HOW TO DESIGN THE VIETNAM LABOR CODE TO IMPROVE GENDER EQUALITY
This advisory note is follow-up to a workshop hosted by the Social Affairs Committee of the Vietnam National Assembly and The World Bank on January 11, 2019, for members of the Social Affairs Committee and other National Assembly representatives.

The workshop, conducted under the auspices of Australia-World Bank Group Strategic Partnership Program 2 (ABP2), was designed to inform a dialog on opportunities for how the 2012 Labor Code can be adjusted to balance the playing field between men and women so that they have equal access to and equal benefits from the labor market. The World Bank approached the participants with the overall objective to address the question how can the Labor Code include incentives that promote the narrowing of existing gender gaps in Vietnam?

The workshop was implemented as part of the Vietnam Women’s Economic Empowerment Project under the ABP2, which is supporting the Government of Vietnam on its efforts to ensure that gender is addressed in legislation, including the Labor Code. The workshop was part of this more comprehensive Project, which is investing in enhancing available gender data and analysis that will assess women’s constraints to engage in paid work; investments in care services; research on the cost and benefits of pension age gender gap; and a large capacity building program for policy makers, key practitioners, and local officials on how to assess laws through a gender lens.

The Social Affairs Committee members are in vital positions to ensure policies are meeting the high standards of addressing gender equality laid out in the Promulgation of Laws from 2015. This note introduces some of the work under the ABP2 in supporting several levels of the Government of Vietnam to ensure that legislation addresses existing gender gaps and is not causing or increasing gender inequalities.

The Workshop on January 11, 2019, was chaired by Mr. Bui Sy Loi, Deputy Chair of the National Assembly’s Committee for Social Affairs with co-chair Keiko Inoue, Program Leader, World Bank. The presenting World Bank team included Wendy Cunningham, Lead Economist; Helle Buchhave (Task Team Leader), Senior Social Development Specialist and; Cuong Viet Nguyen, consultant.
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I. INTRODUCTION

Vietnam has made substantial progress along key gender equality measures. Although there are still several persistent gaps, Vietnam has gained a solid reputation as a country with a relatively high level of gender equality, including in the area of women’s economic empowerment. However, a second generation of challenges is emerging that may reverse previous gains and increase gender-based disparities. These challenges are the result of an array of socio-economic and demographic changes that are shaping Vietnam’s future, such as regional and global economic competition, slowing growth in labor productivity, aging, and urbanization.

The government is developing new policies to address the impact of these trends. However, if policy changes are to ensure national targets are truly met, it is critical that policy dialogue and legislation be well informed and build on data and evidence recognizing the opportunities for both men and women to contribute to and benefit from development; as well as knowledge of underlying causes to existing inequalities. This is why the detailed look at the Labor Code is such an important and strategic approach.

A Labor Code that addresses existing and potential gender inequalities is important to ensure that men and women can equally contribute to and benefit from Vietnam’s economic growth. It is also important from a rights-based perspective.

Gender Defined

Gender refers to the social, behavioral, and cultural attributes, expectations, and norms associated with being male or female. Gender equality refers to how these factors determine the way in which women and men relate to each other and to the resulting differences in power between them (World Bank (2011) World Development Report 2012).

In Vietnam, as well as everywhere in the world, women and men take on gender roles throughout their life cycles that have important implications for their relationship to the labor market. These roles sometimes change according to life circumstance—from breadwinner, to single head of household, to elder caregiver, etc. This makes gender assessment of laws complex but worthwhile, because in legislation there is the opportunity to challenge existing gender norms so that women and men are less constrained by their gender roles in the labor market.
II. GENDER GAPS IN THE LABOR FORCE

What does gender look like in the labor market in Vietnam today?

This question might be answered by looking at various indicators.¹

A. Female labor participation

The array of dots in Figure 1 represent female labor force participation in about 100 countries around the world. The labor force participation rates of women in Vietnam is about 76 percent. This means that about 76 percent of women, age 15 or above, are working or are searching for work, as a share of a total number of women who are age 15 or above. Vietnam has higher female labor force participation rates than most of the countries in the world. However, more women are self-employed or do not receive any income for their labors, as compared to men. So, while women have high labor force participation rates in Vietnam, the kind of work that they are doing is less rewarded than the work that men are doing.

