

REPORT

**FOR THE DRAFT LAWS ON 1. ORGANIZATION OF THE
GOVERNMENT (14 DRAFT) AND 2. THE ELECTION OF DEPUTIES TO
THE NATIONAL ASSEMBLY AND TO THE PEOPLE'S COUNCILS OF
VIET NAM**

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CONTENT OF THE REPORT:

1. Abbreviations	3
2. Report Summary	4
3. Introduction	
3.1. Background	5
3.2. Objectives of the Report	6
3.3. Report method	6
3.4. Structure of the Report	7
4. Some considerations regarding quota as TSM	7
5. Women and the Government and Parliament: International perspective	
5.1. Women participation in the Government	11
5.2. Women participation in the Parliament	18
6. Women and the Government and Parliament: Viet Nam perspective	
6.1. The Importance of Women Participation in the Government and in the Parliament	21
6.2. Gender Issues in DLOG and DLEDNA and PC	
a). The identification of the gender issues in the DLOG and DLEDNA and PC	25
b) Ensuring the basic principles of gender equality in the draft laws and other documents	25
c). The feasibility of the solution to the issue of gender that is subject to adjustment in the draft laws and other documents	27
d) The mainstreaming of gender equality in the development process of the draft laws and other documents according to the GEL	28
7. Recommendations to the Draft Law on Organization of Government	29
8. Recommendations to the Draft Law on Election of Deputies to the National Assembly and to the People's Councils of Viet Nam	33
9. Conclusion	46
10. Selected Bibliography	48

1. ABBREVIATIONS

CEDAW	Committee on the Elimination of Discrimination against Women
CSW	Commission for Status of Women
CPV	Communist Party of Vietnam
DLEDNA and PC	Draft Law on Election of Deputies to National Assembly and People's Councils
DLOG	Draft Law on the Organization of the Government
GEL	Gender Equality Law
ICCPR	International Covenant on Civil and Political Rights
LEDNA	Law on Election of Deputies to National Assembly
LEDPC	Law on Election of Deputies to People's Councils
MOLISA	Ministry of Labor, Invalids and Social Affairs
MOARD	Ministry of Agriculture and Rural Development
MOF	Ministry of Finance
MOHA	Ministry of Home Affairs
MOIC	Ministry of Information and Communication
MOM	Ministry of Military
MOT	Ministry of Transportation
MPI	Ministry of Planning and Investment
MPS	Ministry of Public Security
NA	National Assembly
NAPGE	National Action Plan for Gender Equality
NEC	National Election Council
NSGE	National Strategy for Gender Equality
PCs	People's Councils
SRV	Socialist Republic of Vietnam
UPR	Universal Periodic Review
VFF	Vietnam Fatherland Front
VWU	Vietnam Women's Union

2. REPORT SUMMARY

Most of the countries in the world are trying to organize the governmental structures and the election process in democratic, fair and non-discriminated manner in order to guarantee the rights to politics of both women and men. In order to achieve this aims, the Law on the Organization of the Government (LOG) and the Electoral Laws (LEDNA and PC) must be clear, comprehensive, non-discriminatory, usable and transparent to attract both men and women's engagement in election and governance processes.

Vietnam is in the process for developing LOG and LEDNA and PC which are in accordance with the new Constitution of 2013, including the establishment of a National Election Council. Therefore, this represents excellent opportunity to ensure that the guarantee of gender equality and non-discrimination on the base of gender are inserted into these very important laws.

This Report is based on the author's international knowledge and experience, current and past literature, reports and studies as well as international standards and best practices in different countries of the world with the main aim to paint both, the wider and also national pictures regarding two very important activities at point: organizing the government and organizing elections using gender lenses. This Report is also based on the international legal instruments to which Viet Nam is a state party such as CEDAW and ICCPR. This Report deals also with the widespread practice of temporary special measures as recommended by the Commission of the Status of Women (CSW) in order to accelerate progress in gender equality and with some examples how that is done in various countries in the world when holding elections or organizing governmental structures. Since Vietnam ratified both ICCPR and CEDAW in 1982,¹ the principles of freedom, democracy, equality and non-discrimination on the basis of gender are stipulated in both draft laws.

However, after the review of the drafts of both laws, it is evident that the principles of gender equality and accountability in election and in Government organization are not fully guaranteed in the draft provisions related to representation of both men and women in elected bodies, candidate selection and nomination, voter registration, arrangement of list of candidates, polling, counting votes and tabulation, election summing up, media coverage, handling violation and in nominating and choosing candidates for deputy prime ministers, ministers, and head of ministerial-level-agencies as well as candidates for deputy-ministers, head of departments in ministries and ministerial-level-agencies. Moreover, the same is not guaranteed in the body that organizes the elections – the National Election Council as well as in the local Election Committees/Boards/Teams which should also be taken into account when amending the LEDNA and PC.

To guarantee that the LOG and LEDNA and PC are made democratic, fair and non-discriminatory there are number of recommendations made in this Report with the main objective that Viet Nam in the legal and normative sphere, but also in the execution phases moves from rhetoric to action and makes possible that the plans in several existing legal documents adopted in the last years are fulfilled – to achieve at least 35% participation of each sex in the NA and in the Government as well as in their bodies in the period 2015–2020 and beyond.

¹. Viet Nam ratified ICCPR on 24/09/1982 (in force since 24/12/1982) and ratified CEDAW on 17/02/1982 (in force since 19/03/1982).

3. INTRODUCTION

3.1. Background

Viet Nam has employed many efforts to increase representation of women and to improve gender equality, and it has achieved important results over the decades. The country always stands as an example of a country with strong and powerful women that have worked alongside with man during the revolution, the nation building and all the time afterwards. The example of Mme. Nguyen Thi Binh, her incredible life, work and achievements is just one reminder that women and men can do it given the chances and opportunities and person's dedication with short, medium and long term vision as to where wants to go and what to achieve.

Viet Nam has shown over the years that places large emphasis on gender quality in all spheres of life and knows that development, industrialization and modernization of a developing country has to go hand in hand with achieving equal opportunities for both sexes if a modern, industrialized, stable and developed country in the 21 century is its main goal.

This is in line with the ongoing world-wide campaign of the UN Women "Equality Now", especially emphasized at the 59th Session of the CSW and Beijing +20 that took place in New York this March 2015 which aims to strengthen the rule of law regarding gender equality and is asking the Governments to repeal or to amend all discriminatory laws on the basis of gender.

The right of women to participate in the political life in Viet Nam is confirmed in the Constitution of 2013, in the GEL (2007), in the LEDNA and in the LEDPC (revised and added in 2010). The increased and meaningful presence of women in the elected bodies of Viet Nam is also a goal of the Communist Party, the government agencies and departments at all levels. Based on Resolution 11-NQ/TW of the Political Bureau (2007), the Government promulgated the NSGE (period 2011 – 2020) with detailed guidance to carry out and supervise application of above legal documents. One of the specific actions required is to *"develop a framework to encourage more participation of women into decision making process and increase ratio of women candidates recommended for National Assembly and People's Council of all levels"*.

In reality, the above goal is not met until present time. Some recent prior parliamentary elections in Viet Nam in 2007 and 2011 have shown that women representation at the National Assembly fell short to reach the stated 30% elected women (as sought by the Fatherland Front and the Central Election Council) and instead women representation in National Assembly in 2007 was 28% while in 2011 had fallen to 24%. Therefore, the women representation remains a concern for the party and government taking steps to reverse this slightly negative trend in recent years.

The ratio of women holding key positions in the elective agencies is still small. There are only 3 out of 36 provinces and cities where women are chairwomen of the People's Councils and only 1 out of 63 provinces and cities where woman is chairwoman of the People's Committee. Notwithstanding the fact that there is no shortage of qualified women, also, considering the draft Law on organization of the Government (DLOG) only 2 out of 22 Governmental members are

women, 2 out of 16 members of the Political Bureau are women and 14 out of 175 members of the Central Party are women.²

The National Strategy on Gender Equality establishes gender equality targets in many fields including the Government and the NA. For the National Assembly, the strategy targeted a minimum of 35 % female representation in the next legislature from 2016-2020. By 2015 it aims to have 80% of ministries, ministerial level agencies, the agencies attached to the Government, the People's Committees at different levels women as key leaders. By 2015 70% and by 2020 100% of the Party's and State agencies and sociopolitical organizations with women making up 30 % and above of their labor force must have women among their key leaders. These targets are in line with the 1995 Beijing Platform for Action's assessment that 30 percent is the "so-called 'critical mass', believed to be necessary for women to make a visible impact on the style and content of political decision-making."³ However, it is already year 2015 and the results on the ground do not show that the above targets are met. Therefore, action at all levels of Government and Parliament are needed in order to improve this situation, law-making activities included.

3.2. Objectives of the Report

- To conduct gender analysis of the Draft Law on Organization of the Government (DLOG);
- To conduct gender analysis of the Draft Law on Elections of Deputies to the National Assembly and People's Council (DLEDNA and PC);
- To provide analysis of the gaps and give recommendations for improvement of DLOG and DLEDNA and PC;

3.3. Report method

The author analysed documents concerning gender equality and non- discrimination in political field in general and election process in particular such as international conventions on human rights, UN's guidance to promoting the participation of women in elections, Viet Nam Constitution of 2013 and legal regulations on election process of Viet Nam and some other countries where the percentage of women in the parliament is higher than 30% as well as guiding documents and reports prepared for election of deputies to the 13th NA and the election of deputies to PCs of all levels in term of 2011 and 2016 in Vietnam. The author has also analysed the existing legal documents regarding gender equality such as the Constitution of 2013, the GEL, the NSGE, the Resolution **No. 11-NQ/TW dated April 27, 2007** of The Political Bureau (Politburo) of the Central Committee of the Communist Party of Viet Nam and all international legal conventions relevant for this study to which Viet Nam is a state party such as CEDAW.

². UNDP, Gender Analysis of Electoral Laws – Recommendations for the Law Drafting Committee, Ha Noi, August 2014, p.6.

³. UN Women. "Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership." Addis Ababa, Ethiopia. October 24, 2005.
<http://www.un.org/womenwatch/daw/egm/eql-men/>

3.4. Structure of report

The Report is structured first, to give some considerations regarding the quota system in the world, then to analyze women participation in Government and Parliament giving first, international and second, Viet Nam perspective and at the end, to analyze the two draft laws: DLOG and DLEDNA and PC and to give workable recommendation for their improvements at the final stage together with a short conclusion as for the next steps and what is needed in the near future.

4. SOME CONSIDERATIONS REGARDING QUOTA AS TEMPORARY SPECIAL MEASURES (TSM)

Women in politics and decision-making are often faced with informal barriers including traditions, stereotypes, cultural norms etc., even though they represent one half of the total population. It is a very long and slow process of changing the attitudes, perceptions, opportunities and outlooks for women in the political arena in every part of the world. Viet Nam is no exception.

Structures and mechanisms that are supposed to deliver in terms of gender equality are made less relevant or even irrelevant because of entrenched attitudes that perpetuate discrimination. For a long time one of the main questions has been: How to ensure that women's rights are translated into rights enjoyed in practice, and namely in terms of access to resources and decision-making power? Another important question is: How to view women and men as equal persons in every sphere of life and work and to overcome the stereotypes based on sex and gender.

One way to do that is to use some measures that can accelerate change. Quotas systems as temporary special measures play crucial role in this respect, from first-generation – or electoral – quotas (constitutional and/or legislative), i.e. quotas in elected bodies, to second-generation quotas in non-elected public bodies (an area attracting growing attention), to the recently established new area of work of the so-called third-generation – or corporate – quotas in business and the private sector.

However, there is still very little or not enough attention paid to the low numbers of women as decision makers at the Government and its ministries and agencies. In many parts of the world lots has been done in terms of increasing women representation in Parliament, and now increasing women representation in the corporate boards, but very surprisingly not much has been done for increasing the number of capable women as ministers and heads of government agencies and it still largely depends on the head of the current government and/or the coalition partners in the government. This slowly begins to change but much more advocacy and engagement from the international and national partners are needed in order to bring meaningful changes in this very important area.

Apart from the electoral quota stated above, there are also two more types of gender quotas used in politics: reserved seats (constitutional and/or legislative); and the political party quotas (voluntary).

Over the past ten years, women's numerical presence in positions of power and decision-making has received increased attention worldwide including the structures of the UN. The fact that with world-wide action the things started positively changing with growing numbers of women who stand for election for public decision-making positions, has brought to attention some ways and strategies to translate women's presence into actions with results and influence. There are lot of expectations placed on the shoulder of women once they are in power to leave their mark with effective policy solutions and to possibly transform political spaces, be held accountable alongside men for gender equality and social justice and open doors for more capable women to follow. For example, the recent UN Women Report "In Pursuit of Justice" remarks that in Rwanda, with 51% of female MPs, important legal reforms on women rights have been approved.⁴

Quotas for women entail that women must constitute a certain number or percentage of the members of a body, whether it is a candidate list, a parliamentary assembly, a committee, or a government. The quota system places the burden of recruitment not on the individual woman, but on those who control the recruitment process. The core idea behind this system is to recruit women into political positions and to ensure that women are not only just a few without real decision making power in political life. Previous notions of having reserved seats for only one or for very few women, representing a vague and all-embracing category of "women", are no longer considered sufficient and in many cases are considered discriminatory and not in line with the international legal practice. Today, quota systems aim at ensuring that women constitute a large minority of 20%, 30%, 40%, or even to ensure true gender balance of 50-50%. In some countries quotas are applied as a temporary measure, that is to say, until the barriers for women's entry into politics are removed, but most countries with quotas have not limited their use of quotas in time.⁵

Most quotas aim at increasing women's representation, because the problem to be addressed usually is the under-representation of women - this is very important issue since women constitute appx.50% of the population in any given country. A 50%-50% quota is in its nature gender neutral, and it aims for a balance between genders. However, in the same time it sets upper limit to women's or men's representation at a given time which a minimum requirement quota for women or men representation in any given time does not and can depend on the actual results of election or appointment.

