED PROTECTION MEASURES**

### **Lack of national hotline across Viet Nam.**

The limited essential services available to survivors of violence has negatively impacted their willingness to come forward. A pilot project developed and implemented a hotline on GBV Prevention and Response as a first step for victims/survivors to talk about their experiences. It also refers victims/survivors to police, health, social and judicial services. However, investment and guidelines for the operation of a national hotline are still lacking.

### **Lack of coordinated multi-service protection measures across Viet Nam.**

The comprehensive multi-service model of the Sunshine House implemented in Quang Ninh and Thanh Hoa provinces, and Da Nang and Ho Chi Minh cities include initial risk assessment, referrals

23. UN in Viet Nam (2014). From Domestic Violence to Gender-Based Violence: Connecting the dots in Viet Nam, A UN Discussion Paper.

24. Government of Viet Nam (2022) Report in review of 15-year implementations of the 2006 Law on Gender Equality, p. 45.



to safe houses, psycho-social counselling, legal, medical, and job counselling in a coordinated manner. Similar to the hotline mentioned above, the coordinated multi-service model requires investment and guidelines for a national scale-up beyond the four locations identified above.

### 3.4 PROSECUTION AND RESPONSE TO PERPETRATORS

While the Law states that GBV constitutes prohibited conduct, there are no specific provisions on sanctions for GBV and harmful practices in the Law. Due to the lack of clear, comprehensive definitions of GBV and harmful practices in the Law, law enforcement agencies such as inspectorates, police, prosecution, and the judiciary face significant challenges in identifying, dealing with, and applying criminal or administrative sanctions. These agencies can only impose sanctions based on other legal provisions for crimes or administrative violations, such as assault, rape, and physical attack causing serious injury, but not other acts of GBV. The Criminal Code (2015), article 165, typifies gender equality violations as a crime.

## 4. INTERNATIONAL STANDARDS AND PRACTICES THAT RESPOND TO THE GAPS

International human rights standards pertinent to the Government of Viet Nam as a State Party to the CEDAW and other human rights instruments, and as a new member of the United Nations Human Rights Council for the period 2023-2025, are set out in relation to the four policy issues identified above. While GBV and harmful practices can be perpetrated against women, men, girls, and boys, international human rights law is more fully developed regarding GBV against women and children and will be used as a primary source of standards to respond to the four issues noted above. These standards are drawn from three types of international law: treaties, multi-country declarations, and soft law, such as treaty body recommendations and reports of special rapporteurs or independent experts.



### 4.1 COMPREHENSIVE DEFINITIONS OF GENDER-BASED VIOLENCE AND HARMFUL PRACTICES

**Defining GBV.** As mentioned above, GBV can involve women, girls, men, or boys, although in Viet Nam GBV against women is the most prevalent form. Violent conduct is considered gender-based when it is directed at an individual because of their gender and prejudice or bias by the perpetrator against the gender. It is important to note that the CEDAW treaty does not define either violence against women or GBV, thus soft law has evolved since 1992 when the Committee first addressed violence against women as discriminatory conduct that undermined women's equality with men



in General Recommendation (GR) 19.<sup>25</sup> The elements of the definition of GBV can be guided by the Committee's work in GR 19 and 35.<sup>26</sup>

- **Underlying rationale of the violence.** According to GR 35, it is “violence that is directed against a woman because she is a woman or that affects women disproportionately.” This element of the definition can also apply to other victims of GBV: violence is perpetrated against an individual because of the individual's gender.
- **Type of conduct.** GR 19 stated that GBV includes “acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.” GR 35 elaborated on the forms of violence to include “all forms of violence” including violence perpetrated online (technology-facilitated GBV).
- **Sites of violence and perpetrators.** Violence may be perpetrated at home, school, in the workplace or in any other public or private setting. The perpetrator may be a state, inter-governmental organization, or non-state actors, including private individuals or armed groups.

- **Intersectional discrimination.** The CEDAW Committee applies an intersectional analysis to understand that discrimination, including violence, is “inextricably linked to other factors” affecting women's lives, including ethnicity, ability or disability, sexual orientation, and gender identity among many others. Likewise, GBV against men and boys can be linked to other personal characteristics.