To further extrapolate, the 76 percent of working women (compared to 86 percent working men) does not take into account the unpaid homecare that women and men engage in. Taking into consideration housework time and defining labor force participation as the share of women age 15 or older who are either working in the market or working in the home, then about 85 percent of women are working and about 85 percent of men are working. Following, there is gender equity in “total” work (market and nonmarket), but this is often not observed since nonmarket work is ignored in official statistics.

B. Wages

A second indicator for answering the question is wages. Figure 2 shows the wage gap measured in 2011–2014. Women—who are working in the same occupations as men, are the same age as the men, same demographic profile as the men, and living in the same region as the men—were earning about 15.4 percent less than the men in 2011. This number dropped to 12.5 percent in 2014, a positive sign that the gender gap is closing. But, nevertheless, there is still the negative aspect of a continuing gender wage gap, which exists more in certain occupations.

export jobs as compared to 35 percent of men holding jobs in the export sector. By 2015, about 68 percent of workers employed by foreign-owned companies operating in Vietnam were women, which is equivalent to nearly 1.5 million workers. In fact, women are highly over-represented in the textiles and apparel sectors. Since workers in foreign firms usually enjoy the full set of legally mandated salary and social benefits, which is not always the case in other firms, women also enjoy a greater package of benefits from working.

Looking at the skill levels in conjunction with jobs, women tend to cluster in low-paid occupations and in traditional forms of work. Almost 52 percent of farm workers were women compared to 48 percent of farm workers who were men. And about 55 percent of household enterprise owners were also women compared to 45 percent who were men. Family farmers and household enterprises on average earn lower incomes than employed workers. Women cluster into occupations with the least-required skill levels, the poorest work conditions, and the lowest wages; and they are significantly under-represented among managers.

D. Ethnic minority women

Female ethnic minorities are at a particular disadvantage, particularly those from the poorer groups and not the more prosperous, majority Kinh or Hoa ethnic groups. Only 17 percent of poor ethnic minority women hold a wage-paying job compared to Kinh or Hoa women at 22 percent with wage-paying jobs. In further comparison, 34 percent of ethnic majority men from Kinh or Hoa groups have wage-paying jobs. In terms of wages, women from ethnic minority groups earn almost 9 million VND annually (approx. USD 387), which is half of what is earned on average by ethnic majority men.
III. LABOR CODE ADDRESSING GENDER EQUALITY

What is the challenge?

The challenge is to adjust the Labor Code to reduce gender disparities in the observed labor market outcomes. There are a few underlying assumptions that will guide the exploration of this challenge.

The primary underlying assumption is that laws are intended to change people’s decisions so that the resulting behaviors are socially optimal. The assumption is that people choose behaviors that make them happy and what affects their happiness may be money, may be relationships, may be leisure time, may be psychological well-being, or could be a litany of these and other factors. So, when individuals choose behaviors that might be good for them, these same behaviors may not necessarily be good for society as a whole. Laws are created to affect that decision-making process so that when people make decisions that are good for themselves, those decisions also have a socially optimal outcomes. The definition of socially optimal outcome in this context means gender equality.

The challenge in the labor code is finding a balance between supporting women and men in a way that respects their autonomy while guiding firms on how to balance gender-specific challenges with firm profitability. In terms of real-life experience, women are in a situation where jobs do not constrain their ability (or that of men) to be workers, spouses, friends, and parents. Women have the freedom to engage in the labor force in a way that works for them but this structure also balances the needs of the hiring firms. The Labor Code should encompass means to alleviate female-specific employment costs so firms have a greater incentive to employ women. The Labor Code should also set clear norms and expectations in a society with strong gender norms.