The concept of "double quota" is sometimes used about a quota system that not only requires a certain percentage of *women* on the electoral list, but also prevents that the women candidates are just placed on the bottom of the list with little chance to be elected. **Argentina and Belgium** are examples of countries with legal requirement of double quotas. "Placement mandates" or rules

⁴. See "In Pursuit of Justice: UN WOMEN Progress of the World's Women 2011-2012". The report (p. 27) lists the following relevant legislation approved in Rwanda over the last years: "The Succession Act (1999) established gender equality in inheritance and property ownership. The National Land Policy (2004) and Land Law (2005) provided equality in statutory and customary land ownership. The Law on Prevention and Punishment of Gender-Based Violence was passed (2008); marital rape was criminalized (2009)."

⁵. The Quota Project, accessed Jan.27, 2015, www.thequotaproject.org

about the rank order of candidates, especially at the top of the list, are other terms for the same phenomena.⁶

The Beijing Platform for Action is the most ambitious action plan to empower women and to eliminate discrimination against them. Since 1995, many governments have attempted to implement the Platform as a whole or in parts. The platform, as compared to the CEDAW Convention, is not a legally binding document. Nonetheless, it can be argued that the Platform's 12 areas of concern and its recommendations can be linked to various articles of the Convention. In fact, the Platform spells out in detail the steps that need to be taken in order to satisfy the legal obligations of the Convention.

Consequently, the goals and actions spelt out in area 'G' of the Platform – 'women in power and decision-making' – correspond with Articles 1, 2, 3, 4 (1), 5, 7, 8, 9, 10, 14 and 24 of the CEDAW. Although there is no explicit reference to the concept of quota systems, the aims of 'gender balance' and **having the 'same proportion' of both sexes in, for example, governmental bodies, administrative entities and elective and non-elective public positions are set out and the application of 'positive action'**⁷ to achieve them is suggested.⁸ The focus is on governments, political parties, non-governmental organizations and the UN system itself.

General Recommendations of the CEDAW Committee of importance for the discussion on quota systems to increase the participation of women in public and political life are the General Recommendations 5, 8, 23 and 25 of the CEDAW Committee. General Recommendations, as formulated by UN treaty bodies, are interpretations of an accord to assist states parties in implementing their obligations.⁹ General Recommendations 5 and 8 of 1988 are important due to the fact that the instrument of temporary special measures, including quota systems, was suggested at such an early stage of the Committee's work.¹⁰

General Recommendation 23 of 1997 explicitly deals with Articles 7 and 8. It echoes relevant paragraphs of the Beijing Platform for Action and points to the historical and structural causes of discrimination against women in public and political life.¹¹ It lists a number of requirements and obligations that states parties have to fulfill. **A specific paragraph, which must be read in conjunction with these commitments, is devoted to the justification for, and the application**

⁶. Ibid.

⁷. In the European Union, temporary special measures are called 'positive measures'; in the United States, they are called 'affirmative action'. The CEDAW Committee prefers the terminology of the Convention.

⁸. United Nations. 2001. Beijing Declaration and Platform for Action with the Beijing+5 Political Declaration and Outcome Document. New York: United Nations. pp. 111–113 (in particular paragraphs 190 (a and b)).

⁹. Their legal status is that of 'soft law'. Some states parties do not accept General Recommendations as legally binding, although UN treaty bodies, including the CEDAW Committee, expect states parties to act on them in good faith.

¹⁰. General Recommendation 5 deals with Article 4(1) and calls for the application of temporary special measures in for example, in the area of politics. General Recommendation 8 deals with Article 8 and recommends the utilization of Article 4(1) as regards the representation of women at the international level.

¹¹. The causes lie in: the public/private division; the non-recognition and even devaluation of women's work in the private sphere; the impact of sex-role stereotypes; and the structures of political systems.

of, temporary special measures (TSM). These requirements and obligations include: special recruiting efforts; financial assistance for women and the training of women candidates; **amending electoral procedures**; campaigns aimed at ensuring equal participation; **targeting women for appointment to public positions**; and **setting numerical goals and quotas**.

Of even greater relevance to the application of quota systems is **General Recommendation 25 of 2004 concerning Article 4 (1)**. This article is of a descriptive nature. It states that temporary special measures are not discriminatory when their application is aimed at accelerating the attainment of de facto equality between women and men. General Recommendation 25 explains the meaning of this definition in the context of the CEDAW as a whole and provides an in-depth analysis of the justification for applying Article 4 (1), as well as when and how to do so.

Having all of the above in mind, although the quotas may be unpopular in some countries in the world, the evidence indicates they work. The UN's *World's Women 2010* Report found that, worldwide, "gender quotas... have helped increase the representation of women in parliament" and in 2009, "women comprised on average 21 per cent of parliamentarians in countries that used gender quotas, compared to an average of 13 per cent in countries that did not." (p.116)

As a country example, Sweden is a case worth to be looked at. After the two main parties introduced quotas in 1972 the proportion of women in parliament increased from 14 to 45 %. While some **oversight is required to ensure parties place female candidates in winnable seats**, on the whole, quotas are successful. It encourages political parties to actively recruit women and ensures that there is a critical mass of women elected to the parliament, altering political culture and norms.

On average, for example, in the Organization and Economic Cooperation and Development (OECD) member countries, women held just over a quarter of seats in lower or single houses of parliament – as of early 2012 – with only 12 member countries reaching or superseding the 30% threshold recommended by the United Nations and Inter-Parliamentary Union for the representation of women. Compared to 2002, this marks a small increase of 6 percentage points on average. The representation of women in OECD parliaments is generally highest in Nordic countries, with 40% or more of seats held by women in Sweden, Finland, Iceland and Norway. In Turkey, Japan, Chile and Hungary women held fewer than 25% of seats.

Evidence also shows that countries with proportional electoral systems tend to have more women in legislature, possibly due to the practice of selecting a more gender-balanced set of candidates in party lists. **In the OECD countries, 9 out of 12 countries meeting the 30% representation threshold use some form of proportional representation in the election of legislative representatives.** In addition to the type of electoral system in place, women's political representation can also be impacted by cultural and financial barriers as well as by challenges in reconciling responsibilities of political and private life. To address this gap, nine OECD member countries have introduced gender quotas as a means of promoting gender equality in parliaments. Application of these quotas, however, may vary, from quotas applied during the nomination process (e.g. rules for placing women on party lists or to be nominated in an electoral district) to results-based quotas whereby a certain number of women are placed in winnable positions on the election lists and are elected in the parliament.

5. WOMEN PARTICIPATION IN THE GOVERNMENT AND IN THE PARLIAMENT: INTERNATIONAL PERSPECTIVE

5.1. Women Participation in the Government

The political empowerment of women is critical to human development and to achieving the Millennium Development Goals (MDG). Worldwide, women continue to be under-represented in national parliaments, occupying less than 22% of seats and **accounting for just 17% of government ministers. *The Asia Pacific Region has the lowest percentages of women in national legislatures of any region outside of the Arab states (UNDP).***

However, there is change happening albeit slow. The Asia-Pacific Region is growing fast and more people are reaping the rewards of development. The gender gap in school enrolments is closing and there are many examples of women outnumbering men entering university.

But what does appropriate education do when it is not met with appropriate opportunity? To achieve political equality, women must be given the support and the opportunities they need to develop their full potential: they must be empowered to see themselves as leaders and they also must have entry points into politics at local, regional or national level. Evidence from across the world shows that if gender inequality persists in decision-making, it is to the detriment of policy-making and the wellbeing of the whole society.

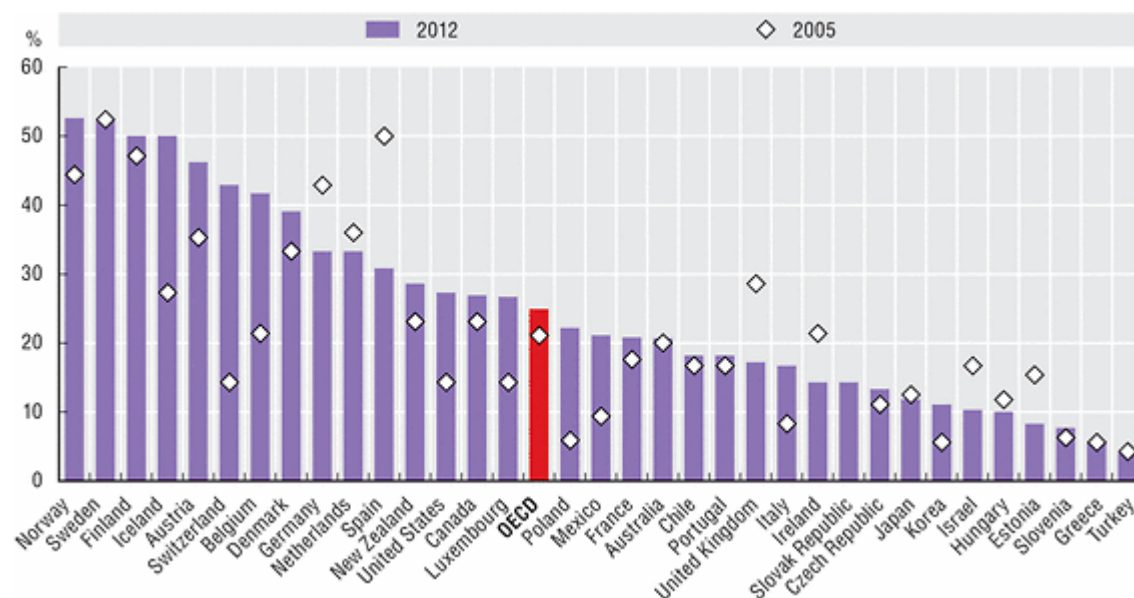
Social, political, economic and legal barriers have hindered participation at all levels of government. To make gender equality a political (and lived) reality (Michelle Bachelet), governments need to craft policies and programmes that build the economic power of women, promote a greater political voice and advance legal rights. The same is true also for Viet Nam.

A recent Asia-Pacific UNDP Human Development report (2012), as well as many other UN and non-UN reports, studies and experiences underline that the introduction of a gender quota system could be a possible political solution. **Gender quotas are already a part of constitutions in Afghanistan, Pakistan, Bangladesh and India** and have proved globally to be the single most effective strategy for increasing the number of women in national parliaments. Gender equality, like any goal, is a process. The Asia-Pacific region has come a long way in recent decades through the development of its political systems and the advancement of human development. But it could go much farther if more women were equally represented not only in parliament but also in government.¹²

¹². OECD Library, web page: http://www.oecd-ilibrary.org/sites/gov_glance-2013-en/06/04/index.html?jsessionid=268hevcjr0vnf.x-oecd-live-01?contentType=&itemId=%2Fcontent%2Fchapter%2Fgov_glance-2013-43-

In the political executive of OECD member countries **for example, the percentage of women ministers increased from 21% in 2005 to 25% in 2012**. Data from 2012 shows that the share of female ministers ranges from over 50% in Norway, Sweden, Finland and Iceland to less than 10% in Hungary, Estonia, Slovenia, Greece and Turkey. Women, as ministers, often hold social and cultural policy portfolios. This is also stereotyping. Although the process of ministerial appointments differs depending on the country's political system (parliamentary voting or appointments versus presidential appointments with or without parliamentary approval), women are not represented equally in any system.

Share of Women Ministers, 2012 and 2005:



Source: Inter-Parliamentarian Union, Women in Politics, Posters, 2012 and 2005.

Having in mind that throughout the whole revolutionary process, the Vietnam Communist Party has always paid attention to directing the work for women and implementing the goal of gender equity,¹³ and taking into consideration the Article 26 of the Constitution of Vietnam from 2013¹⁴, the existing soft policies that require increasing attention and strengthening women's representation in leadership and management positions in order to gradually reduce the gap in politics¹⁵, the provisions from the Law on Gender Equality from 2006,¹⁶ as well as the provisions

en&mimeType=text%2Fhtml&containerItemId=%2Fcontent%2Fserial%2F22214399&accessItemIds=%2Fcontent%2Fbook%2Fgov_glance-2013-en

¹³. Resolution of the Political Bureau 11-NQ/TW dated 27.04.2007.

¹⁴. Art. 26: "Male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality. 2. The State, society and family shall create the conditions for women to develop comprehensively and to advance their role in society. 3. Gender discrimination is prohibited".

¹⁵. The National Strategy on Gender Equality 2011 – 2020, specific objectives: objective 1 and indicator 1: the proportion of women members in the Part's committees at different levels will be from 25% and above for the 2016-

of CEDAW, evidence shows that women's rights in politics and decision-making are an area in which slow progress has occurred in the last decade in Viet Nam and the limited gains that were made before have somehow diminished. Hence, the need to accelerate the already planned process with measures that have been applied in other parts of the world, and yielded results (but, also considering the circumstances and political realities in any given country).

Because progress has not been substantial in legislatures at national and local levels as well as in government and public administration, this makes it difficult to enforce policies and decisions on advancement of women in parliament, government, senior positions in the public sector and local government level. Yet one of the critical areas of concern in the Beijing Declaration and Platform for Action (which has to be kept in mind since Viet Nam is a state party to CEDAW) is:

“Women's empowerment and their full participation on the basis of equality in all spheres of society, including¹⁷ participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace” (Beijing Declaration, para 13, United Nations 1995).

Despite the widespread movement towards democratization in most countries, women remain largely under represented at almost all the levels of political parties, public sector especially in ministerial and other executive bodies or in reaching the target of having 30% of decision making positions held by women by 2005 as endorsed by the UN Economic and Social Council. Women are not also well represented in private sector and even the traditional society although that is also changing with the introduction of the quota system for women on corporate boards in many countries the last few years.