The CEDAW Committee defined GBV against women as follows: “violence which is directed against a woman because she is a woman or that affects women disproportionately” in GR 19 (para 1) and the Beijing Declaration and Platform for Action (1995) refers to violence against women as “any act of GBV that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” However, it is important to note that the Law is not only focused on discrimination and violence against women but on gender equality more generally, and thus a definition of GBV that is not restricted to women and girls should be considered.



25. UN (1992), Committee on the Elimination of all Forms of Discrimination Against Women, General Recommendation No. 19: Violence Against Women (“GR 19”).

26. UN (26 July 2017), Committee on the Elimination of Discrimination against Women, General Recommendation No. 35 on Gender-based violence against women, updating General Recommendation No. 19 (“GR 35”).



**Harmful Practices.** The Joint Recommendation of the CEDAW Committee and the Committee on the Rights of the Child (CRC) determined that for practices to be classified as harmful, they must satisfy the following criteria:<sup>27</sup>

- (a) They constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms enshrined in the CEDAW and CRC.
- (b) They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential.

- (c) They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, on the basis of sex, gender, age and other intersecting factors.
- (d) They are imposed on women and children by family members, community members or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.

Harmful practices are based in practices that reflect values and beliefs held by members of a community for periods often spanning generations. Most countries pass legislation specific to a harmful practice, for the purpose of eradicating it, or laws that advance gender equality in a specific field or sector.

*Examples of definitions that correspond to international standards in practice<sup>28</sup>*

In **Wales** (in the **United Kingdom of Great Britain and Northern Ireland**) the *Violence Against Women, Domestic Abuse and sexual violence Act* (2015)<sup>29</sup> addresses violence against women, GBV against any gender, and specific harmful practices. In section 24 (1), “GBV” means (a) violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation; (b) female genital mutilation; (c) forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding).

In the **Republic of Malta**, the GBV and Domestic Violence Act (2018) adopts broad definitions of gender and GBV without reference to a specific gender. The Act defines “GBV” as: “all acts or omissions that are directed against a person because of their gender, that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>30</sup> The law also notes that the Act applies in times of peace or armed conflict<sup>31</sup> and that the government will ensure protection measures are provided without discrimination on multiple grounds (ensuring an intersectional approach).<sup>32</sup>

The law of the **Mongolian People’s Republic** on the Promotion of Gender Equality.<sup>33</sup> This law defines “gender” (article 4.1.1) as a “perception of the roles, responsibilities and statutes which a man or a woman is expected to fulfill in political, economic, social, cultural and family spheres, that establishes itself and evolves in the course of history.” In article 4.1.8 GBV is defined “as any action or inaction prompted by the person’s gender that inflicts or has the potential to inflict a physical, sexual, emotional or economic damage to a victim.”

27. Joint General Recommendation No. 31, at para 16.

28. The legislation included here was selected after review of their laws against international standards. Some countries, such as Malta, are identified in various UN publications because their legislation responds to GBV against women and GBV against LGBTI persons. Laws of Southeast Asian countries were also prioritized for review against international standards.

29. Wales, Violence Against Women, Domestic Abuse and Sexual Violence Act 2015: [https://www.legislation.gov.uk/anaw/2015/3/pdfs/anaw\\_20150003\\_en.pdf](https://www.legislation.gov.uk/anaw/2015/3/pdfs/anaw_20150003_en.pdf).

30. Malta (2018), Gender Based Violence and Domestic Violence Act, section 2, available online at <https://legislation.mt/eli/cap/581/eng>.

31. Ibid, section 3 (2): “This Act shall apply in times of peace and in situations of armed conflict.”

32. Ibid, section 3(3) (1).

33. Mongolia (2009), Law of Mongolia on Promotion of Gender Equality, available online at: <https://faolex.fao.org/docs/pdf/mon178726.pdf>.