The Vietnam Women’s Economic Empowerment Project supports the Government of Vietnam in its commitment to assess new laws through a gender lens, as per the Law on Promulgation of Laws of 2015. It does so by helping to inform policy dialogue based on data and evidence. This advisory note is based on the observation that some articles of the Vietnam Labor Code tend to broaden gender gaps. Some articles reinforce gender roles and have negative implications for women and/or for men. And there are articles in the Labor Code that break with traditional gender roles and lessen the gender gap. This advisory note suggests proposals that would modify the Vietnamese Labor Law in such ways to:

- Balance the playing field between men and women so that both have equal access to and equal benefits from the labor market;
- Introduce incentives so that gender gaps narrow; and
- Challenge existing gender norms so that women and men are less constrained by gender roles during their lifetimes.
IV. REFORMS IN THE LABOR CODE TO ADDRESS GENDER GAPS

It is imperative to first identify the articles in the 2012 Labor Code that could be revised to better close gender gaps by (a) taking into consideration how gender roles affect participation and decisions by men and women in the labor force, and (b) legislating underlying factors that may lead to the observed gender gaps.

The data and recommendations in this advisory note come mainly from World Bank analysis in Vietnam in partnership with the Ministry of Labor, Invalids, and Social Affairs. Some of the data supporting the recommendations are included in the publication titled “Vietnam’s Future Jobs—The Gender Dimension” (World Bank 2018).

What is the methodology used for the analysis? Evidence-based, cost-benefit analysis is assessed from the perspective of two decision-making groups and their genders: (a) male and female workers and (b) employers of male and female workers. Vietnamese and international data are used for two purposes: first, to identify labor market outcomes and how they differ by gender; and second, to inform the assumptions that underpin the analysis. Two key assumptions are made: first, that women know what is best for themselves; and second, that firms are profit maximizers. Thus, the decision-making coming from both the workers and the firms is assessed in consideration that they are the most directly affected by the Labor Code. Consideration is also given to how male/female biological differences and gender norms affect decision-making by both workers and potential employers of males and females.

There are factors that this analysis does not assess. It does not assume that gender roles are fixed. It does not assess the accompanying decrees or other regulations that govern the implementation of the 2012 Labor Code. It does not take into consideration compliance with the Labor Code. It does not consider other laws or conventions that are operating in parallel to the 2012 Labor Code. And, it does not propose specific legal language but lays out principles to consider when drafting the legal language.

There are six areas where reforming the Labor Code are recommended.

REFORM AREA 1: ESTABLISH EQUALITY FRAMEWORK TO ADDRESS WAGE GAPS

It has been noted that men and women are paid differently for doing the same work. Women earned about 10 percent less than men in 2015. If men and women are compared with the same level of education and working in the same occupation, the gender wage gap is about 12 percent. And women earn less than men in every occupational category except for clerks. So, whether they are managers or in unskilled occupations or services, women earn less than men.

There are 3 articles in the 2012 Labor Code that can be modified in order to address labor gaps. Article 3, Section 9 provides several terms that are used throughout the Labor Code, but several existing terms should not be in the law. And Article 4, Section 1 “guarantees the legitimate rights of workers; to encourage agreements providing workers with more favorable conditions than those stipulated in the Labor Code”. Missing from these two articles is a definition of what is discrimination and a definition of gender and equality. Article 90, Section 3 states “employers shall ensure that wage is paid equally without gender-based discrimination against employees performing work of equal value.”

Reform 1 recommendations. The Labor Code should define the principles underlying the concept of discrimination and the concept of gender and equality. And regulations should be passed to specify what is meant by equal value. This is particularly important because the data show that women in comparison to men in the same occupation, at same level of education, and in same geographic area are earning less.
REFORM AREA 2:
DO NOT PUT WOMEN AT A DISADVANTAGE EX ANTE

The main idea underlying this reform area is that men and women should have more freedom to work in any job type regardless of gender. Figure 3 looks at the concentration of gender by occupation in different country income groups. Across the world, even in more industrial developed countries that presumably pay more attention to gender equity, men and women work in different occupations. Vietnam’s legislation has two areas that focus on giving women the freedom, if they choose, to work at the same jobs as men. The first area focuses on those aspects of the law that may suppress women’s engagement and growth in the labor market. The second area focuses on the legal aspects of not putting women at a disadvantage ex ante, namely laws that increase the cost of hiring women.

