



# GENDER AND HYDROPOWER NATIONAL POLICY ASSESSMENT

VIET NAM

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## VIETNAM COUNTRY REPORT

The rivers of the world are coming under increasing pressure to provide for growing populations and economic development. At the same time, river management is becoming ever more politicised, as developments frequently redistribute the benefits of river use from riparian dweller to others. Hydropower is an example of a development that frequently benefits some at the expense of others, and gender is one such variable that is often overlooked.

### GENDER AND HYDROPOWER IN VIETNAM TODAY

Vietnam has made extraordinary economic progress in recent decades, and hydropower has played a central role in this development. In some instances hydropower development has made improvements in the lives of communities affected by dams, including women. Women's workloads can be lightened by new access to electricity, for example, or women might gain new rights to land in a resettlement process. In other instances, displacement and the loss of access to natural resources and livelihoods have far outweighed any positive benefits dam construction might have brought to local communities (World Commission on Dams, 2000). Overall, global research has shown that existing gender disparities are commonly aggravated by dam construction, meaning that benefits of hydropower accrue disproportionately to men, and the negative impacts to women (ibid).

Women start with a disadvantage in benefiting from hydropower development on account of traditional Vietnamese perceptions of gender roles. Although there are some regions of Vietnam where ethnic minorities maintain matriarchal practices, broader traditional Vietnamese values stem from patriarchal Confucian ethics.

This system places the husband at the head of the household, and gives him the right to make all major decisions, including decisions about family assets and land. Women are traditionally tasked with taking care of the home and the children, and obeying their husbands or, in the case of widows, their son. Traditionally women have little say in public or political affairs (Tran 2001), which means they are much less likely to have their voices heard in hydropower planning. Vietnam ranked 127 out of 186 countries in the UNDP's Gender Inequality Index<sup>1</sup> in 2012 (UNDP 2012).

More progressive attitudes toward gender equity are reflected in parts of Vietnam's national legislation and policy. This report reviews the policy and legislation framework which surrounds Vietnam's hydropower sector – national and international – and assesses the degree to which it supports or hinders gender justice in hydropower development. The method of research has been a wide-ranging desktop review of current national policy and legislation documents of two main types. The first are those specifically designed to guide hydropower development in the country, and these have been examined for clauses which support gender justice in projects. The second are other policy and legislation which include relevant commitments to gender equity or women's rights which could be assumed to remain applicable in the context of hydropower development. The report begins with international agreements or tools which address these same issues. Note that government agencies and structures have not been the focus of this research, but the ability of government to implement and monitor laws, gender plans and commitments is critical to realizing sustainable outcomes.



1. Calculated based on a range of indicators based on empowerment, reproductive health and labour.

## INTERNATIONAL AGREEMENTS AND ASSESSMENT TOOLS

Vietnam has ratified or acceded to the following international protocols which recognise the importance of gender equity:

- CEDAW: Convention on the Elimination of All Forms of Discrimination against Women (adopted on 18/12/1979). Signed 29 July 1980. Ratified 17 February 1982.
- ICESCR: International Covenant on Economic, Social and Cultural Rights (adopted on 16/12/1966). Acceded 24 September 1982
- ICCPR: International Covenant on Civil and Political Rights (adopted on 16/12/1966). Acceded 24 September 1982
- Fourth World Conference on Women Beijing Declaration (1995)
- United Nations Declaration on the Rights of Indigenous Peoples (voted in favour at the UN General Assembly, 13 September 2007)

A variety of international tools exist to assist in the assessment and planning of hydropower projects, which recognise gender differentiated impacts to varying degrees:

- The Hydropower Sustainability Assessment Protocol (HSAP) of the International Hydropower Association regards gender as a cross cutting at all stages of hydropower development and operation. It does not, however, provide guidelines for rigorous gender impact assessment, mitigation or monitoring.
- The Rapid Basin-wide Hydropower Sustainability Assessment Tool (RSAT) was developed in 2010 for application in the Mekong region by USAID, the Mekong River Commission, the World Wide Fund for Nature and the Asian Development Bank. The Tool claims to pay 'particular attention' to vulnerable groups including women, female headed households, Indigenous Peoples and those without legal title to land, but does not include guidelines on considering gender differentiated impacts.
- The Mekong River Commission, in 2009, produced a document entitled 'Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin'. The guidelines encourage consideration of the livelihood and social impacts of dams, but do not raise gender as an issue for special attention.
- The Mekong River Commission's 'Knowledge Base on Benefit Sharing', produced in 2011 as part of its Initiative on Sustainable Hydropower, can be used by governments looking to use hydropower investments to fuel local and regional development. It does not mention gender as a consideration.
- The World Commission on Dams Final Report (2000) recommended the integration of gender justice into hydropower development through special attention for women as recipients of legal and project information, and the inclusion of women's perspectives in the consultation phase. Vietnam actively participated in all activities of the WCD (Dao Trong Tu et al 2011), has made a public pledge to utilise the recommendations in the Report, and translated them into Vietnamese. Four workshops to disseminate the findings have been held.