In the most recent example, in Germany, where none of Germany's 30 most prominent companies are run by women, it is decided by law passed on March 6 2015 that the largest German corporations will soon be required to ensure that women represent at least 30% of the members on their supervisory boards. If there are no equal opportunities at the top of companies, there are none in other areas either, it was stated by the Family Minister Manuela Schwesig. Despite having a female head of government, Angela Merkel, none of Germany's 30 most prominent companies are run by women.¹⁸ Germany joins a group of other European countries that have set quotas for female corporate directors, including Belgium, Norway, Spain, France and others. In Germany, however, the decision is expected to have a much further-reaching impact. The country is home to some the largest corporations in the world, including Deutsche Bank, BASF, Merck and a number of prominent automakers.¹⁹ The decision, which takes effect next year, will apply to more than 100 companies. Additional German companies will set internal goals and report them to the government.

2020 term; the proportion of women members in the National Assembly and People's Councils at different levels will reach 30% and above for the term 2011-2016 and more than 35% for the term 2016-2021. And indicator 2: By 2015, 80% of ministries, ministerial level agencies, the agencies attached to the Government, the People's Committees at different levels have women as key leaders, page 7.

¹⁶. Law No.73/2006/QH11.

¹⁷. See “Who Answers to Women: UNIFEM Progress of the World's Women 2008/2009”.

¹⁸. Article in Times, “Germany to Require More Women on Corporate Boards”, March 6, 2015, to be found at: <http://time.com/3736023/women-corporate-boards-germany/>

¹⁹. Idid.

On many occasions and in many policy and academic papers it was also reiterated that women have limited access to political power and decision making because of multiple factors including religion, other socio-cultural and economic ones which is also applicable for Vietnam situation in general.

As underlined above many factors hinder women's meaningful participation in decision-making, constitutional development and political processes. Efforts made to consciously enhance the visibility of women in governance have produced some results but not yet yielded achievements to date comparable to the expectations of Beijing 1995. As of 2014, women make less than 22% (average both houses combined is 21.9% - IPU source) in parliaments across the world.

Women are notably underrepresented in the executive branch of government as well, and only in recent years have increasingly held the top profile portfolios for their governments in non-traditional areas for women in government, such as national security and defense, finance, revenue and foreign affairs. The same is also true for Vietnam.

As of September 2014, 9 women served as Head of State and 13 served as Head of Government.²⁰ And only 18% as stated above is the world average of women ministers in government.

After 20 years since Beijing Conference this is really a very low number.

Rwanda had the highest number of women parliamentarians worldwide. Women there have won 63.8 per cent of seats in the lower house.²¹ Globally, there are 37 States in which women account for less than 10 per cent of parliamentarians in single or lower houses, as of December 2014.²²

At the current rate of increase, the "parity zone" where neither sex holds more than 60% of parliamentary seats will not be reached by developing countries at least, until 2047.²³ Or even worse, as some observers point out, it can take at least 100 years for such action to take place elsewhere in the world.

As of January 2014, only 17 % of government ministers were women, with the majority overseeing social sectors, such as education and the family.²⁴

In some studied cases, women's representation in local governments has made a difference. Research on *panchayats* (local councils) in **India** discovered that the number of drinking water projects in areas with female-led councils was 62 % higher than in those with male-led councils.

²⁰. UN Women calculation based on figures provided by Permanent Missions to the United Nations - See more at: <http://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures#sthash.WYoDy4s1.dpuf>

²¹. Inter - Parliamentary Union, "Women in Politics: 2014." - See more at: <http://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures#sthash.WYoDy4s1.dpuf>

²². Ibid.

²³. IDEA, Paper entitled "Global Overview of Women Political Participation and Implementation of the Quota System", July 2012.

²⁴. Inter-Parliamentary Union, March 2014, "Progress for women in politics, but glass ceiling remains firm. - See more at: <http://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures#sthash.WYoDy4s1.dpuf>

In **Norway**, a direct causal relationship between the presence of women in municipal councils and childcare coverage was found.²⁵

As a case study, the current UK Government is notably male dominated, with both coalition partners having historical difficulties in attracting talented women to their ranks. This underrepresentation of women has a number of undesirable consequences, including largely shutting half the population out of the policymaking process. **Recently it has been probably successfully argued that gender quotas in the executive would be the best way to remedy this problem, and help bring about a more equal society.**

It has been argued that: “There is an urgent need to improve the quality of representation at the elite level of UK politics. We need more women in positions of executive power because it is there that they have the requisite resources to make a tangible difference to women’s lives. Yet, the way we are approaching it is wrong. Both academic research and policy debates have tended to focus on improving supply: *we just need more women MPs, so the argument goes, and then the recruitment to cabinet and across government will follow. But progress at increasing women in parliament has been incremental, inadequate and temporary, particularly in the parties which have not adopted strong mechanisms to secure the selection of women to winnable constituencies. We could wait another 100 years for equal numbers of male and female MPs at the current rate of progress. Even then there is no guarantee that women MPs will be selected for executive office once in Parliament.*”²⁶

Instead it is suggested (and it is the right suggestion) that the attention should be geared towards demand instead. **Ministerial and government appointments are at the Prime Minister’s discretion.** He (and sometimes, she) has the freedom to decide who joins the team, with, in many cases, political consultations and considerations.

It is noted that the failure to appoint women to government office is rarely because of a deficit of qualified women in the political pool. Evidence from across the world illustrates that when a Prime Minister is inclined to appoint women, he or she will (as is with the current Finnish Government).

However, having in mind the world situation regarding the executive as well as the wording of Article 7, (b) of CEDAW,²⁷ there is a long overdue need that the demand for women in political executives should be formalized through gender quotas in as many cases as possible. This is recommended in the UK case as well.

²⁵. R. Chattopadhyay and E. Duflo, 2004, “Women as Policy Makers: Evidence from a Randomized Policy Experiment in India,” *Econometrica* 72(5), pp. 1409–1443; K. A. Bratton and L. P. Ray, 2002, “Descriptive Representation: Policy Outcomes and Municipal Day-Care Coverage in Norway,” *American Journal of Political Science*, 46(2), pp. 428–437. - See more at: <http://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures#sthash.WYoDy4s1.dpuf>

²⁶. Article by Ms. Claire Annesley at Democratic Audit, 06.02.2014, to be found at: <http://www.democraticaudit.com/?p=2933>

²⁷. CEDAW Art. 7: “State parties shall take all appropriate measures to eliminate discrimination against women in political and public life of the country and in particular: shall ensure to women on equal terms with men the right....(b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;....”,

Many informal rules in many countries exist to ensure that a minimum representational standard is achieved. Traditionally in the UK there must be a minister who is Scottish, Welsh, and a balance may be sought across party factions. Elsewhere, in countries like **Germany**, unwritten quotas have existed to secure representation of large regions and even religious denominations. Indeed, UK Prime Minister Cameron invoked the notion of an informal gender quota for political executives before he took office with his aspiration that one-third of his government would be women by *the end of parliament*. This target is not achieved, despite a number of reshuffles, and has not exceeded 18% across government. As the information states, it is hoped that a more formal rule would bring about the desired changes.²⁸ Currently out of 21 members of Prime Minister Cameron Cabinet (deputy prime minister and state secretaries) only 5 are women.

A gender quota for political executives would provide Prime Ministers with a tool to develop a set of political leaders who more closely mirror the citizens they represent. Requiring Prime Ministers to deliver parity cabinets would force party leaders to look outside the closed network of usual suspects when putting together ministerial teams. Formal gender quotas across the executive would accelerate the tediously slow advancement of women's political representation at the elite level where politicians have resources to make a difference. Finally, a better gender balance across cabinets and government departments improves the chances (though does not guarantee) that women will fare better from government policy.²⁹

In a recent action, around half of the 47 prefectures in **Japan** have set numerical targets for promoting female employees and most fall below Prime Minister Shinzo Abe's goal of raising the proportion of women in leadership positions to 30 percent by 2020, according to a survey reported by Japan Times in November 2014. All 47 governors replied to the survey in October and November 2014. Twenty-four said their prefectural governments had set numerical targets, while in Tokyo, Governor Yoichi Masuzoe said the capital would soon launch a goal of 20% women in leadership positions. The other 22 governors said their prefectural governments were still considering the matter.

Promoting women in the workplace in Japan has been one component of the prime minister's economic reform policies. Prime Minister Abe has said his goal is to create a society in which "every woman shines". This is a nice rhetoric but usually when the results should be shown, the Government falls short.

As of April 2013, Cabinet office data showed the proportion of women in managerial positions ranged from 15.2 percent in Tokyo to 2.1 percent in Yamaguchi Prefecture, Abe's home turf.³⁰

Currently out of 18 ministers including the deputy prime minister only 4 are women or appx.23%.

²⁸. Article by Ms. Claire Annesley at Democratic Audit, 06.02.2014, to be found at: <http://www.democraticaudit.com/?p=2933>

²⁹. Ibid.

³⁰. Article in Japan Times, "Only Half of Prefectures have set Female Management Quotas", 24.1..2014, web page: <http://www.japantimes.co.jp/news/2014/11/24/national/half-prefectures-set-female-management-quotas/#.VMj61kfF-Qc>

Finland's law requiring that at least 40% of each sex should be represented in the membership of various decision-making bodies including the Government led to an increase in women's membership from 25% in 1980 to 48% by 1996 and to appx.62% currently (out of 16 ministers 10 are women) as one of the leading countries in the world in gender equality front.

The French Constitution was reformed in 1999 to state that "the law favors the equal access of women and men to electoral mandates and elective functions." In 2000, French law was changed so that political parties must present equal numbers of men and women (within two percent) for the elections. Currently, apart from the Prime Minister Manuel Valls, there are 33 members of his Cabinet out of who 16 are women or appx.50% which is a case where a real progress with legal regulations is achieved.

In many cases, the number of women member of cabinets largely depends on the prime minister and the other leaders if it is a coalition government and it is negotiated during the cabinet formation or re-shuffling. In a recent case in **Indonesia**, the Prime Minister appointed eight women in the new Cabinet which is unprecedented for Indonesia but in line with his pre-election *platform that women together with men will contribute for the advancement of the country*.

Therefore, although there are not many countries using legal (hard) quota systems for ensuring gender equality in different governments, and there are some countries that use soft quota systems in many governments across the world, it is high time and very advisable that the countries, if determined to see real change on the ground and full implementation of the provisions of CEDAW to which are state parties (including Viet Nam), use legal quotas in the Government formation in order to accelerate the equality and see tangible results for its citizens across sectors.

Especially having in mind the current situation in the Government of Viet Nam, where out of 27 members including the Prime Minister and the 5 Deputy Ministers, only 2 are women, for health and for labor, war, invalids and social affairs making only 8% women as members of the Government.

This number does not correspond to the increased efforts that Viet Nam has been making in order to improve women representation and participation at all level of decision-making in Government and Parliament. If the current decline of the number of women in parliament and leadership in Viet Nam persists, the country could be in danger of stagnating in its socio-economic development.³¹ But having in mind the position of Viet Nam as a leading country in the area of gender equality in South East Asian Region before, taking this initiative further and including the TSM such as quota system in the new Law on Organization of Government as well as into the new Election Law could help place Viet Nam back into the leading role in the SEA Region and with visible results which should translate into change on the ground in much shorter time than anticipated.

³¹. Anita Vandenbeld and Ha Hoa Ly, UNDP Report "Women's Representation in the National Assembly of Viet Nam – The Way Forward", p.1, December 2012.

5.2. *Women Participation in the Parliament*

The Election law(s) is very important legal document that can affect women's chances for full participation in all aspects of an electoral process. The amendment of or developing a new Election law(s) is a chance for countries to apply principles of equality and non-discrimination under ICCPR and CEDAW into not only general provisions but also in all legal provisions concerning the election process and the electoral system. In the same time, the other legal provisions of the electoral system concerning types of candidate lists, ways of candidatures, threshold level for being elected etc. should be made gender responsive and supportive to the goals of gender equality.

In the same time the Election law(s) should be made clear, comprehensive and transparent with an aim that there are no elements of the electoral processed which disadvantage women either directly or indirectly.

As underlined above in part 4, it is very important what can of electoral system one country has for the chances of women of being selected and nominated as candidates by political parties. As shown above, more women tend to be nominated in the proportional representation systems (PRS), than in majority system or mixed system.

If the women are placed high on the party election lists, in which candidates are ranked in order of party reference in the PRS, they have greater chances to be elected in Parliament.

The gender quota, as shown above as TSM, is proved tool that many counties use to accelerate the process of gender equality in elections. For example, in PRS such as in **France** political parties are required by law, under financial penalty, to nominate equal numbers of women and men across all the districts where the party is presenting candidates. In **Belgium** who also has PRS, the Law on Election provides penalties if the political parties ignore the gender quotas.

In such case, the list of candidates for election would be immediately made invalid by the Electoral Commission.

In another example, party election lists must include at least 30% of women in **Argentina and Bosnia and Herzegovia** or must include at least 40% in **Costa Rica**³². In the **Republic of Macedonia**, the provisions in the Election Law and in the Local Election Law gives the right to the State Election Commission to refuse any political party election list if does not contain at least 30% of persons of each sex and to be placed interchangeably on the lists. In **Cuba**, candidates of the municipal assembly are recommended by local residents in the candidate nomination conference. 50% of the candidates for the provincial assembly and National Assembly are recommended by the municipal assembly and remaining 50% are recommended by the National Election Committee (consisting of representatives of the trade union, students, farmers and women) from representatives of the social agencies and organizations. That is why

³². United Nations, 2005, Women and Election – A guide to promoting the participation of women in elections.

suggestions for nominations are made at all levels mainly by mass organizations, trade unions, people's councils, and student federations.³³

In 2010 **Kenya** adopted a new Constitution which guarantees gender equality and the use of affirmative action. Before a Political Parties Bill was adopted, the Interim Independent Electoral Commission adopted recommendations to make the bill more gender-responsive. When The Bill was promulgated into law, it stipulated that the registration of political parties depends on having **no more than two-thirds of any gender in their governing bodies**. Another provision requires filling vacant seats in the legislature with people of the same gender.