Under the first area are three articles that appear to put women at a disadvantage even before entering into the labor force. Article 19 prohibits acts of employers when signing and implementing employment contracts. Article 153, Section 5, specifies regulation to develop various forms of training to enable female employees to acquire additional occupational skills that are suitable to physical and physiological characteristics and for motherhood functions. The article is intended to help develop women professionals while being respectful of traditional gender roles in the household, and yet it puts women at a disadvantage. Noting the earlier discussion of assumptions, that women know what is best for them, Article 153 puts employers in a situation to determine what is best for women in terms of their physical and physiological characteristics; this is the woman’s choice. The third, Article 160 defines work that is harmful to childbearing and parenting functions, as specified by the list of works stipulated by the government. Again, employers are not in a situation to choose what is harmful; that is up to the worker, whether the worker is a man or a woman.

The second area, which focuses on women’s freedom to choose what job they want, identifies 4 articles that relate to not putting women at a disadvantage ex ante through laws that increase the cost of hiring women. While these laws may intend to support women by providing additional support to working women, the law may have the opposite effect and actually discourage firms from hiring women. Article 154, Section 3 states that employers shall provide sufficient toilets appropriate for female employees. Article 155, Section 5 states that “during her menstruation period, a female employee shall be entitled to a 30-minute break in every working day; a female employee
nursing a child under 12 months of age shall be entitled to 60-minute breaks in every working day with full wage as stipulated in the employment contract—menstrual period.” Article 153, Section 6 states “to develop plans and measures to organize day care facilities and kindergartens in areas where a large number of female employees are employed” and Article 154, Section 4, “Employers shall assist and support in building day care facilities and kindergartens, or in covering a part of the childcare expenses incurred by employees.”

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**Does the Labor Law in Vietnam prevent women from working in the same occupations as men?**

Vietnam Labor Law has specific stipulations about pregnant women and nursing women. In some countries such as Cambodia, Indonesia, Laos PDR, the Philippines, and Singapore, pregnant women and nursing women can be engaged in any job that men are engaged in. But other countries such as China, Korea, Mongolia, Taiwan, and Vietnam say no; their laws assess that women have biological functions that prohibit their engagement in the same kinds of work as men.

**Reform 2 recommendations.** One behavior that Article 19 does not regulate is that it should regulate is to stipulate that employers may not ask or use other means to acquire information from men or women about marital status, parental status, child care responsibilities, pregnancy status or pregnancy plans. Under Article 153, employers should not be in a situation to assess the physical and physiological characteristics of an employee, only the employee can assess this. The Article should be eliminated and instead refer to the article that defines workers’ rights to training and occupational development. Article 160 should also be dropped. And to reflect the intent of the article to protect workers regardless of sex, Chapter 9 of the Labor Code and the Occupational Safety Hazards Law should be revisited and recommended to workers and employers to ensure that nobody is working in harmful situations.

It is not difficult to agree with Article 154; women do need toilets, but so do men. The article should specify this as a right for all workers, men, and women. Employers should provide appropriate facilities for all workers. So, in essence, this revision protects women by providing toilets, but it will also protect men and will equalize the costs to employers for hiring men or women. Similarly, in Article 155, both men and women need regular breaks for health throughout the day at all times of the month; and the article should reflect this. Article 108 on rest breaks during working hours, should be considered whether it would be sufficient to provide protection to men and women and to equalize the cost of hiring men and women. Articles 153 and 154 clearly state that employers should provide childcare support for women employees. The law should be broadened that it also covers fathers, at the same cost to an employer as hiring mothers.

**REFORM AREA 3: ENSURE PROTECTIONS IN TYPES OF NONSTANDARD WORK THAT WOMEN TEND TO ENGAGE IN**

Three statistics are provided here to illustrate that women and men participate in the labor force differently. First, domestic cleaners and helpers are significantly over-represented by women at about 96 percent compared to men at 4 percent. Second, women are over-represented among part-time workers, with approximately 20 percent, working 30 hours weekly or less, as compared to men at about 14 percent. And third, home-based piece workers are over-represented by women at about 62 percent while only 38 percent of men fill these types of jobs.

**Reform 3 recommendations.** Article 34 regulates part-time work and is complete and very supportive to part time workers, who tend to be women. This Article does not need change. Article 153, Section 2 encourages employers to create conditions for providing employees with regular employment and to apply widely the systems of flexible work hours for part time or home-based work. As well, this article is fair and well represents women under these provisions, needing no change.