- As a member of the World Bank and the Asian Development Bank, Vietnam is committed to meeting the provisions in the two Banks' Social Safeguard Policies, both of which include specific policies on gender and Indigenous People. National Policy Framework

## NATIONAL CONSTITUTION

Gender equality is enshrined in the Vietnamese Constitution in several Articles:

- Article 52 stipulates that all citizens are equal before the law.
- Article 63 states that 'All citizens regardless of their sex have equal rights in all respects, political, economic, cultural, social and in family life. Any discrimination against women ... [is] strictly prohibited'.
- Article 64 aims to protect the rights of women in families: '... Male and female citizens have the right to marry on the principle of free consent, progressive orientation, monogamy and equality between husband and wife ... The State and society do not admit any discrimination among children of the same family'.

## PROTECTION, RIGHTS, AND DEVELOPMENT OF WOMEN

Vietnam has some strong legislation and national plans promoting gender equality:

- The **Law on Gender Equality (2006)** states that men and women are equal in all aspects of social and family life. Article 7 of the Law commits agencies, organisations, families and individuals, both Vietnamese and foreign, 'to ensure gender equality in all fields of politics, economy, culture, society and family; to support and create conditions for men and women to bring into play their abilities and provide them with equal opportunities to participate in the process of development and benefit from development'. The Law states that women and men have equal rights in owning common property.
- Objective 2 of the **Gender Strategy for Agriculture and Rural Development (2005)** aims to 'improve women's access and involvement into the management of major resources, including land, water, infrastructure, credit lines, and other public services in the ARD sector'. Further, the Strategy recommends 'targets on gender [and] sex -disaggregated monitoring and evaluation tools in development policies, plans, programs, and projects'.
- The **National Strategy on Gender Equality for the 2011 – 2020 Period** aims for gender equality across the realms of health, education, political representation and formal sector employment opportunities by 2020. Section 2) b, Objective 7 outlines plans to have gender equity included in all legal drafts by 2020.
- The **National Program on Gender Equality 2011 – 2015** includes a sectoral Action Plan on Gender Equality and a Provincial Action Plan on Gender Equality

## PROTECTION, RIGHTS, AND DEVELOPMENT OF INDIGENOUS PEOPLES AND ETHNIC MINORITIES

Vietnamese law provides for Indigenous and Ethnic Minorities through:

- The **Law on Gender Equality (2006)**, which includes in Article 7 a commitment 'to support gender equality activities in deep-lying, remote and ethnic minority areas and areas with extremely difficult socio-economic conditions; to support necessary conditions for increasing the gender development index in sectors, fields and localities with a gender development index lower than the national average level'. It also requires that the Ethnic Minority Council be involved in gender mainstreaming in law-making (Article 22).
- A range of policies and decrees which aim to promote development amongst the poorest identify ethnic communities.

## RIGHTS TO LAND AND NATURAL RESOURCES

Women's rights to land are protected both broadly, and also specifically in the resettlement process, by a number of legal mechanisms:

- Article 15 of the **Civil Code (2005)** states that all individuals shall have ownership rights, inheritance rights and other rights with respect to property.
- Articles 27 of the **Law on Marriage and Family (1986, revised in 2000)** states that all land acquired during marriage is considered to be a common asset, and that LUCs for properties jointly owned by husband and wife must be registered with the names of both spouses. This requirement is echoed in Article 48 of the **Land Law (2003)**. Decree 70/2001/ND-CP detailing the implementation of the **Law on Marriage and Family (1986, revised in 2000)** allows households that have already received LUCs with only one name to request a new certificate displaying both names. If a new LUC is not requested, the property is still regarded the couple's common property.
- Other than the above-mentioned provision, the **Land Law (2003)** is silent on gender.
- **Decree No. 197/2004/ND-CP on Compensation, Support and Resettlement When Land is Recovered by the State**, in Article 36 states that restoration measures at resettlement sites are to include job creation, especially for women, but does not include further gender considerations.
- Water resources are managed via the **Law on Water Resources (1998)** and the **National Water Resources Strategy Towards the Year 2020**. Whilst the latter does note that the poor must be provided with access to safe water — which is especially important for women charged with family care — neither of the documents include specific gender considerations.
- The Ministry of Agriculture and Rural Development (MARD) and Ministry of Natural Resources and Environment (MONRE) have **Actions plan** (2010 and 2011 respectively) on gender equality and the advancement of women. These include approaches to gender mainstreaming in water resources planning and management.

## BROAD NATIONAL DEVELOPMENT PLANS

Vietnam's national development plans give passing mention to equality and gender as follows:

- The vision of the **Vietnam Sustainable Development Strategy for 2011 — 2020** includes creation of 'favourable conditions for every individual and community to have equal opportunity to develop talents [and have] access to joint resources ...'. Objective 2a of the Strategy states that 'sustainable and effective growth must come along with social progress and equality ...'. Aspirations for 'social progress and equality', equal access 'to development resources' and gender equality are reiterated in the priorities listed in section 4b.
- The government's **Socio — Economic Development Plan (SEDP) 2006–2010 and the draft SEDP 2011–2015**, on the other hand, includes 'social inclusion' as one of its four broad objectives, but aside from a few health indicators, does not directly address women or gender equity (Suhardiman et al 2011).

## ENERGY SECTOR DEVELOPMENT AND NATIONAL INVESTMENT GUIDELINES

Laws and strategies which do, or may, impact on the development of hydropower in Vietnam include:

- The **6th National Master Plan for Power Development (PDP) 2006 — 2015**. Normally prepared at five year intervals, the PDP directs national power development in Vietnam, including hydropower.
- The **Vietnam Energy Development Strategy up to 2020 with a Vision to 2050**
- The **National Energy Policy of Vietnam**
- The **Electricity Law (2005)**
- The **Investment Law (2005)**
- The **Law on Foreign Investment in Vietnam (1996)**
- The **Law on Environmental Protection (2005)**, which includes requirements for Environmental Impact Assessment (EIA).

None of the above — mentioned laws or strategies include provisions for gender consideration. In 2005 the Asian Development Bank began work with the Government of Vietnam on a project entitled 'Developing Benefit Sharing Mechanisms for People Adversely Affected by Power Generation Projects', which considered women's interests in detail.

*Hydropower developers are required to develop both Strategic Environmental Assessments (SEAs), and Environmental Impact Assessments (EIAs). SEAs are performed in the pre-approval phase of the project, and are not required by the Law on Environmental Protection to provide more than a 'general description' of the socio-economic context of the proposed project (Article 16). EIAs are required in the project planning phase, and Article 20 states that EAs are to include both '... environmental components and socio-economic elements to be impacted by the project', and 'specific measures to minimize bad environmental impacts'. Three issues of concern are: that assessors are not required to include assessment of gender impacts; the fact that social impacts are considered only post-approval; and that the onus to carry out EIAs is often on the project 'owners' which means anticipated impacts, including gender impacts where assessed, are more likely to be downplayed (Dao Trong et al 2011).*

## SUMMARY

Vietnam has some strong legislation and policy relating to gender equity. The strongest clauses reside in legislation relating to women's rights in the home and within the family, and to education, economic opportunities and land rights, and many address Vietnam's obligations under the international treaties to which Vietnam is a party. What appears to be missing is the connection between these broader rights statements, and the more specific policies that guide the planning and development of hydropower projects. Allied to this is the need for ongoing investment in capacity of government agencies to implement and monitor project development against legal requirements, and where there are examples of non compliance to law, policy or guidelines that there is an enhanced accountability for redress.

Adherence to the ADB safeguard policies and Vietnamese law in the Song Bung 4 project has demonstrated both that the development and conscientious application of gender specific policies in hydropower can mean that hydropower projects have the capacity to contribute to positive outcomes in improving women's lives — and that Vietnam is capable of delivering gender justice in hydropower. The filling in of existing policy gaps and then the rigorous implementation of gender-supportive policy will be Vietnam's next challenges.

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## NOTES



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