## 4.2 PREVENTION MEASURES

**Inter-agency statistical data.** Inter-institutional reporting and statistical systems are important for both prevention and protection efforts. CEDAW GR 35 recommends States Parties, “establish a system to regularly collect, analyse and publish statistical data on the number of complaints about all forms of GBV against women, including technology-mediated violence, the number and type of orders of protection issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction and the amount of time taken for the disposal of cases.”<sup>34</sup> Furthermore, all data should be disaggregated by type of violence, gender of the survivor, the relationship between the survivor and the perpetrator, and other relevant sociodemographic characteristics, including the age of the victim/survivor.<sup>35</sup> This data will allow the government to formulate policies and services for prevention and protection. According to the CEDAW Committee, reporting of GBV crimes should be made to the police, however the statistical and referral systems need to be coordinated between institutions in order to capture the information referenced above. It is important to note that the UN General Assembly resolution on Official Statistics emphasizes that individual data collected by statistical agencies are to be strictly confidential and used exclusively for statistical purposes.

**Reporting or referrals by professionals for prevention of violence.** Joint GR 31 on harmful practices also calls on States to make reporting mandatory in law “for professionals and institutions working for and with children and women to report actual incidents or the risk of such incidents if they have reasonable grounds to believe that a harmful practice has occurred or may occur.”<sup>36</sup> Mandatory reporting responsibilities should ensure the protection of the privacy and confidentiality of those who report.” Furthermore the CRC, in General Comment (GC) 13 on the right of the child to be free from violence states that “In every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children. When reports are made



in good faith, processes must be in place to ensure the protection of the professional making the report.”<sup>37</sup> In addition, the CEDAW Committee recommends States Parties “encourage the reporting of such violence and the intervention of bystanders.”<sup>38</sup> The United Nations “Inter-Agency Minimum Standards for Gender Based Violence in Emergencies Programming” and the ASEAN “Regional Guidance on Empowering Women and Children: Delivering Quality Social Work Services for Those at Risk of or Affected by Violence” discourage mandatory reporting to police in the case of adult survivors of GBV.<sup>39</sup> Risk assessment and mitigation and confidential inter-agency reporting and referral protocols, and the survivor’s informed consent should guide the first point of contact (often health or social workers) in their duty to prevent further GBV and protect the survivor.

**Inter-institutional coordinated referral mechanisms.** In terms of referral mechanisms, in GR 35 the CEDAW Committee calls on States Parties to provide referral centres, that coordinate referral mechanisms among institutions, to survivors (para 31 (a) (iii)). Many countries

34. GR 35, para 34 (b).

35. Ibid.

36. Joint Recommendation 31, para 55 (j).

37. UN (18 April 2011), Committee of the Rights of the Child, General Comment 13 (2011) The right of the child to freedom from all forms of violence (“GC 13”), para 49.

38. GR 35, para 30 (b) (ii).

39. UNFPA (2019), Inter-Agency Minimum Standards for Gender Based Violence in Emergencies Programming, Standard 6 GBV Case Management; and ASEAN (no date) Regional Guidance on Empowering Women and Children: Delivering Quality Social Work Services for Those at Risk of or Affected by Violence.



implement a referral “route” to ensure victims of GBV receive the attention required to be able to report a violent incident, take steps to prevent further violence, and to receive protection services.

**Mandatory training.** Both the CEDAW and CRC recommend mandatory and role-specific training for public officials. In GR 35 the CEDAW Committee recommends officials across public sectors receive training and education related to inter-institutional coordination and referral mechanisms, and other prevention measures specific to their job responsibilities (para 30 (e) (iii)). In GC 13, the CRC recommends “initial and in-service general and role-specific training (including inter-sectoral where necessary) on a child rights approach to article 19 and its application in practice.”<sup>40</sup> Finally, in the Joint GR 31 on Harmful Practices, in-service training is seen as a measure to prevent government employee involvement in harmful practices<sup>41</sup> and also the development of

culturally appropriate and gender sensitive protection responses<sup>42</sup>.

### **Eradicating stereotypes and changing social norms that perpetuate GBV and harmful practices.**

In GR 35 the CEDAW Committee recommends States Parties include gender equality content in education curricula at all levels, engage the media to eradicate gender stereotypes, and awareness raising with stakeholders, including local leaders. In terms of the prevention of harmful practices, the joint GR 31 calls on States Parties to raise awareness among the general public in order to garner support for legislative measures to address harmful practices and establish new rights-based social norms. The Committees also recommend empowering girls through free universal education as a strategy to increase opportunities for girls and women and ensure their empowerment and preparation to actively participate in all spheres of life.