However, Article 185, Section 2 is much weaker and not within the scope of application of the Labor Code. Article 185, Section 2 specifies the regulations for employees who perform home-based processing work. But the Labor Code does not regulate this work primarily done by women, putting them at a disadvantage, particularly as women must negotiate the terms of the contract with employers. The government should define the regulations under the article so that the stipulations are explicitly and clearly defined, similarly as Article 34 in defining part-time work.
Chapter 10 Section 5 in the Labor Code focuses on domestic work but requires more details differentiating between live-in and live-out domestic workers. Specifically, for live-in workers, policy-makers should develop a separate section that would include terms for wages, in-kind payment, hours worked, overtime, rest time, severance pay, pregnancy and maternity stipulations, sexual harassment, OSHA stipulations, and grievances. These changes would take into consideration quite a bit of in-kind payment as well as irregularities in terms of hours and the other conditions of work. This section will differ for live-out workers who can follow the stipulations of the Labor Code.

REFORM AREA 4:
MAKE WORK MORE FEASIBLE GIVEN THE FEMALE- AND GENDER-SPECIFIC DEMAND ON WOMEN’S TIME

The Labor Code can do more to align work with women’s biological- and gender-imposed time constraints. Biological-imposed time constraints are pregnancy and motherhood. Gender-imposed time constraints tend to be home care.

In a side-by-side comparison of time use by female and male (by age), Figure 4 shows that women are much more engaged in home-care work (illustrated by the thick yellow band on the left graph). Women work an average of 35 hours per week in home care, compared to 21 hours per week for men. And women with less than a primary education work more than 9 hours of unpaid care work daily (Action Aid 2016: Make a House Become a Home). Another qualitative observation of collected data shows that parents choose jobs for their daughters that allow their daughters to be mothers and wives. Work would be a supplemental activity. Given the demographic transitions that are happening in Vietnam, home care demands are likely to increase as the elderly dependency ratio increases. Which is to say, women and girls will increasingly have greater demands on their times in the household.

Positive provisions with no real need for change have been noted in the 2012 Labor Code that fall under this reform area. Alleviating the conflict between work and homecare, Article 37, Section 1, states “an employee with a definite term employment contract shall have the right to unilaterally terminate the employment contract prior to its expiry in one of the following circumstances: … (d) The employee is unable to continue performing the employment contract due to personal or family difficulties.” This article does not specify gender, making it applicable to both men and women. By keeping the language as it exists in this article, both men and women can adjust their employment based on personal and family

FIGURE 4. Time Use by Age, by Females (Left) and Males (Right)
difficulties. Alleviating the physical and time demands of pregnancy and early motherhood, Article 156 states “where an employee is pregnant and obtains a medical certificate from a competent health care institution, which states that if the employee continues to work, it may adversely affect her pregnancy, the employee shall have the right to unilaterally terminate the employment contract, or to temporarily suspend the employment contract.” This provision protects women if there is a medical reason that work may be affecting the health of their unborn child and of the women herself.

Reform area 4 recommendations. Two articles in the 2012 Labor Code could be adjusted in order to alleviate the conflict between work and home care. Article 116 (1) states that “an employee is entitled to take a fully paid leave of absence for personal reasons … marriage …. death” of a family member. Article 116 should be expanded to include stipulations that an employee is entitled to take fully paid leave of absence for personal reasons, including family care (child or elder relative) and be applicable for male and female employees. Similarly, Article 159 states that “when a female employee takes leave from work for pregnancy check-up … taking care of a sick child who is under 7 years of age … employee is entitled to social insurance allowance…” Article 159 should stipulate that men are also entitled to social insurance when accompanying their partner for pregnancy check-ups or when taking care of a sick child who is under 7 years of age (and for elder care).