Colombia, adopted 30% quota for women candidates in national elections. In order to engage the broader public, there was a wide campaign conducted with the main message that “Democracy without women is incomplete.”

Achieving 30% representation is widely considered an important benchmark for women’s representation. As of January 2014, 39 single or lower houses were composed of more than 30 % women, including 11 in Africa and 8 in Latin America.³⁴ **Out of the 39 countries, 32 had applied some form of quotas opening space for women’s political participation**. Specifically, 13 use legislative candidate quotas; 6 use reserve seats; and in a further 10, parties have adopted voluntary quotas.³⁵

In countries with proportional electoral systems, women hold 25.2 % of the seats. This compares with 19.6 % using the plurality-majority electoral system, and 22.7 % using a mixed system.³⁶

However, it is important to note that more women in politics do not necessarily correlate with better policies or as for example, lower levels of corruption, but, rather, democratic and transparent politics is correlated with low levels of corruption, and the two create an enabling environment for more women to participate.³⁷

As a good example for comparison both among its member countries within one decade and with other regional groups, in the Organization of Economic Cooperation and Development - OECD member countries the situation is as in the figure below.

Share of women parliamentarians and legislated gender quotas (2012 and 2002):

Lower or single house of Parliament

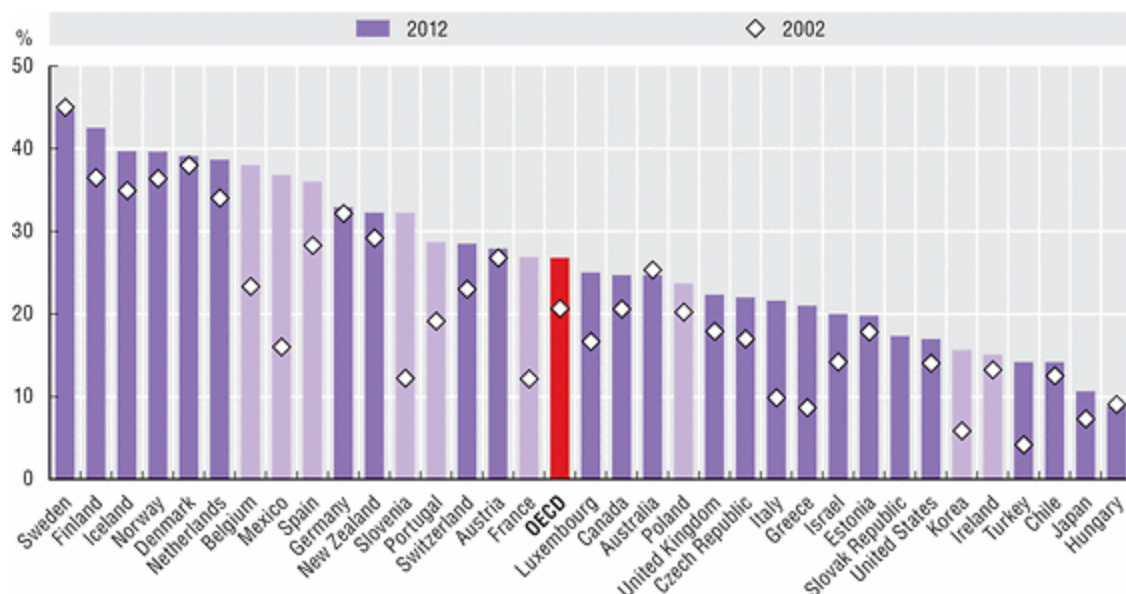
³³. UNDP, “Gender Analysis of Vietnamese Electoral Laws – Recommendations for the Law Drafting Committee, Ha Noi, 2014, p.9.

³⁴. Ibid.

³⁵. UN Women calculation based on IDEA, Stockholm University and IPU, Global Data Base of Quotas on Women, accessed January 2015, and IPU, <http://www.ipu.org/wmn-e/world.htm>.

³⁶. Ibid.

³⁷. UN Development Fund for Women, 2008, Progress of the World’s Women 2008/2009: Who Answers to Women?, New York.



Bars in light purple represent countries with lower or single house parliaments with legislated candidate quotas as of 21 January 2013.

Source: Inter-Parliamentary Union (IPU), *PARLINE* (database); and IDEA, *Quota Project* (database).

It can be noted that there is steady progress in all OECD member states but the most progress is present in member states with legislated or voluntary party quotas.

There are many examples of gender quota in legislature that work and that have accelerated gender equality in all houses of parliaments. It is important to note that although electoral gender quotas has been constitutionalized, legalized or voluntarily adopted by the political parties, those same political parties are the main actors in guaranteeing the equality between women and men in election and in elected agencies. It follows that if those parties do not initiate the gender equality in the selection process, and nominations, the number of women in elected bodies cannot be improved on the short and the long run.

It is also important to have strategy and presence of women candidates during the campaigning period using all resources available because it became indispensable part of the electoral process. Political campaigns usually have a very high cost and experience shows that it is more difficult for women to raise finances for campaigning then for men. Campaign finances may come from private or public sectors. In some countries in South America and Europe there are governmental funds available for funding a campaign, however limited. In many other countries, such as Germany and the United States, campaigns are funded using combination of private and public finances. The types and purposes of campaign spending depend on the region. For instance, in the United Kingdom, television advertising is provided to campaigning parties for free and

limited by law, while in the United States, it is one of the biggest expenses in the campaign budget, especially for state-wide campaigns.³⁸

During the campaign, it is very important for women how any media portray women since the media is the one who shapes voters' attention and interests and ultimately influences the elections. It depends on the country whether it would tackle this issue and bring gender equality in all the media or it would remain status quo with women in most of the time suffering from the stereotyping and prejudices.

Regarding campaigns, **Swedish Electoral Law** does not stipulate any specific rule for campaign but prohibits commercial advertising or other activities aimed at influencing or impeding voters in making their choice. Election campaign is prohibited in **Cuba** because there is only one candidate per seat and candidates must obtain the support of at least 50% of voters to be elected. **Electoral Law of Belgium** permits the candidates to make campaign 40 days before the election-day.³⁹

6. WOMEN PARTICIPATION IN THE GOVERNMENT AND IN THE PARLIAMENT: VIET NAM PERSPECTIVE

6.1. The Importance of Women Participation in the Government and in the Parliament

The right to stand for election is constitutionally guaranteed right and part of the corpus of the human rights worldwide.

The 1946 Viet Nam Constitution, as the first Constitution of the Democratic Republic of Vietnam highlighted that "All authority is of the entire people of Viet Nam, irrespective of race, **gender**, rich and poor, class and religion "(Article 1); "All citizens of Vietnam are equal before the law and given the opportunity to participate in the government and the cause of country development, depending on their talents and virtues" (Article 7); "All citizens of Vietnam, aged 18 and older and **regardless of gender, have the right to vote**, except for the insane and those who lost their public rights" (Article 18). Inheriting and promoting the 1946 Constitution, the 1980 Constitution, the 1992 Constitution and especially the 2013 Constitution show the stronger emphasis on the equality between men and women in the political sphere.

Viet Nam Constitution from 2013 gives the same opportunities for women and men to participate in all aspects of the electoral process therefore making the election process democratic, fair, and non-discriminatory.

As the Articles 6⁴⁰ and 7⁴¹ of the Constitutions state, the people of Viet Nam is given the possibility to exercise state power in the form of direct and of representative democracy and the elections must be conducted on the principle of universal, *equal*, direct and secret suffrage.

³⁸. Ibid., page 10.

³⁹. Ibid.

⁴⁰. Article 6 of the Constitution state: "The People shall exercise the state power in the form of direct democracy and of representative democracy through the National Assembly, People's Councils and other state agencies".

The right to vote and be elected into office also encompasses the right for both women and men to be members of the election-in-charge organizations, to have equal, fair and non-discriminative list of candidates, and to uninterruptedly run for office. To ensure that these rights are upheld, the electoral law should be adopted with gender consideration in mind throughout the whole process with concise, clear, comprehensive and transparent provisions.

Since Viet Nam is currently in a process of developing new Law on Organization of the Government and new Law on Election of Deputies to National Assembly and deputies to People's Council (LOG and LEDNA and PC) to be in line with Viet Nam Constitution 2013, including the establishment of a National Election Council (NEC), it is necessary to include the principles of gender equity and non-discrimination in all important parts of the law.

Principles of equality and non-discrimination are detailed in the international conventions on human rights where Viet Nam is a state party such as the ICCPR and CEDAW⁴² as well as mentioned in the Beijing Platform for Action.

It follows, that gender equality provisions in the DLOG and DLEDNA and PC would play important role in ensuring equality in terms of all citizens' right to vote and stand for election and have fair chances to participate in the work of the Government.

Women on equal terms with men should be part of the Government and the National Assembly and People's Councils work and they should represent them as part of the whole Viet Nam population.

It is part of the universal human rights and also part of women's rights as human rights that women take part in the work of the NA and the other elected organizations in as high number as possible because:

- Women are approximately 50% of the population;
- It shows that Viet Nam stands for its international obligations;
- Women have different experience as compared to men and if given positions of influence they can share those different experiences and use them to the advantage for the whole population and to make better and all-encompassing policies;
- It will help the sustainable development of the country and the Region;
- It will help the economic growth; and
- It is the right and fair thing to do;

According to a study conducted by the National University of Singapore, in a legislative body that has higher proportion of women, policies and laws on people and environmental protection will be more likely adopted than those with less women's representation.⁴³

⁴¹. Article 7 of the Constitution state: "1.The elections of deputies to the National Assembly and People's Councils must be conducted on the principle of universal, *equal*, direct and secret suffrage. 2. A National Assembly deputy or a People's Council deputy may be removed from office by the voters or the National Assembly or the People's Council, when he or she is no longer worthy of the confidence of the People."

⁴². See supra note 1. For example, principle of equality is stated in DLEDNA and PC in Article 1, Art.4 p.2 etc.

⁴³. From the Report by the NA on DLEDNA and PC, Feb.2015.

Viet Nam has undergone a major socio-economic transformation over the last decades and has achieved the status of a middle income country in 2011. Since then, it continues to develop rapidly with structural and economic changes which integrate its economy more and more with the global economy. It has been noted that the poverty rate has been declining steadily and Viet Nam is poised to achieve six of the eight Millennium Development Goals, including MDG 3 on gender equality. Despite these advancements, Viet Nam still has to work on the equality field since there are many signs that women face many challenges across the country fueled by inequality, discrimination, and lack of economic opportunities.⁴⁴

Therefore, the legal framework regarding gender equality is present and in the last years Viet Nam has taken many steps to accelerate progress in this area. However despite all the efforts it is evident that much more needs to be in order to have visible change on the ground.

The Gender Equality Law in Chapter III provides for measures to ensure gender equality and especially Articles 19, 20 and 21 provide measures, basic principles and mainstreaming gender equality in the improvement and the development of legal normative documents.

According to Article 21 p.1., the development, amendments and supplementation of legal normative documents *must* ensure the basic principles of gender equality, which in turn are the key foundation in checking to amend and supplement the legal normative documents (point 2).

The Article 22 of the GEL, deals with mainstreaming gender equality in the development of legal normative documents including defining gender issues and measures to implement in the field that is adjusted by legal normative documents; forecasting the impact of the regulations in the legal normative documents on woman and man when promulgated; determining the responsibility and resources to deal with gender issues within the adjustment scope of legal normative documents.

The key drafting agency of legal normative documents has the responsibility to mainstream gender equality in the documents and prepare reports on the mainstreaming of gender equality in the development process of legal normative documents according to GEL.

When assessing the legal normative documents from gender perspective, the agency tasked with that has the responsibility to coordinate with the state management agency of gender equality to appraise the mainstreaming of gender equality in the development of legal normative documents.

Therefore, when assessing the DLOG, according to GEL (Article 22 p.3) the appraisal should include:

- a) The identification of the gender issues in the draft laws and other documents;
- b) Ensuring the basic principles of gender equality in the draft laws and other documents;

⁴⁴. The National Women Machinery in the form of Gender Equality Department in the Ministry of Labor, Invalids and Social Affairs (MOLISA) was established in 2008. Moreover, the inter-sectoral body which advises the Prime Minister on Gender Equality and the Empowerment of Women, namely the National Committee for the Advancement of Women (NCFW) was relocated from the Viet Nam Women's Union to MOLISA office. Therefore, MOLISA is tasked with the implementation of the Law of Gender Equality, the National Strategy on Gender Equality 2011-2020 and the National Programme for Gender equality 2011-2015, as well as reporting on CEDAW.

- c) The feasibility of the solution to the issue of gender that is subject to adjustment in the draft laws and other documents;
- d) The mainstreaming of gender equality in the development process of the draft laws and other documents according to the GEL;

When assessing the DLEDNA and PC it has to be kept in mind that in recent tenures, the number of women candidates and elected women deputies to the National Assembly and People's Councils in Viet Nam has been lower than before and not in line with the target in the adopted legal documents.⁴⁵

From the available data can be deducted that the participation of women deputies to the National Assembly and People's Councils has not improved and met the National Assembly and Government's target for the current legislature (i.e. 30% or higher). On average, women deputies are only equal to a quarter of their male counterparts.

In line with the above goes the fact that women are also present in very low numbers in election-in-charge entities. Women are under-represented in the Election Council, Election Committees and negotiation entities, thus causing the failure in fulfilling the targets set for the proportions of female candidates and women deputies to the National Assembly and People's Councils.