### *Examples of international standards related to prevention measures in practice*

#### **Inter-agency statistical system.**

In **Canada**, Statistics Canada publishes the number of victims of spousal homicide, the data is collected through surveys sent to police departments.<sup>43</sup> The Federal Government of Canada also published The GBV Strategy in 2017. As part of the Strategy the GBV knowledge Centre launched an online platform to bring together research evidence and resources, such as existing data, evidence and federal initiatives on GBV, to enable evidence-based action.<sup>44</sup>

#### **Coordinated referral mechanism.**

In the **Republic of Albania**, a coordinated referral mechanism was established in 61 municipalities of the country, and this mechanism is expected to be implemented in municipalities across the country to ensure specialized and effective treatment of all harmful practices, GBV and DV.<sup>45</sup> The objective is to provide “better access to specialist support services for women, men, young women, young men, girls and boys in all their diversity who have been subjected to harmful practices, sexual violence, and other forms of GBV and DV.”<sup>46</sup>

40. GC 13, para. 44 (d) (i).

41. Joint Recommendation, para. 50.

42. Ibid., para. 54.

43. Statistics Canada (2 August 2022), Number of victims of spousal homicide, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510007401>.

44. Government of Canada (June 2017), The Gender-Based Violence Strategy, available online at <https://women-gender-equality.canada.ca/en/gender-based-violence/gender-based-violence-strategy.html>.

45. Government of Albania (2021), National Strategy for Gender Equality 2021-2030, page 34, [https://shendetesia.gov.al/wp-content/uploads/2022/02/WEB\\_Strategjia-Kombetare-EN.pdf](https://shendetesia.gov.al/wp-content/uploads/2022/02/WEB_Strategjia-Kombetare-EN.pdf).

46. Ibid, objective III.2.

### Reporting by professionals.

In the **European Union**, as of 2014, 15 member states had reporting obligations in place for all professionals in relation to cases of child abuse, neglect or violence. Another 10 countries have legislated reporting obligations for specific professional groups such as social workers or teachers.<sup>47</sup> Furthermore, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), in article 28, encourages confidential reporting of serious acts of violence.

### Mandatory training for public officials.

While many countries provide training to law enforcement personnel, it is not always required by law. In the **Argentine Republic** (Argentina), Law No. 27.499, known as the Micaela Law, establishes compulsory training on gender and GBV for all persons working in the public service or in the executive, legislative or judicial branch of government.<sup>48</sup>

### Eradicating Stereotypes and Changing Social Norms – International Standards in Practice.

In the **Republic of Türkiye**, a non-governmental foundation implemented a father support programme to transform norms through early childhood education programme. This programme was developed to introduce gender-sensitive parenting and promote the inclusion and participation of fathers in family life.

In the **Republic of Korea**, in order to address son preference and sex selective abortion, introduced a series of legal reforms that would advance equality for women and girls, rather than drafting a specific law on son preference. For example, a ban on fetal sex identification was instituted in 1987 and strengthened in 1994, as well as public awareness campaigns on gender equality in family planning and for girls generally.

In the **Republic of Kosovo**<sup>49</sup>, a door-to-door campaign was implemented to gather information on beliefs and to influence families' understanding of early marriage in communities where rates of child marriage have been high has been recognized as an effective advocacy approach.



## 4.3 PROTECTION STANDARDS AND PRACTICES

**Coordinated response mechanisms, including risk assessment for protection.** The protection mechanisms recommended by the CEDAW Committee are also applicable to protection of other victims of GBV, including men and LGBTI individuals. Protection measures are identified in CEDAW GR, CRC GC and reports of the Independent Expert on sexual orientation, gender identity, and gender expression (SOGIE). Immediate risk assessment by first responders (including hotlines) and coordinated multi-sectoral services (housing, health, counselling, free legal aid, etc.) are both recommended by the CEDAW committee and CRC,<sup>50</sup> and they are considered good protection practices regardless of the specific form of violence or survivor characteristics.

47. European Union Agency for Fundamental Rights (2015). Provisions on professionals' legal obligation to report cases of child abuse, neglect and violence: <http://fra.europa.eu/en/content/provisions-professionals-legal-obligation-report-cases-child-abuse-neglect-and-violence>.