Two articles should be adjusted to alleviate the physical and time demands of pregnancy and early motherhood. The recommendations should be approached with sensitivity as not to incur costs to the employer that could disincentivize the employment or support of female employees. Article 32 has stipulations for an employee who is pregnant (in accordance to Article 141). Policy-makers should consider expanding the stipulations to include employees who are on maternity leave. Article 157 (1) states “prenatal leave should not be longer than 2 months. Section (4) states that the female employee may return to work before the expiry of her statutory maternity leave as stipulated in Clause 1 of this article, if so demanded and is agreed by the employer, provided that the female employee has taken at least 4 months of prenatal and postnatal leave and she obtains a medical certificate from a competent health care institution which affirms that the early resumption of work does not adversely affect her health.” Policy-makers should stipulate the total time for pregnancy and maternity leave. This allows the female worker to decide for herself whether she takes such leave before or after the birth of her child. She will decide with her doctor when she can return to work.

Reform area 5: Tackle Gender Norms

The Labor Code does attempt to erode some gender norms that may put women at a disadvantage, but can do more to breakdown gender barriers. Figure 5 signals where the Labor Code can address gender norms. First, the Labor Code can do more to encourage the role of fathers. There are nearly 50 countries that stipulate parental leave rather than only maternal leave. There are also about 45 countries that have stipulations for paternity leave. And there are about 25 countries that stipulate both paternity leave and parental leave. There appears to be a commonality across countries at every level of development, from the poorest to richest, that there is space for parental leave and there is space for paternity leave in the labor markets.

Figure 5 also illustrates the occupational segregation that exists in Vietnam by showing the hiring practices in lucrative or emerging occupations where women are under-represented. Males tend to be over-represented among science, technology, engineering, and mathematics (the STEM fields) while women are over-represented in social and behavioral studies and medical fields, education, and business administration. Data show that even before young girls and young boys enter the labor force, there is already a gender differentiation in the fields of study, which naturally will lead to occupational segregation when they do enter the labor force (World Bank (2018) Gender Gaps in Earnings in Vietnam).

Reform area 5 recommendations. The Labor Code should encourage the role of fathers by stipulating family-related rights to men. Particularly adding to the Labor Code those stipulations for paternity leave that give men the right to take time off with their newborn children and the mothers; and this time away would be covered by social insurance, just like it is covered for women. Revisions to the Labor Code (Article 153 (6) and Article 153 (3))
should also provide day-care services, family leave, and reproductive rights to fathers, husbands, sons, and partners. The government should review Article 136 (4), which provides tax incentives to firms that are hiring women, and consider further developing this article in order to provide additional tax reductions for hiring women in STEM-related jobs.

**REFORM AREA 6: DELAY RETIREMENT**

There is a gender gap in the retirement age of men and women. The retirement age is 60 years of age for men and 55 years of age for women. According to the World Health Organization life expectancy of healthy years in Vietnam beyond age 60 is 13.8 years for men and 16.1 years for women (2010 data), suggesting that the majority of men and women have significant work ability well beyond 60. Household survey data from Vietnam indicates that well over half of urban men and over half of urban women over 55 year of age continue to work beyond 60 years of age (based on World Bank analysis of VHLSS 2012). The ongoing dialog around the update of the Vietnam Labor Code involves debate on increasing the pension age and decreasing the gender pension gap.

To inform this dialog, the World Bank is conducting a cost benefit analysis to outline the benefits and costs of extending the retirement age and decreasing the gender pension gap. Three scenarios are explored:

- **Scenario 1.** Increasing the retirement age of women from 55 to 60. The retirement age of men is unchanged at 60.
- **Scenario 2.** Increasing the retirement age of women from 55 to 60, and the retirement age of men from 60 to 62. (This scenario has been proposed by the Ministry of Labor, Invalid and Social Affair).
- **Scenario 3.** Increasing the retirement age of both men and women to 62

Table 1 summarizes the preliminary estimates made of the annual benefits and costs of delayed retirement. We first look at the benefits caused by the retirement age being extended and therefore people can work longer and earn more wages. The benefit is computed by the total wages that can be earned by women working after 55 and men working after 60. For example, according to Scenario 2, if women work until age 60, they can collectively earn an additional 10,619.4 billion VND (around US$483 million). If men work until age 62, they can collectively earn an additional 4,595.4 billion VND (around US$209 million).
TABLE 1. Estimated Benefit and Cost of Delayed Retirement