Therefore, DLEDNA and PC should ensure the adoption of various measures for gender equality as prescribed in the 2006 Law on Gender Equality, i.e. measures for enhanced gender equality as stipulated in Article 19 and for basic principles of gender equality in the finalization of the legal system in Article 20 and gender-equality mainstreaming in the preparation of legal normative documents in Article 21.

DLEDNA and PC although contains gender-neutral provisions, there are also measures for gender issues within the scope of the draft Law which are found to be very general, unspecific, incomprehensive and hard to meet the requirements for higher representation of women deputies to the National Assembly and People's Councils. Meanwhile, the Law on Gender Equality (Clause 5, Article 5) allows that the "measure to promote gender equality is the measure aimed at ensuring substantial gender equality, set forth by the state authorities in cases there remains considerable imparity between man and woman concerning the positions, roles, conditions, and opportunities for man and woman to bring into play all their capacities and to enjoy the achievement of the development where the application of equal regulations for man and woman cannot remove this imparity....".⁴⁶

For the purpose of ensuring the women's participation in the National Assembly and People's Councils, the draft Law prescribes the mechanism for "proportional" representation of women deputies (Art.7, p.4 of DLEDNA and PC). However, it is not defined what proportional

⁴⁵. During the National Assembly's Tenure XII (2007- 2011), there were 276 women candidates (i.e. 38.60%) and 127 elected women deputies (i.e. 25.8%). Vietnam ranked 28th in the world, the 2nd among ASEAN nations with parliaments (after East Timor) and the 3rd in the Asia-Pacific region. At the present, i.e. Tenure XIII (2011-2016), Vietnam ranks 39th in the world, the 3rd among ASEAN nations (after East Timor and Laos) and the 6th in the Asia-Pacific with 122 women deputies (i.e. 24.40%) out of 293 women candidates (i.e. 33.29%). During the National Assembly's Tenure XIII, there are two Vice-Chairwomen and two women members of the National Assembly's Standing Committee, and this has shown a positive improvement. From the Report of the NA on the DLEDNA and PC, Feb.2015.

⁴⁶. From the Report of the NA on the DLEDNA and PC, Feb.2015.

representation means because when such a clause is inserted into law experience shows that it can be used to cover very general subject and without real chances for implementation because there is nothing to be measured against, as counterpart i.e. the question is: proportional of what?

Moreover, the DLEDNA and PC does not contain provision available for women members, to increase their numbers in the National Election Council and local election-in-charge entities. The people (mostly men) working in these institutions significantly affects the selection of candidates, especially the introduction of the candidates, and preparation, decision and notification of candidates for the National Assembly and People's Council deputies.

Regarding campaigning activities, no provision can be found on specific policies for women candidates who have to take on the social responsibility for their professional lives and at the same time fulfill all their family-related obligations.

6.2. Gender Issues in the DLOG and DLEDNA and PC

a). The identification of the gender issues in the DLOG and DLEDNA and PC:

Based on provisions contained in the GEL and detailed implementation legal normative documents, through studying of the submitted materials and documents relating to the DLOG and DLEDNA and PC, it has been found that gender has not been completely mainstreamed into both. For example, (1) A Report on gender mainstreaming into the law-making process as of stipulated at Article 22 of the GEL has not been enclosed with the DLOG and with the DLEDNA and PC; (2) The impact from the legal provisions from gender perspective contained in the DLOG and in the DLEDNA and PC are not defined in RIA Report, and (3) gender mainstreaming is not included in the introductory note supporting the submission of the proposed draft laws. In addition, the author has been informed that there has not been representative(s) from the state management agency of gender equality and Vietnam's Women Union taking part in the Drafting Committees.

b) Ensuring the basic principles of gender equality in the draft laws and other documents:

In order to define gender issues in the DLOG and DLEDNA and PC there is a need to collect, process and analyze gender related information and data in direct correlation with the scope of DLOG and DLEDNA and PC as well as the related laws and regulations concerning gender issues in the field of organization and operation of the Government and the Elections as well as the impact that each laws would make in the society.

When finalizing the DLOG and DLEDNA and PC it is important to take into consideration the following information and data on gender equality relating to:

Current policies, laws and regulations on increasing percentage of female cadres:

- **The Constitution of 2013** which has affirmed clearly: *Male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality; The State, society and family shall create the conditions for women to develop comprehensively and to advance their role in society; gender discrimination is prohibited.*

- **The Resolution No. 11-NQ/TW dated April 27, 2007** of The Political Bureau (Politburo) of the Central Committee of the Communist Party of Viet Nam, on women-related

activities in the period of accelerated national industrialization and modernization. One of the main purposes of the Resolution is to cast out women cadre targets need to be achieved by 2020.⁴⁷

- The Government had issued **the National Strategy for gender equality for the period 2011-2020**, in which the first objective is to “intensify women’s holding of managerial and leading positions, aiming to gradually narrow the gender gap in the political domain”.⁴⁸

- Also, **the Project No.3 of the National Program on gender equality for the period of 2011-2015**, states that “to build capacity for female deputies to the National Assembly and People’s Councils at all levels, female managers and leaders at all levels; female candidates for election of deputies to the National Assembly and People’s Councils at all levels of the 2016-2020 tenure, and female cadres planned for promotion”.

- **The Law on Gender Equality** which provides for measures aimed at promoting gender equality in the field of politics including: *To ensure the appropriate proportion of women in appointing officials to hold titles in the profession in state agencies in accordance with the national gender equality goals.*

Notwithstanding the above and some limited improvement of the position of women, the participation and number of women ministers in the government, or leaders at different managerial levels of ministries and ministerial-level agencies is still low, also including the head positions of different agencies. According to a Report by the Ministry of Labor, Invalids and Social Affairs (released December 2014), women are in majority only in deputy positions. For example:

a). At the level of ministries and central agencies:

- The percentage of women as ministers is 9,1% (2 out of 22 ministers); percentage of vice-ministers and equivalent is 10,8% (13 out of 120);

- The percentage of women as heads of department and equivalent is 10,87%, women as deputy head of department and equivalent is 18,21%.

b). At the level of provincial and cities directly under the central government:

- 1,58% (1 out of 63) of Chairs of People Committees is a woman.

- 10,5% (23 out of 219) of Chairs of People Committees are women.

In comparison with other countries around the world, Viet Nam ranks at the 83rd position regarding the number of female law makers, high ranking leaders and managers (22 female high ranking leaders for every 78 male high ranking leaders). Viet Nam ranks 124 out of 129 countries in the

⁴⁷. Resolution No. 11-NQ/TW of The Political Bureau has set out objective “efforts to be made so that by year 2020, the percentage of female participants in the party committees will reach 25% or over; female members in the National Assembly and the People’s Councils at different levels will reach 35% to 40%. Agencies and organizations having 30% or more women must have women among their leaders. The high-ranking agencies of the Party, the National Assembly, and the Government have an appropriate percentage of women relative to the goal of gender equality”.

⁴⁸. Target 2 of the Objective 1 of the National Strategy on gender equality for the period 2011-2020, sets out: to strive for the targets that by 2015, 80% and by 2020, over 95% of ministries, ministerial-level agencies, government-attached agencies and People’s Committees at all levels will have female leaders.

percentage of female Ministers and deputy-Ministers which shows that something urgently needs to be done at all levels in the Government.⁴⁹

In order to promote gender equality, ensure an appropriate percentage of women in Government, some countries stipulated a minimum percentage of women in Government in the form of quotas (for example, 30, 40, 50% or without upper limit). However, as shown above in Section 5.1, there are very few countries that set out or are planning to set out quota system in the Law on Organization of the Government.

Based on the above, and looking through gender lenses at the DLOG and the DLEDNA and PC, gender issues are defined:

1. In the DLOG as the following:

- The task (among other tasks) of the Prime Minister to ensure gender equality in its Cabinet and the work of the Government and ministerial-level agencies;
- Inserting number or percentage of a minimum of women and men deputy prime ministers, ministers, and head of ministerial-level-agencies (currently are at very low numbers);
- Inserting number or percentage of a minimum of women and men deputy-ministers, head of departments in ministries and ministerial-level-agencies (currently are at low numbers);
- Including specific activities, functions and tasks for the state management relating to gender equality, as well as continuously improving the structure and operation of state management machinery dealing with gender equality.

2. In the DLEDNA and PC as the following:

- Inserting percentage of a minimum of women and men to be elected for the national election to the Assembly as well as to the people's councils – recommended at least 35% of either gender;
- Inserting percentage of a minimum women and men as members of all election related bodies – recommended at least 35% of either gender;
- Inserting at least 45% - 50 % of women on the final election lists at all levels in order to have fair chances to being elected to the stated minimum of 35%;
- Including accountability provisions for all the actors in the election process;
- Including provisions regarding the election campaigns and the independent candidates;
- Ensuring that women are valued according to the same criteria as men for becoming candidates;

c) The feasibility of the solution to the issue of gender that is subject to adjustment in the draft laws and other documents:

The rules and regulations of the DLOG and DLEDNA and PC are neutral, without discriminating provisions between women and men. At the same time, the draft Laws provide for some direct rules

⁴⁹. From the Report by the NA on the Draft Law on Organization of the Government, Feb.2015;

on gender equality between women and men, provisions for supporting and protecting of women, mothers and children in conformity with the basic principles on gender equality.⁵⁰

In the same time the DLOG contains neutral provisions which indirectly ensure gender equality, such as: Article 6 p.6, Article 7 p.5, Article 14 p.4.

However, those rules and provisions are not complete and concrete enough to bring improvements to the positions of women in the Government and in the Parliament and the People's Councils and to deal with gender issues effectively as mentioned in above.

d) The mainstreaming of gender equality in the development process of the draft laws and other documents according to the GEL:

Mainstreaming the gender equality in the DLOG and DLEDNA and PC needs to take into account the current political realities and the legal system which already provides for gender equality provisions (such as Resolution No. 11-NQ/TW from 2007 by the Political Bureau (Politburo) of the Central Committee Communist Party of Vietnam, the National strategy for Gender equality, Law on gender equality etc.). Therefore, some gender issues have been already regulated by other legal documents and they do not necessarily need to be regulated again in the DLOG or DLEDNA and PC.

It is important to note that the organization and operation of the Government, ministries, and ministerial-level agencies are not only regulated in the Law on organization of the Government, but also are regulated by other professional laws where gender equality should also be mainstreamed.

Moreover, in order to mainstream gender equality into the DLOG it should be kept in mind that such provisions should also be included in other laws and by-laws.

More specifically, there is a need to deal with the issues of: gender inequality in retirement age; create more favorable conditions for women to participate in training courses; encourage women to take the management positions; enhance men's role in taking care of children and doing part of the house work; raising awareness of the need to increase the number of women in public administration etc.

Evidence shows⁵¹ that to date, Vietnamese system of official appointment follows the combination of principles such as competence, quality, and period of dedication and commitment (for example, one person needs to be Deputy – Director before he/she is appointed as Director of a Department).

⁵⁰. For example DLOG: Defines the tasks and powers of the Government in management and implementation of social policies (Article 14.3 of the draft Law): *To supply concrete guidance and implement policies and measures to ensure the equality between men and women in all political, economic, cultural and social aspects as well as in family life; protect and care for mothers and ensure the exercise of children's rights; help the elderly, disabled people, the poor and children meeting with exceptional difficulties; adopt measures for prevention of and fight against all acts of violence against women and children, which hurt their dignity*; Defines the tasks and powers of the Government in management health issues and protection of people's health (Article 13.3 of the draft Law): *To implement the population and family planning policy, ensure gender balance, enhance population quality; protect and care for mothers and children's health*; Defines the responsibility of the Government – the Prime Minister to invite heads of the central committees of political-social-professional organizations (including Chair of Viet Nam's Women Union) *to attend meetings relating to its implementation of tasks and powers; regularly notify central committees of political-social-professional organizations of the socio-economic situation as well as the Government's major decisions, undertakings and tasks* (Article 42.3).

⁵¹. From the Report by the NA on the Draft Law on organization of the Government, Feb.2015;

Therefore, the increase of women leaders in State agencies depends on sufficient long-term planning and women interest and availability as well as competence, raising awareness about gender equality among the whole population but most important among the senior political leaders.

7. COMMENTS AND RECOMMENDATIONS ON THE DRAFT LAW ON ORGANIZATION OF THE GOVERNMENT (14 DRAFT) (DLOG)

Taking into consideration the above and analyzing the 14th Draft of the Law on Organization of Government **the following comments and recommendations can be made** to be presented to the Government and to the National Assembly and its Social Affairs Committee in line with the legal provisions existing in Viet Nam as well as in line with the international obligations that Viet Nam has undertaken as state party to CEDAW and other international legal instruments:

1. To ensure that DLOG contains provisions to promote gender equality (also using quota as temporary special measures (TSM)) to increase the number of women in leadership positions in the Government, ministries, and ministerial-level agencies, the Government can chose one of the two options:

Option 1: It is recommended that in Article 3, p.3 (Member of the Government) of the DLOG a concrete percentage of women and men is defined as members of the Government submitted by the Prime Minister to the National Assembly for review and decision.

Apart from the number of women and men appointed as member of the Government (Art.3), a concrete percentage of women and men deputy ministers, deputy heads of ministerial-level agencies should be defined as well as a concrete percentage of women and men directors and deputy directors of departments and units belonging to ministries and ministerial-level agencies (Articles 24, 29, 34). It is **recommended that** the percentage is at least 35% of either gender (in contrast to the current percentage which ranges from 2% to 19% of women in those positions).

Option 2: It is recommended to use instead the wording “at least 35% of either gender”, “approximately 35% of either gender”.