48. Argentina (2019). Law No. 27.499: <https://www.argentina.gob.ar/normativa/nacional/ley-27499-318666>.

49. is referenced in accordance with United Nations Security Council Resolution 1244 (1999).

50. Risk assessment. GR 35 para 31 (a) (ii)); coordinated services GR 35 (para 31, especially paragraph (a), also para 33), and GR 31, para 83.



#### Local coordinated multi-agency response.

**Viet Nam** piloted with the support from UNFPA and the Korean International Cooperation Agency (KOICA), a Sunshine House established at the Social Work Centre, a unit designed to provide essential services to GBV survivors. Sunshine House has the following specific tasks: (1) Providing counselling and communication services in gender equality and GBV fields; (2) Providing information and referral to related services; (3) Providing urgent emergency care and shelters to GBV survivors; and (4) Connecting police, justice, health, LISA agencies or officers at provincial, district and commune levels to support GBV survivors.

#### Risk assessment.

In the province of **British Columbia, Canada**. The government of the province provides funding and online resource materials for providers of victim services.<sup>51</sup> Risk assessment tools have been developed based on evidence related to factors that heighten risk of violence or killing (nineteen factors have been identified by researchers in Canada and the United States). A webinar on risk assessment and safety planning is available online.<sup>52</sup>

## 4.4 PROSECUTION AND RESPONSE TO PERPETRATORS

**Adequate response including prosecution.** In GR 35 (para 32 (a)), the Committee recommends “that the authorities adequately respond to all cases of GBV against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.” When cases are addressed in court, the

procedures should be gender-sensitive and child friendly and safeguard the victims. Fees or court charges should not be imposed on victims/survivors (GR 35, para 32 (a)).

**Treatment.** In GR 35 the CEDAW Committee does not call for treatment programmes explicitly, but does recommend effective measures, including awareness raising for “perpetrators of any form of GBV, so as to prevent repeat offending.” (para 30 (b) (ii)). GR 31 (para 56) takes a similar approach (awareness raising for perpetrators).

#### Criminal law.

The **Republic of Philippines**, in the Safe Spaces Act (2018), criminalizes gender-based sexual harassment (online and in public spaces). The Anti-Violence Against Women and Their Children Act of 2004 also sets out crimes and penalties.

In the **Republic of Korea**, the Act on Special cases concerning the Punishment of Crimes of Domestic Violence (2011), sets out criminal sanctions.

#### Treatment.

In the **Republic of Singapore**, the family violence specialist centres provide interventions for perpetrators and their families including therapy and rehabilitation.<sup>54</sup>

51. Government of British Columbia, Victim Services Service Providers Training: <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/service-providers/training>.

52. Government of British Columbia (2019). BC Risk Identification and Safety planning webinar: <https://youtu.be/k5Tr14cl4ko>.

53. See CEDAW Committee General Recommendations 31, 33, 35 and 38.

54. ASEAN (2021). ASEAN Regional Plan of Action on the Elimination of Violence against Women 2021: <https://asean.org/wp-content/uploads/2021/01/ASEAN-Regional-Plan-of-Action-on-Elimination-of-Violence-Against-WomenAdopted.pdf>, p. 41.



## 5. RECOMMENDATIONS

Based on international standards and good practices, it is recommended that the following provisions be included in the Law and/or secondary legal normative documents.

### 5.1 DEFINITIONS

**Definition of GBV.** Define GBV in the Law as physical, economic, emotional, or sexual violence occurring in any sphere of life, including technology-facilitated GBV, that is directed against a person on the basis of the individual's gender.

**Definition of harmful practices.** Practices that perpetuate gender inequality and cause harm or negative consequences (social, economic, psychological, or physical) to individuals of the gender affected are deemed to be violations of gender equality under this Law.

Such practices in Viet Nam include son preference, GBSS, and early or forced marriage. A study may be conducted to verify the existence and prevalence of FGM in the country.

### 5.2 PREVENTION MEASURES

**National inter-agency policy coordination.** Define an inter-agency coordination mechanism for the formulation of coordinated GBV and harmful practices prevention, protection, and perpetrator response policies and procedures. This mechanism should be overseen by one agency, such as MOLISA.