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Groups Who Have Late Retirement</th>
<th>Benefit: Increased Wage (billion VND)</th>
<th>Cost of Not Doing Housework (billion VND)</th>
<th>Self-Employed Income (billion VND)</th>
<th>Net Income Increased (billion VND)</th>
<th>Share in GDP (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Women retire at 60</td>
<td>10,619.4</td>
<td>915.6</td>
<td>2,812.0</td>
<td>6,891.9</td>
<td>0.153</td>
</tr>
<tr>
<td>Scenario 2: Women retire at 60, and men at 62</td>
<td>Women retire at 60</td>
<td>10,619.4</td>
<td>915.6</td>
<td>2,812.0</td>
<td>6,891.9</td>
<td>0.153</td>
</tr>
<tr>
<td></td>
<td>Men retire at 62</td>
<td>4,595.4</td>
<td>329.0</td>
<td>1,327.9</td>
<td>2,938.6</td>
<td>0.065</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>15,214.9</td>
<td>1,244.6</td>
<td>4,139.8</td>
<td>9,830.4</td>
<td>0.218</td>
</tr>
<tr>
<td>Scenario 3: Both women and men retire at 62</td>
<td>Women retire at 62</td>
<td>13,714.5</td>
<td>1,250.9</td>
<td>3,612.3</td>
<td>8,851.3</td>
<td>0.197</td>
</tr>
<tr>
<td></td>
<td>Men retire at 62</td>
<td>4,595.4</td>
<td>329.0</td>
<td>1,327.9</td>
<td>2,938.6</td>
<td>0.065</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>18,309.9</td>
<td>1,579.9</td>
<td>4,940.1</td>
<td>11,789.8</td>
<td>0.262</td>
</tr>
</tbody>
</table>

Source: APB2 Gender Task Team estimate.
Benefit of delayed retirement
Benefit = Wage * Proportion of working people; Cost = Cost of not doing housework + self-employed income.

However, there is an associated cost of delayed retirement. Working in the labor market means less time spent completing housework and forgone self-employed income. Different estimation methods are used to predict these costs: the net benefit gained is equal to the difference between the benefit and the cost (the last column of Table 1). The net benefit is higher if the age of retirement is higher. If the gender pension gap is eliminated and the retirement age at 60 for women is kept, then the net annual benefit of Scenario 1 is 6,891.9 billion VND (US$313 million), equivalent to 0.152 percent of GDP. In Scenario 2, with a pension at 60 for women and 62 for men, then the benefit to women is the same as the first scenario; but there is additional benefit for men. The annual net benefit of Scenario 2 is around 0.218 percent of GDP. In Scenario 3, the annual net benefit is the largest, and it is predicted at 0.262 percent of GDP.

Figure 6 projects the net benefit of the policy over time (from the first year to the 33rd year of implementation). This projection assumes that the retirement age is raised gradually, by 6 months per year for women and 4 months per year for men (following MOLISA’s proposals). These also account for the changing demographics in Vietnam, so that the benefit of increasing the retirement age grows significantly over time given that the number of older people is higher and the share of people having a formal job is increasing. By year 33 (using projected demographics for 2049), the benefit of the extending the retirement age accounts for 1.21 percent of GDP in Scenario 1; 1.51 percent of GDP in Scenario 2; and 1.89 percent of GDP in Scenario 3 (the net benefit decreases slightly between year 32 and year 33 since the total population of women ages 55-62 and men ages 60-62 decreases in this year because of a decreasing fertility trend).

To assess the impact of keeping different retirement ages for men and women, the cost benefit analysis also looks at the benefits from raising the retirement age from 60 to 62 for each (Figure 7). The lower wages among women means that, initially, the gains from raising women’s age are lower than those of raising men’s (especially since, in these projections, women’s retirement age would not rise above 60 for another ten years given the staggered implementation). Once the retirement age is the same for both men and women (after 20 years), we can see that the benefits of this rise are fairly similar. However, the gains from raising women’s age eventually surpass that of raising men’s age, since women are projected to make up an ever-growing part of the formal labor force. In effect, should Vietnam retain a lower retirement age for women, the foregone benefits would effectively cancel out and eventually surpass the gains from raising men’s retirement age.
Reform area 6 recommendations: There is a gender pension gap included in Article 187 (1) which refer to the law on social insurance, stating that an old-age pension shall be provided to eligible at the age of 60 for men and 55 for women. A cost benefit analysis finds that increasing the pension age to 62 for both men and women results in the highest net benefit to GDP and to women and men. Revisions to the labor code should update Article 187 (1) to eliminate the gender pension gap, by allowing men and women to retire at the same age.
V. LOOKING FORWARD