The Author recommends Option 1 taking into consideration the current reality at the level of the Government in Viet Nam and the fact that time and experience has shown that things are changing very slowly in the field of gender equality in governmental strictures. Therefore, if Viet Nam is to meet the requirements set in the NGES of 35% women in the decision-making positions at all levels in the period 2015-2020 using the wording “appropriate proportion” of women into the DLOG would not bring that fast change on the ground but rather would take much more time and efforts (without a set percentage in the Law on the Organization of the Government) to achieve that goal.

In the second option, the wording “approximately 35% of either gender” is recommended instead the wording “at least 35% of either gender” because in that case even if the 35% is not met strictly it would be still in compliance with the Law if there are 33-34% elected in the Governmental structures at all levels.

2.In Article 4 of DLOG (Organization and Principles of Operation of the Government) regarding the principle of gender equality in organization and operation of the Government **it is recommended to amend, and/or supplement the Article 4.1 as follows:**

*“1. Organization and operation of the Government should comply with the principles of democratic centralism, collective working mechanism, decision by the majority, emphasizing democracy, the rule of law **and ensuring the principle of gender equality**”.*

3.1.In Art.7, p.5 (Tasks and Powers of the Government in Organization of Implementation of the Constitution and the Laws) is recommended to be amended to read:

“5. To decide measures to protect legitimate rights and interests **of women and men**, creating...”;

3.2.The same Art.7, points 8 and 9 need to be better clarified in the final version in order the equality of all be safeguarded. In the way how it is written in this version, it can open variety of possibilities not all necessarily gender equality friendly.

4.1.Art.8 (Tasks and Powers of the Government in the Economic Management and Development), p.4 it is recommended to insert a provision that the state budget would be estimated with due consideration included of gender implications in the design of such a budget and the last sentence is recommended to read: “.....; to organize, design and administer the implementation of the state budget in accordance with gender considerations and the resolutions of the National Assembly”.

4.2.It is recommended that the same Art.8, p.10 should read as the following:

“8. To direct, organize and manage the implementation of the state inventory and **statistics disaggregated by gender**”. (Knowing how important it is and how much such statistics are lacking in so many countries in the world and as a consequence devising policies to combat gender inequality and discrimination in all areas becomes very difficult and problematic).

5.For Art.11, p.2 (Tasks and Powers of the Government in Educations and Trainings) it is recommended to include at the end of the paragraph **a coma** and then to insert the following wording: **equally, for both genders**.

6.1. Art.12, p.1, (Tasks and Powers of the Government in the Management of Culture, Information, Sports and Tourism) is recommended to read: “1. To unify the management and develop the cause for culture, literature and the arts; to prescribe measures for preservation and development of the advanced culture of the imbued with national identities; to protect and promote the values of cultural heritage; to encourage the development of talents for cultural and artistic creation, to combat the dissemination of harmful cultural ideologies and products, **for both genders**; to eliminate superstition and bad practices **for all**; to build up the civilized lifestyle **for both genders and for all groups in the society**.

6.2. In the same Art.12, p.2 is recommended to read: “2. To unify the management and develop the cause information, communication and the press; to apply measures to effectively prevent those those information activities which are detrimental to the national interests **and gender equality**, destroy the personality, morality and find lifestyle of the Vietnamese people”.

7.1. In Article 14, p.3, (Tasks and Powers of the Government in the Management of Social Policies) while is very good stipulating implementation of policies to ensure the equality between men and women in all political, economic, cultural, social aspects and family life, the end of the paragraph **it is recommended** to be changed and the last sentence be amended to read, “to adopt measures for prevention of and fight against all acts of violence and offences against human dignity **of all and especially of women and children**” (to be in line with gender equality concept).

7.2.It is recommended that in Art.14, p.4, is inserted the word **all** between the words “for” and “citizens”, in order the article to equally apply for both men and women.

8.Art.19, p.4 (Tasks and Powers of the Government in the Management of External Relations and International Integration) is recommended that the first sentence reads: “To organize **on the basis of equality** and direct the operations of the state representative missions in foreign countries and international organizations”..., since it is also in direct correlation and following Art.7 and 8 of CEDAW.

9.1.It is recommended to amend Article 20 p.2 (Tasks and Powers of the Government in the Management of the State administrative Apparatus and Regulations on the Public Service and Civil Servants) from the DLOG as follows and the first sentence to read: “To uniformly manage and organize **on the basis of equality** and direct the operations of the system of the state administrative apparatus from the central to the grassroots levels;.....”.

9.2.It is recommended that the same Article 20 p.4 is amended and supplemented to read:

*“4. To unify the management of workforces of civil servants and payroll officials, civil servant and public employees in the State agencies, ensuring, in the same time, **gender equality principles** for women leaders in State agencies from the central to local levels”.*

10.1. Art.24 (Tasks and powers of the Prime Minister), p.2(c) is recommended to have **gender considerations enshrined in the article** because it is within powers of the Prime Minister to decide the total workforce of civil servants, public employees; to direct and unify the management of officials, civil servants and public employees in the administrative system of the state apparatus from the central to local levels.

10.2.In Art.24, para.3, it is recommended that at the end of the paragraph is inserted, **first coma** and then “, **in accordance with the Constitution, the GEL, NSGE, and the Resolution 11-NG/TW.**

10.3.It is strongly recommended that Art.24, para. 4 reads: “To submit to the Standing Committee of the National Assembly for approval of **at least 35% of either gender** and dismissal of Ambassadors Extraordinary and Plenipotentiary of the Socialist republic of Viet Nam in foreign countries”, which is in accordance with the Constitution, GEL, NSGE, the Resolution 11-NQ/TW and Article 8 of CEDAW and also considering the information submitted in the Seventh and Eight Periodic Report of Viet Nam to CEDAW submitted to the CSW.

10.4.It is strongly recommended as the first option that Art.24, paras. 5 and 6 include at least 35% of either gender of the total appointments of Deputy Ministers or officials of equal rank of ministers or ministerial-level agencies, heads and deputy heads of the Government-attached agencies, Chairpersons and Vice Chairpersons of the People’s Committees of provinces

or centrally run cities (in accordance with the Constitution, GEL, NSGE, the Resolution 11-NQ/TW and Article 7 of CEDAW). The rationale is the same as in the Recommendations No.1

The second option could be to insert the wording “approximately 35% of either gender”. However, this option is less recommendable since it would not achieve the planned results stipulated in the legal documents such as the NSGE, the GEL and the resolution 11-NQ/TW and it would not open the way for faster increasing the number of qualified women in governmental structures on the short and longer run having in mind the importance of this Law. Moreover, in order to introduce such provision an appropriate proportion would have to be defined.

10.5.It is recommended that Art.24, para.10, at the end of the paragraph includes “....Gender equality will be taken into consideration in all of the above actions.”

10.6.It is recommended that Article 24 is supplemented with new point 13 with wording as the following:

“13. The proposals for appointment and empowerment of the women and men holding titles stipulated at the points 2.i, 3, 4 and 5 of this Article shall be based on ensuring at least 35% of either gender (or approximately 35% of either gender as second option – less recommended)”.

11.In Art.26 (Deputy Prime Ministers), it is not stated the number of deputy prime ministers (currently there are 5 and all are men) and the recommendation is to have the number stated in the Law and then, to have at least 35% of either gender as appointed deputy prime ministers (or approximately 35% of either gender as second option – less recommended).

12.1. It is recommended that Art.29, para.3, (Tasks and Powers of the Ministers and Ministerial-Level Agencies as the Heads Ministries and Ministerial - Level Agencies) reads: “To propose the Prime Minister to appoint, remove from office or dismiss Deputy Ministers or Deputy Heads of ministerial-level agencies in accordance with gender equality consideration and the existing applicable gender legal provisions.

12.2. It is recommended that Art.29, para.9 is amended and the last sentence should read:...”to recruit, use, manage and implement regulations and policies related to officials, civil servants and laborers within their management scope and in accordance with gender equality considerations and the existing applicable gender legal provisions.

12.3. It is recommended to insert a new point 17 to Article 29 and to read as the following:

“17. The proposal for appointment of women and men holding titles stipulated at the points 3 and 9 of this Article shall be based on ensuring at least 35% of either gender.

The second option would be the wording “approximately 35% of either gender” to be used (less recommended).

13. Art.34, para.2,(Deputy Ministers and Deputy Heads of Ministerial – Level Agencies) should contain gender considerations when Government decides about the number of deputy ministers and deputy heads of ministerial-level agencies in each ministry and ministerial-level agency and it is recommended to read:

2. The number of deputy ministers and deputy heads of ministerial-level agencies in each ministry and ministerial-level agency shall be decided by the Government ensuring that **at least 35% are of either gender of total appointed persons holding such positions.**

The second option would be the wording “approximately 35% of either gender” to be used (less recommended).

14. Art.42, (For the Central Committee of the Vietnam Fatherland Front and other Socio-Political Organizations) should include, apart from the Vietnam Fatherland Front also **the Vietnam Women Union** (stated with the full name) in all its paragraphs (points) in order to underline the importance it attaches to the role that organization play in working towards achieving gender equality in the country.

Since the DLOG does not stipulate specifically on structure of each ministry, ministerial-level agency, agency attached to the Government, **it is not recommended** to include provision on the machinery for gender equality agency into this draft Law. With the proposed amendments of gender equality principles to the principles of organization and operation of the Government in Article 4, the Government shall be responsible in taking into account the gender issue (as regulated in Article 20) before submitting the Law to the National Assembly to decide on the structure and organization of the Government.⁵²

Tasks and powers of the Government, ministries, ministerial-level agencies in directing and implementing of gender equality have been stipulated in for example, Articles 13, 14, 42 of the draft Law. By implementing the above recommendations the competent authorities shall be responsible for ensuring the implementation of national goals on gender equality and the percentage of women as leaders in Government and in the State administrative agencies.

8. COMMENTS AND RECOMMENDATIONS ON THE DRAFT LAW ON ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY AND TO THE PEOPLE’S COUNCILS (DLEDNA AND PC)

The Politburo’s Resolution No. 11-NQ/TW dated 27 April 2007 on the women-related activities in the accelerated industrialization and modernization period determines that, in order to raise the awareness on the women-related activities and gender equality, the planning, training, retraining and deployment of female officers should be required with so that "by 2020 ... the women deputies to the National Assembly and People's Councils at all levels shall account for from 35% to 40%".

Moreover, the National Strategy for Gender Equality for 2011-2020 identifies the expected percentage of over 35% of women deputies to the National Assembly and People's Councils at all levels for the 2016-2021 tenure.

The 2006 Law on Gender Equality also lays down the principle of men-and-women equality for independent and nominated candidates for the National Assembly and People's Council deputies (Clause 3, Article 11) as well as the measure to promote gender equality in the political sphere,

⁵². From the Report by the NA on the Draft Law on Organization of the Government, Feb.2015.

which is to "ensure a proportional representation of women deputies to the National Assembly and People's Councils in accordance with the national goal of gender equality".

Together with the Constitution and other relevant laws, these regulations are in line with the UN MDG 3 – to promote gender equality and empower women. In order to achieve the above and to work efficiently on gender equality in Viet Nam it is necessary to introduce various measures, in the relevant draft law – DLEDNA and PC such as:

- increased number of qualified women candidates;
- training and encouragement policies for women candidates to support them in the whole process;
- to strengthen advocacy for women and voting for women candidates;
- to raised awareness on the need for higher proportions of women in National Assembly and People's Council bodies;
- to strengthen men's support for higher proportions of women deputies and of women, etc.

Having in mind the above, it follows that if at least 35% of women deputies at the NA and PC's can be reached, as well as the same percentage in the election bodies, then the objectives of the legal regulations stated above will be fulfilled for the next legislature and later.

In analyzing the Draft LEDNA and PC from 06 October 2014 **the following comments and recommendations can be made** to be presented to the Government and to the National Assembly and its Social Affairs Committee in line with the legal provisions existing in Viet Nam as well as in line with the international obligations that Viet Nam has undertaken as state party to CEDAW and other international legal instruments:

1. In Art 2 entitled “Eligible age for voting and standing for election”, it is recommended to include reference to fair treatment, inclusion and non-discriminatory practices.

The rationale is that this Law should be made in line with Viet Nam's Constitution (2013) as well as the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of which Viet Nam has ratified.

2.1. In Art. 4 on Responsibilities of agencies, point 1, at the end of the paragraph should be added:” ... in accordance with gender equality considerations and the existing applicable gender legal provisions”.

2.2. In Art.4, p.2, in the second sentence should be inserted: “shall propose the proportion, composition and number of deputies to the National Assembly in accordance with gender equality considerations, the agreed TSM and the existing applicable gender legal provisions”;

2.3. In Art.4, p.2, in the third (and last sentence) should be added:in democratic, lawful, equal, safe and economical manner.

2.4. In Art.4, point 4, should be included that reads:

“The Viet Nam Fatherland Front (VFF) shall organize consultations in an equal and non-discriminatory manner including the usage of temporary special measures (TSM) to select

and nominate women and men candidates for the deputies to the National Assembly and People's Councils, and shall participate in overseeing the election of deputies to the National Assembly and People's Councils".

The above is recommended having in mind the enormous influence that VFF has in selecting candidates for deputies at all levels. There is a need to insert another sentence after the last proposed sentence in the Article 4. P.4, of the draft law that reads: **"The VFF should work with VWU in ensuring gender equality provisions of this Law are followed and applied"**.

2.5.In Art.4, p.5 should be inserted at the end of the first sentence:

"The Standing Body of the People's Council shall propose the proportion, composition and number of deputies to the People's Council of the same level **in equal and non- discriminatory manner where the usage of TSM is not considered discriminatory**".