**Inter-agency statistical system.** Assign responsibilities in the Law to ensure confidential data on GBV cases and specific harmful practices will be integrated in a standardized inter-agency statistical system (e.g., MOLISA, MOCST, MPS, MOH, local government, Women's Union). Such a statistical system could be coordinated by the General Statistics Office according to international standards.

**Reporting.** The Law requires professionals, to report incidents of GBV or harmful practices perpetrated by individuals in the private sphere against children to the police or other responsible agencies such as the Inspectorate or local People's Committees. Encourage professionals and bystanders to encourage survivors to report incidents of violence or, if the threat of





future violence is serious, provide counseling, risk assessment, and full information on support services prior to seeking the survivor's consent to report incidents of violence or harmful practices perpetrated against women to authorities so that due diligence prevention and protection measures can be taken.

**Transform social norms, including stereotypes, that perpetuate gender inequality, GBV, and harmful practices.** Require in the Law that GBV and harmful practices prevention efforts adopt gender transformative approaches to eradicate toxic masculinities. For example, school curricula, media monitoring, awareness raising, and special measures should address the root causes of the practices (i.e., beliefs that perpetuate the idea that individuals of a certain gender and/or other characteristics are subordinate).

In the Law or supplementary legal normative documents ensure prevention initiatives include data collection and gender-based research on GBV and harmful practices in government agencies, compulsory training for public officials, mandatory and paid education for girls, mechanisms to ensure women's participation in all fields, and engaging men and boys in the prevention of GBV.

**Mandatory training.** Require ministries to provide specialized training to public officials (health workers, police, social workers, judges, local authorities) who have direct contact with survivors and perpetrators of GBV and others who can address harmful practices, adapted to their responsibilities. MOLISA should work with ministries to ensure initial and in-service training incorporates content aligned with the Law and international standards, including GBV principles, inter-agency coordination, prevention and protection measures from a survivor-centred approach, and response to, and treatment for perpetrators.

## 5.3 PROTECTION SERVICES FOR GBV SURVIVORS

**Investment.** Ensure the Law identifies mechanisms for the allocation of public funds to coordinated inter-agency measures, especially with regard to protection efforts such as the national hotline and referral system and multi-agency service centres.

**Establish a national hotline and inter-agency referral system.** Establish, pilot, and deploy the National Hotline on Prevention and Response to GBV. Guidelines for the operation of this hotline should specify how the hotline tracks the number of calls received and number of referrals made. The guidelines should also describe the referral tracking system between institutions providing services to survivors should ensure cases are tracked, attended, and resolved. Where possible, referrals should be made to multi-service centres.

**Local coordinated multi-service response centres.** Ensure different agencies have responsibilities in the law to provide protection measures to victims or treatment to perpetrators of GBV.

- **Responsibilities.** Include responsibilities in the Law that define the protection services to be offered by specific agencies in a coordinated manner at the decentralized levels to survivors of GBV and harmful practices. Such measures should include risk assessment, safe houses, counselling, legal, medical, and financial support and the issuance of national guidelines setting out the standards of procedures within and among sectors.
- **Local inter-agency coordination.** Across Viet Nam replicate a multi-agency service model, such as the Sunshine House model implemented in Quang Ninh, that provides referral, coordination, and protection services to victims of GBV at the local level.



- Link the multi-service centre model to the national statistical system and a national referral system within the national inter-agency policy coordination mechanism.

## 5.4 RESPONSE TO PERPETRATORS

**Prosecution.** Amend the Law to clarify that serious physical and sexual forms of violence that cause injury and are motivated by bias or prejudice based on a victim's gender are criminal in nature and will be sanctioned according to the Criminal Code.<sup>55</sup>

**Treatment.** Require mandatory counselling, rehabilitation, and education programmes for perpetrators of GBV and harmful practices to ensure they are also aware of why GBV and harmful practices have negative consequences at individual, family, community and national levels.

---

55. Vietnamese law has the Penal Code and other laws dealing with criminal issues such as crimes, levels of punishment, enforcement, etc. The GE Law does not regulate these issues, but only states the principle of criminality of GBV acts, thus provides foundation for criminal laws to deal with.