The law and how it creates and perpetuates legal barriers to women working is key to Vietnam’s foundations as a prosperous, creative, and dynamic nation. The 2012 Labor Code has many provisions that support gender equality, yet gender gaps persist in many aspects of the labor market. Articles in the Labor Code should be reformed to (a) give women greater agency over their work lives; (b) even the playing field between men and women in terms of their work lives and their roles as parents and family members; and (c) encourage greater gender equality in the labor market.

Revisions to the Labor Code should establish basic principles; specific language can be provided in the regulations so as to not over-define the Labor Code leading to constraints that are much more difficult to address than if they were simply regulated. The recommendations were detailed in Section IV.

It is important to consider implementation and enforceability when assessing the effectiveness of changes to the Labor Code to enhance gender equity. In this regard, we recommend a key question for policy makers and the public consultation be: How does the Labor Code make provisions that balance incentives for employers so that men and women have equal access, and that men and women are equally valued as employees?
VI. HOW TO LEARN MORE ON GENDER AND LEGISLATION IN VIETNAM

Launched in October 2018, a comprehensive e-learning course, “Legislation and Gender Equality in Vietnam”, was designed in Vietnamese language by the World Bank under the ABP2 supported project *Vietnam Women’s Economic Empowerment* and in close consultation with the National Assembly Social Affairs Department, the Ministry of Labor, Invalids and Social Affairs and, the Ministry of Justice. The e-course is developed for, but not limited to, professionals who prepare and assess laws and evaluate their impacts. The e-course is divided into 3 modules, designed to be self-paced for convenient study at convenient times by any person with access to the internet through a personal computer, tablet, or mobile phone.

While e-learning is a new concept in Vietnam, this innovative approach has already generated a lot of interest with members of staff from the National Assembly, key ministries, the Vietnam Women’s Union, and the Vietnam Academy of Social Sciences (VASS) who have taken the e-course. Leading the effort, the Ministry of Labor, Invalids, and Social Affairs has also requested the e-course be tailored to officials at the provincial and commune levels who inform new laws and monitor implementation of laws and regulations. The full e-course is available to the public through the World Bank’s Open Learning Campus site, under the title Bình đẳng giới và Lập pháp ở Việt Nam. (find it at: olc.worldbank.org)

The e-learning course is enriched with video-messages from experts in the Government of Vietnam, the World Bank, and the Australian Embassy in Hanoi. The course is in Vietnamese. Each module takes around 3 hours to complete and includes a number of quizzes and tests. An electronic certificate is issued after successfully completing the course. Box 1 describes in more detail the coverage in the 3 modules.

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**Box 1. Modules for E-learning Course: Legislation and Gender Equality in Vietnam**

Each of the 3 inter-linked modules focuses on one main topic that then serves as background for the next module.

**Module 1** discusses key concepts related to gender and gender equality. The objective is to explain the relevant gender equality concepts and how gender equality matters in the 3 main domains of (a) human endowments; (b) access to economic opportunities; and (c) voice and agency. Module 1 also provides an overview of the national and international policy and legal frameworks related to gender equality (e.g. the ASEAN Gender Equality Instruments).

**Module 2** focuses on the policy framework for gender equality in Vietnam, particularly the National Strategy on Gender Equality and the requirements of Article 35 of the Vietnam Law on Laws of 2015. The module also discusses how to carry out a gender assessment and what are good sources for data, including recommendation from experts from, for example, the General Statistical Office.

**Module 3** focuses on monitoring and evaluation from the perspective of how to track and evaluate gender impacts. It discusses how monitoring and evaluation can be used to track and report on progress, results, and impacts of laws on gender issues. One key question answered in this module is the ways in which gender-sensitive monitoring and evaluation differs from other types of evaluation in areas such as team composition, disaggregation of data, and the types of outcomes that are measured.