2.6. Since the **role of the VWU is not emphasized in the draft Law** in order to help the electoral process with providing lists of potential women candidates for the NA and the PCs, there **should be a new point added to the Article 4** on responsibilities of agencies which could read:

"VWU works with relevant agencies, organizations and units to develop list of potential women candidates who meet the criteria to become deputies to NA and deputies to PC. In the same time, the VWU, supervises the implementation of gender equality principles and legal provisions during the whole election process and organizes continuous training programs for women candidates for the NA and candidates for the PC".

The rationale behind above recommendation is the fact that VWU is national and sub-national organization with a mandate to protect and promote the rights of women, including the right to vote and stand for election. The UNDP research shows that VWU at central and local level lacks mechanism to work with relevant agencies, organizations and units to develop and propose the list of potential women as candidates for the NA and PC elections.

The VWU usually makes recommendation for specific women candidates based on their responsibility and enthusiasm rather than based on established criteria and mechanism in order to work closely with the other stakeholders responsible for election process.

3.Having consulted many reports and received many opinions regarding the length of the pre-election date activities which indicated the great need of more time that women candidates face when selected to run for office, **it is recommended in Art.5 on Election Date, to enlarge the number of days from 115 as fixed and announced by the NASC to 125 days before election date.**

This should be done apart from Article 5, also in the articles 7, and 8.

In such case women would have little more time to prepare for election process since it has been proved in previous instances that sometime some women are told that will run for office only couple of days before the actual election. This should be prevented of happening in any future election cycle. All people, including women should have equal opportunities to run for office and be elected, time for actual election process and campaigning included.

As pointed out in a UNDP Analysis⁵³, candidates have a chance to meet voters to hear their comments during the selection and nomination process as well as presenting their action plans during campaign process. However, it has been shown that the number of constituents joining in such activities is very limited. There are only 340,696 voters joining in 2,192 voters' conferences for candidates to the 13th NA and 6,367,095 voters joining in 121,084 voters' conferences for candidates to PCs at all levels of the term 2011 - 2016⁵⁴. It means that, more than 80%⁵⁵ (both women and men) of voters do not join voter's conferences. If the campaign period is lengthened, all constituents will have more opportunity to interact with candidates to make an informed decision.

4.1. For Art.7, p.1 on Proposed Proportion, Composition and Allocation of Deputies to the National Assembly, has the same recommendation and reasoning as the one above regarding the number of days that have to pass between setting an election date and the actual election from 105 to 125;

4.2. There are no TSM in the current draft in order to guarantee that the planned percentage of women (NSGE and the Resolution 11 NQ/TW) will become deputies in the next legislature:

Art.7, p.1 and 2 are crucial since it is here where the TSM in form of quota should be introduced into the Law.

International practice shows that the wording is better and in accordance with the equality and non-discrimination principles to be gender neutral and therefore, it is recommended that instead the wording as it is now in the draft for both points 1 and 4 to add at the end of point 1: **“with an objective of having a minimum of 35% of either gender as elected delegates”**.

It also needs to be added the VWU as organization for consultation for elections lists. Article 7 p.1 should read as follows:

*1. Based on the number of deputies to the National Assembly and after consultation with the Standing Board of the Central Committee of the Vietnam Fatherland Front and representatives of socio-political organizations, within no more than **one hundred and twenty five days** before the election, NASC shall propose the proportion and composition of deputies to the National Assembly **with an objective of having minimum of 35% of either gender as elected delegates at the National Assembly**; the deputies to the National Assembly to be elected from political organizations, socio-political organizations, social organizations, units of people's armed forces, State agencies at central and local levels and ensure a reasonable percentage of representation of all classes of people in the National Assembly.*

As second option, (less recommended) instead of the word “minimum” of 35% elected deputies..... it could be used the word “approximately”, because in that case even if the 35%

⁵³. Gender Analysis of Law on Election of Deputies to National Assembly and Deputies to People's Councils at All Levels (Draft Version dated 9 September 2014), Dec.2014.

⁵⁴. Ibid.

⁵⁵. Eligible voters are approximately 62,610,289
(source: <http://www.idea.int/vt/countryview.cfm?CountryCode=VN>)

is not met strictly it would be still in compliance with the Law if there are 33-34% elected of either gender as deputies to the National Assembly.

A separate provision could also be added stating that “each list of candidates shall include both female and male candidates, who are equally represented”. This is the case when one of the sexes is represented by at least 45-50% of the total number of candidates in the list. This is also further underlined in Recommendations 13 and 14 below.

In line with the above, point 4 of Article 7 should read:

“The number of female deputies to the National Assembly shall be proposed by NASC at the request of the Presidium of the Central Executive Committee (PCEC) of the Viet Nam Women Union (VWU) with an objective of having a minimum of 35% females as elected delegates“.

The same second option could be used as the one above for this point as well.

With this legally binding TSM the already set targets in the NSGE and in the Resolution 11-NQ/TW would be enforceable because as the situation stands now, without such legally binding provisions the situation is unlikely to change in the desired direction for the next election cycle 2016-2020, as the 2007 and 2011 election results have shown.

5. The same as for Art.7 above should be inserted also for Art. 8 points 1 and 2 regarding the election for People’s Councils and their deputies and they should read:

1. The Standing Body of the provincial or district People’s Council shall propose the proportion and composition of deputies to the People’s Council to be elected from political organizations, socio-political organizations, social organizations, economic organizations, units of people’s armed forces, State agencies at its level and administrative units of lower levels **with an objective of having a minimum 35% of either gender as elected delegates;** for localities with many groups of ethnic minorities, it is necessary to ensure an adequate number of deputies being ethnic minority people.

2. The standing body of the commune people's council shall propose the proportion, composition and number of the people's council deputies to be elected from political organizations, socio-political organizations, social organizations, economic organizations, units of people's armed forces and State agencies of the same level as well as hamlets and villages (hereinafter collectively referred to as *hamlets*), population groups, populations quarters and clusters (hereinafter collectively referred to as *population groups*) in its locality **with an objective of having a minimum 35% of either gender as elected delegates;** for localities with many groups of ethnic minorities, it is necessary to ensure an appropriate number of deputies being ethnic minority people.

The same second option could be used as the ones above for these points as well.

6. Regarding Chapter III, Section 1 on National Election Council (NEC), and Articles 11 - 15,

First, it should be stated that there are **no TSM in form of gender quota for members of NEC and sub-national election organizations.**

It has been underlined that members of past NEC and sub-national election organizations have been predominately men. This Draft Law does not include any regulation regarding gender balance of NEC or sub-national election organizations. *This is an important oversight* because it is not in line with the GEL, and the NSGE. It is important that this oversight is addressed and changed because ensuring gender balance in electoral council membership and non-self-interest as candidate in the electoral process is paramount in ensuring a non-discriminatory electoral process.

Second, it is recommended that gender considerations are given in the following:

a). Gender considerations should be enshrined in all of these articles (11-15) including the NEC duties and powers and especially in relations to the election of deputies to the NA and to the People's Councils as well as its structure which should reflect **the objective of having a minimum 35% of either gender as members of the NEC.**

b). **It is also recommended**, having in mind that the NEC is the constitutional institution in charge of organizing/managing National Assembly election, that the NEC also receives and reviews the profiles of self-nominating candidates (in addition to Elections Commissions in candidates' provinces) as well provide education to all citizens, particularly women, on the self-nomination process.

This recommendation is given as a measure to maintain an overall picture, ensure lawfulness, inclusion, fairness, respect, protection and guarantee of constitutional rights. To be in line with Law on Gender Equality, part of the duties of the NEC could include the active promotion of women to self-nominate and to educate citizens on the self-nomination process.⁵⁶

c). **It is also recommended** to include Viet Nam Women's Union as a member of the National Election Council.

This is important since the VWU should legally have a position on the NEC to strengthen their role in advocating for gender equality and non-discriminatory processed which is also in line with section target 2 of objective 1 of the NSGE and point 3.5 of Resolution No. 11-NQ/TW.

d). **It is also recommended** that a provision be included stating that the leadership positions (Chair and Vice Chair) of the NEC are held by both women and men.

e). To make sure that the list of candidates consists of minimum of 45% to 50% of either gender (Art.14, ps.1 - 4), in order women to have a fair chance to be elected of the minimum of 35% (or approximately, as second option);

f). In Art.14, p.4, at the end to be included after a coma, "always keeping the minimum of 45 % to 50% of either gender on election lists (in order to make sure that women have a fair chance to be elected as deputies in the minimum of 35% (or approximately, as second option) in the next legislature);

g). Art.14 should also have gender consideration introduced into it since it is very general in nature and it should contain more specific ways of how the NEC would manage and allocate the funds for election of the

⁵⁶. UN Recommendations on Strengthening Gender Equality in the Draft Revised LEDNA and PC, March 2015, recommendation No.6.

deputies to the National Assembly which would also have considerable impact on how many women would be able to run for office for financial reasons (in Article 14 p.11);

7. It is recommended that in connection with Art.16, p.1, and in any other articles where noted, **the language (as the author reads it in English translation) should be gender neutral** and in that sense should read..."The Chairman of the National Election Council is responsible to the National Assembly for **his/her** leadership...".

8.In Chapter III, Section2, regarding Local Election-Managing Organizations, in Art.20, p.1. and in Art.21, p.1 **it is also recommended** that the **days from announcing the elections to the actual election day are changed from 105 to 125** as recommended above in order to give more time for all the candidates but especially women to prepare and run for office.

9.**It is recommended** that Art.20, p.1 is changed **and the committee for election of the deputies to the National Assembly and People's Councils at the provincial level should consist of representative of Viet Nam Women Union and of a minimum 35% of either gender.**

10. In Art.21, p.1.para.2, **it is recommended** to read:..."The committee for election of the deputies to the National Assembly and People's Councils at the provincial level **is assembled with gender equality considerations and in line with the existing applicable legal provisions** and consists of between twenty one and thirty one people including a Chairman, Vice Chairman, a Secretary and other members being representatives of the standing body of the People's Council, the People's Committee, the standing board of the Vietnam Fatherland Front Committee of the same level and some other concerned agencies and organizations".

11. The same as above is also the recommendation for Art.22, p.1 for the composition of the Election Boards and for Art.23,p.1, para.1 and 2 for Election Team where possible and *excluding people's armed forces.*

12. **It is also recommended** to add to the Art. 20, 21, 21, 22 and 23 a sentence that reads: **"The structure of the Election Committee/Board should consist of a minimum of 35% members of either gender"**.

13. Regarding Art.40 entitled: **"Registration of names in the Lists for Consultation"**, **it is recommended** equal participation of men and women in all electoral processes and bodies. Therefore, the management and conduct of conferences of voters would benefit from taking positive steps to ensure a minimum representation of 35% of both women and men.

Equal participation of women and men at voter contacting conference will make for better representation of views and be in line with the principles of inclusion. An additional clause ensuring equal participation of both women and men would be aligned with the objective of

Resolution 11-NQ/TW and the NSGE which both underscore participation of women in governance structures.

This recommendation relate to all Articles on Voter Contacting Conferences and Consultative Conferences. If this recommendation is accepted, Article 40, 42, 43, 44, 48, 50, 51, 52, and 54 of Chapter V will require revision.⁵⁷

14.It is recommended to add to the Art.46, p.2, Art.47, p.2, and 54.2 three sentences that read:

“The final list of candidates should contain a minimum of 45 – 50% candidates of either gender. The principle of equality in selection of candidates on each list shall be guaranteed. The placement on the list should be, where possible, interchangeable”.⁵⁸

The criteria as to how to choose women and men to go at the top and all the way to the bottom of the lists should be agreed and clearly stated in the Law.

The explanation for the need of the above lays in the fact that: Until now, and in accordance with the current legislation, and the guidance notes for election, most of the nominated candidates to be elected as deputies to NA are introduced by the leadership of agencies, organizations and units under the guidance of NASC for proportions, compositions and number of deputies and with consultation organized by VFF for the proportion, composition and numbers of nominated candidates. Also, most of nominated candidates for election of deputies to PCs are introduced by leaderships of local agencies, organizations, units and sub-administrative agencies, villages/hamlets under the estimation of PCSC for the proportion, composition and numbers of deputies to PCs and the consultations organized by sub-national VFFs for proportion, composition and numbers of candidates.

In the UNDP Analysis ⁵⁹ it was pointed out that a review of the Report on Election of deputies to NA and PCs of some localities found that the percentage of women candidates for the NA election and the percentage of women candidates for PCs of all levels was approximately 30%. There is a direct correlation between number of women candidates and number of successful women delegates.⁶⁰ There are some localities showing a ratio of women nominated candidates to be elected as deputies to PCs approximately equal to that of men such as Tuyen Quang province,

⁵⁷. Ibid, Recommendation No.8.

⁵⁸. It could also be accepted as UN recommends it its Recommendation No.3, supra note 56, that “the candidates of the underrepresented gender shall be distributed on the candidates list in the following manner: - At least 1 candidate of the underrepresented gender amongst the first 2 candidates; - 2 candidates of the underrepresented gender amongst the first 5 candidates; and - 3 candidates of the underrepresented gender amongst the first 8 candidates etc.

⁵⁹. Supra note 2.

⁶⁰. The ratio of women nominated candidates among nominated ones to be elected as deputies to the 13thNA is 31.3% and ratio of winning is 24.4% of those are elected deputies; ratio of women nominated candidates to be elected as deputies to Thua Thien – Hue provincial PC is 30.9% and ratio of winning is 13.4% only, ratio of women nominated candidates to be elected as deputies to Hoa Binh provincial PC is 27% and ratio of winning is 18.3% only, ratio of women nominated candidates to be elected as deputies to Dung Phong communal PC is 17.9% and ratio of winning is 8% only.

Yen Bai province, Tan Thinh ward (Hoa Binh city, Hoa Binh province) resulting in high percentage of successful women candidates.⁶¹

Having in mind these differences among provinces and the way of nominations, there is a need to introduce TMS in form of quotas in order to “even the playing field” for all candidates, male and female so they would all have a fair chance of being elected. If the principle of gender equality is not respected at the selection and nomination stage, then the 35 % of women elected would hardly be met.

Therefore, it is important to guarantee an equal ratio of women and men nominated and self-nominated candidates to ensure a higher percentage of female elected deputies.

Another important issue is the arrangement of election lists themselves.

For example, during the election of deputies to the 13thNA⁶² and the PCs⁶³, the unequal arrangement of lists of candidates to be elected as deputies showed that it has great importance as to how and where the women were elected because the articles related to lists of candidates of current legislation do not stipulate clearly how to place the candidates on the election lists. Thus, the arrangement of candidate lists by the election-in-charge organizations of localities is not the same.⁶⁴ As a result, there are many women not being successful also as a result of where they have been placed on the list of candidates.

Therefore it is recommended that there is interchangeable arrangement of placement on the lists where possible (woman-men-woman-men etc.) abiding by certain agreed criteria inserted in the Law in order to reach the 35% elected women deputies.⁶⁵

15.It is recommended in Art.48, p.2, on First Consultative Conference to include the following:

“2. The provincial and district-level first consultative conference shall negotiate on the proportion, composition and number of independent candidates and nominees of political organizations, socio-political organizations, social organizations, economic organizations, units of people’s armed forces, State agencies of the same level, and administrative units of lower levels **in accordance with gender equality considerations and the existing applicable legal provisions**”.

⁶¹. Ratio of women nominated candidates to be elected as deputies to Tuyen Quang provincial PC is 50% and ratio of winning is 46.6%, ratio of women nominated candidates to be elected as deputies to Yen Bai provincial PC is 40% and ratio of winning is 37.3 %, ratio of women nominated candidates to be elected as deputies to Tan Thinh ward PC is 50% and ratio of winning is 45.8 %

⁶². There were 827 nominated and self-nominated candidates to be elected as deputies to 13thNA and divided into 183 electorates. 28 of 183 electorates were arranged with 100% men candidates, 41 of 183 electorates with the number of candidates in the list was only one person more than the number of deputies to be elected which is not in line with the Article 46 of amended LEDNA even under the decision of Central-Election Council.

⁶³. Supra note 2.

⁶⁴. Hoa Binh provincial Election Committee and Dung Phong communal Election Committee (Cao Phong district, Hoa Binh province) do not arrange the lists of candidates in alphabetical order but do arrangement at the ranks of leadership positions. The most of candidates as key leaders of Hoa Binh province and Dung Phong commune are at the top of lists of candidates.

⁶⁵. It could also be done as UN recommended, Supra Note 58.

16. It is recommended to revise Articles 55 and 56 on Lists of National Assembly and People's Councils Candidates in order to strengthen the implementation of the gender quota and to include a provision on the listing of candidate names on the ballot. **As suggested in the Recommendation No. 14 above, the names of women and men candidates could be used interchangeably on each ballot.**

Or, as another option, as the UN recommendations suggested, the candidates of the underrepresented gender shall be distributed on the candidates list in the following manner:

- At least 1 candidate of the underrepresented gender amongst the first 2 candidates;
- 2 candidates of the underrepresented gender amongst the first 5 candidates, and
- 3 candidates of the underrepresented gender amongst the first 8 candidates etc.

The list of female candidates and the list of male candidates will be in alphabetical order.⁶⁶

Placement of women and men candidates on the electoral ballot can influence who is voted for. Combining the two criteria (alternating female male and alphabetical) will result in the equal distribution of the list of candidates. This provision underlines the set targets in the NSGE and in Resolution 11-NQ/TW and it is in line with CEDAW, CEDAW General Recommendations and Beijing Platform for Action. If this recommendation is accepted, Article 56 will require revision as well to be in line with the above.

17. Art.60 on Cases when Persons are not allowed to participate election managing organizations is recommended to be revised to state that member of the election managing organization at any level can at no time during the same current electoral process be candidates for elections. Or, at a minimum, members of election organizations cannot be candidates in the same electoral area.

This Recommendation is given because the legal framework should require that the election managing organizations are established and operate in a manner that ensures the independence and impartial administration of elections. The election management organization shall be credible and impartial for the candidates and the electoral process. Having members of election managing organizations run as a candidates is a direct conflict of interests and will discredit the election managing organization as well as the electoral process.⁶⁷

18. Art.83, Art.84, p.2, and Art.85, p.2, on Summing Up the Elections, the records on election returns for deputies to the NA in provinces and cities, as well as the sum-up Reports of the election of the deputies to the National Assembly and the election of deputies to the People's Councils shall include also information by gender and should read as follows:

For Art.83, p.2: Records on the election returns of deputies to the National Assembly must bear the following contents:

- a) The number of election units:

⁶⁶. Supra Note 58.

⁶⁷. Also in Supra Note 58, Recommendations No.10.

- b) The number of candidates **disaggregated by gender**;
- b) Total number of local voters **disaggregated by gender**;
- c) The number of voters having cast their votes in compared with the total number of voters;
- d) The number of valid votes;
- g) The number of invalid votes;
- h) The number of votes for each candidate;
- i) The list of elected persons *in each election unit disaggregated by gender*;...

For Art. 84, p2:

“2. Sum-up report of the election of the deputies to the National Assembly shall include the following contents:

- a) The total number of elected National Assembly deputies **disaggregated by gender**;
- b) The total number of candidates **disaggregated by gender**;
- c) The total number of voters **disaggregated by gender**;
- d) The total number of voters having cast their votes; *the percentage thereof on the total number of voters*;
- dd) The number of valid votes;
- e) The number of invalid votes;
- g) The number of votes for each candidate;
- h) Lists of elected persons in each election unit **disaggregated by gender**;.....

For Art. 85, p.2:

2. Sum-up report of the election of the deputies to the People’s Councils shall include the following contents:

- a) The total number of deputies fixed for the People's Council of such level **disaggregated by gender**;
- b) The total number of candidates **disaggregated by gender**;
- c) The number of election units and polling stations;
- d) The total number of voters **disaggregated by gender**;
- e) The number of voters having cast their votes, the percentage thereof on the total number of voters;
- f) The number of distributed votes;
- g) The number of retrieved votes;

- h) The number of valid votes;
- i) The number of invalid votes;
- j) The number of votes for each candidate;
- k) Lists of elected persons *in each election unit disaggregated by gender*;....

19. Art. 94, p.1 on Consultation and Nomination of Candidates should contain also the Vietnamese Women Union when NASC coordinates in providing for the consultation and nomination of candidates for additional election of the National Assembly. It is therefore recommended that this article 94, p.1 reads:

“The NASC shall coordinate with the Government, the Fatherland Front Central Committee and the Vietnamese Women Union in providing for the consultation and nomination of candidates for additional election of the National Assembly”.

20. The Law should contain separate provision where it would encourage the participation of independent candidates and especially women in the electoral process.

In general, independent candidates are not included in the electoral list of any political party, and the information provided on the ballot does not link them to any party. Independent candidacy appears to be on the rise in established European democracies. Over the last two election cycles, the number of independents competing in national elections has increased in almost all countries that allow non-party candidates to run for political office. In some countries of Bulgaria, Denmark, Estonia, France, Germany, Ireland⁶⁸, etc., independent candidates can run elections with monetary deposit or signatures of voters with or without thresholds. However, the regulations in electoral law requires candidates to post large monetary deposits (despite some countries giving them small percentage of state budget for elections as for the political party candidates) or to get a certain number of voters’ signatures, especially in poor and conflict contexts will disadvantage women’s independent nomination⁶⁹ because women in many instances lack candidacy financing and also do not have time to look for political sponsors.

21. There are no provisions on the accountability of all stakeholders in order to guarantee implementation of this law as well as that the women are elected at the NA and the PCs in numbers in accordance and projected at the NSGE and the Resolution 11 NQ/TW.

Therefore it is recommended that a new Article is added in Chapter X on Dealing with Violations during Elections that should include **provision that the election commissions at national and local level would not accept the lists if each list of candidates does not include both male and female candidates, who are equally represented (45-50% of either gender) as well as a sentence that the NASC should bear the ultimate responsibility for achieving the 35% of both gender deputies at the NA and the PC’s.**

⁶⁸. European Parliament, 2013, Independent candidates in national and European elections.

⁶⁹. United Nations, 2005, Women and Election – Guide to promoting the participation of women in elections.

Having in mind that in the current legislature, the NASC holds the highest responsibility for proposing and adjusting the proportion, composition and number of deputies to NA and giving direction to election of deputies to PCs at all levels it has the highest responsibility for achieving the TSM of a minimum of 35% of either gender (or approximately, as second option) to be elected as deputies to NA and PCs and therefore its accountability should be stated in the Law with consequences in case of non-compliance **such as returning the lists until the quota is reached.**

Moreover, since the other organizations starting with the NEC, but also the sub-national election-in-charge organizations and the PCSCs as well as the Government and the local People's Committees are also responsible for gender equality and women's advancement during elections including the VFF and the VWUs, they should also be held accountable for the election process and that should be stated in the Law with enumerated consequences in case(s) of non-compliance. **Suggestion** is that those organizations should not accept the election lists for endorsement and putting them forward for election if the TSM of 45-50% of either gender on the lists and placed as suggested (interchangeably) is not reached.

22. There are no provisions in the Law regarding the election campaign and how it should be conducted. It is advisable that the Law contains provisions on that with gender considerations in mind.

23. As general recommendation, the existing retirement age system for women which does not corresponds with the equality and non-discrimination principles either from the international legal obligations that Viet Nam had undertaken nor with the legal system in the country, should to be changed in order both women and men to have a choice to retire at the same age or with some flexibility from 3 to 5 years as shown by international practice. European model that is used in many European countries is that retirement age is 64 for both, women and men where women can opt out to retire two years to three earlier than men. This is changing now by allowing men to have flexibility when retiring as well.

With the conditions and the longevity of life changing, there is growing tendency that the retirement age is moved much forward and all of these issues should be studied before making decision and selection, but it is important since the retirement age impacts greatly on the election and nomination processes in Viet Nam since women do not have (again) equal chances to participate in the political life (but also in the work force in any profession as well, with some exceptions).

24. As another general recommendation – Women who participate in the local level election processes should be chosen **using the same criteria as for men** (some listed in the draft Law). **They should not be selected when fitting into several hats at once** i.e. satisfying apart from the enumerated criteria, also being a minority or of ethnicity not enough represented, or a

student, or from the private sector, or being young etc. as many cases have shown in the previous election cycles.

9. CONCLUSION

Twenty years since UN Member States accepted the plan to achieve equality between women and men it is evident that not one Member State has achieved complete gender equality, as pointed out by the UN Women Executive Director Mme. Phumzile Mlambo-Ngcuka at the inauguration of the 59th Session of the Commission of Status of Women that took place March 9 - 20, 2015. She applauded the global progress in the mission of empowering women **but called on countries to lead substantial change towards gender equality in the next five years, in order to attain Planet 50-50 by 2030.**⁷⁰

Although since the UN Beijing Conference in 1995 there has been an improvement in gender equality, especially in the areas of women's health and girl's education, today there are less than 20 women as heads of state or government, and the number of women parliamentarians has risen from 11% to only 22% worldwide in the last two decades.

Eurostat has informed, on the occasion of the International Women's Day, 8 of March that women in Europe for example, have 16% less pay than men for the same work. **The difference in the salaries is across the world in favor of men.** For example, in Slovenia that difference is only 5%, but in the salaries of women in Estonia, Austria, the Czech Republic and Germany that difference is more than 20% in favor of men.

It is evident that not only in the labor market but also across all sectors much needs to be done if real progress is to be achieved as planned by 2030.

From the analysis in this Report, it follows that Viet Nam is no exception to these challenges and in order to make policies that would accelerate gender equality in every sphere **many more capable women have to be given a fair chance and to make it to the highest levels of decision-making i.e. in the Government and its agencies and in the Parliament.**

Moreover, if more women are included in the political life at the highest levels in the country, which presents a challenge by itself, **it is very important that those women acquire real power** and are not considered just as satisfying the number or quota or party directives.

Looking at world reality, most of the decisions are made by men who dominate the party structures, and women are faced with more intra-party obstacles compared to men. There is evident trend, in many countries in the world, even in those with higher number of women in the parliaments, of gender inequality in politics. **In countries with no quota systems, the gender inequality is especially evident.**

This Report advocates for introducing at least 35% quota of either gender. This is with an aim to arrive at that percentage in the National Assembly elected deputies and in the

⁷⁰. UN Women web site, www.unwomen.org accessed March 12, 2015.

Government, as members of the Government and therefore, to have rear chance to move things forward. This would also help Viet Nam to join the world trend of increasing women power at the highest levels of decision-making which in turn would have a very positive impact on economy and on many other areas of social life.

Moreover, it is necessary to strengthen the capacities of the Viet Nam Communist Party (VCP) to develop and to implement gender equality policies **inside the party** which in turn would reflect in the policies outside the party which are policies that are needed by all citizens. In the next elections the VCP, by positioning women at the winnable election lists and at the highest positions in the Government, would send strong message to all its citizens and to all international actors that it is overcoming stereotypes and it is getting away with the established long-rooted prejudices and it is open to give a fair chance to its women, the same as it does for its men.

The task in achieving it is not easy or short term, but the process needs to continue especially in the light of the recent years election results in Viet Nam and in the light of the world's commitments in the post-2015 Agenda, that the gender equality should be cross cutting theme across all UN Sustainable Development Goals (SDGs) which would replace the Millennium Development Goals (MDGs) and it should be a goal by itself.

Viet Nam should follow and try to be part of the growing tendency of including half of its population in its decision-making processes and giving real power to its very capable, educated and strong women that are bringing progress to the country, the same as men.

The above comments and recommendations are contribution to achieve that result implementing two new crucial legal instruments in years to come.

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