

THE KEY STEPS OF GENDER ANALYSIS OF LEGISLATION

There are many approaches to gender analysis of legislation. This guide proposes five steps that can be followed sequentially:

1. Purpose, Scope and Operation of the Proposed Law
2. Measuring the Impact of the Proposed Law
3. Specific Law Drafting Questions
4. Questions re Administration, Costs, Regulations and Public Education
5. Self-Assessment – The Last Step in Your Analysis

Gender-based analysis should be a common thread woven from beginning to end throughout the entire legislative process, and not merely an additional section.

In some cases, gender issues are central to the Bill in question and play a major, determining role in its evolution. Other Bills, at first glance, may appear to be devoid of gender implications. When analyzing proposed legislation it may be tempting to simply state that the Bill is not likely to have differential gender effects. While gender implications may not be immediately obvious, they may emerge later.

Therefore, it is always good practice to keep asking the ‘gender question’ as you analyze legislation. This requires a familiarity with sex-aggregated quantitative and qualitative data; questioning basic assumptions; and a constant readiness to test basic assumptions.

Example: Education and the Labour Force

Using a gender-based analysis helps us to analyze more carefully the full impact of a proposed Law on every segment of society.

For example, women outnumber men in the labour force, constituting 53%. However, females have a lower participation rate in formal schooling than males. Young women’s training and job prospects generally differ from those of young men. Women enter the labour market with fewer qualifications and less training than men. The labour force is largely uneducated and unskilled – 24.4% of the total labour force; 31.6% of the female labour force has not attended school.

Women are underrepresented in jobs that carry high status, such as the civil service, the professionals, and decision-making or management positions. Women do, however, dominate pockets of the labour market, in insecure positions requiring few formal qualifications, such as

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factory work and street markets. In the retail sector, for example, 67% of shop owners and 77% of stall and market vendors are female.

Article 95 of the Labour Law states that the first workers to be laid off should be those with the fewest professional qualifications. In practice, this is likely to be women. There are no specific measures to protect women from such discriminatory treatment.

It is evident from these examples that many legal issues impact young women and young men differently. These impacts are identified through gender-based analysis which is a necessary and important part of legislative analysis.

The Five Steps of Gender-Based Analysis of Legislation:

Step One: Purpose, Scope and Operation of the Proposed Law

- In assessing the draft Law's purpose, scope and application, can you identify the groups most likely to be affected by the proposed Bill? Are we likely to find some specific gender implications? Will women be one of the groups identified?
- When addressing the purpose, scope and operation of a proposed Law is your analysis influenced by your gender? Your background may influence your vision and prevent you from asking questions and hearing answers. Legislation must be careful not to reinforce stereotypes and systemic discrimination about women and men;

Step 2 – Measuring the Impact of the Proposed Law

- Has the impact of the proposed legislation on different parts of the community been considered? In other words, who will be affected by the proposed law?
- Will there be significant gender differences in the impacts of the law? To what extent will women be specifically affected by the proposed law?
- What are the factors (cultural, economic, political, legal, socio-economic, etc.) that may affect the gender impact of the Bill. For example, consider how experiences of women and men will differ geographically, and are influenced by age, poverty, and disability/ability.
- How do you measure the differences in the anticipated impact of the proposed legislation? Would you use sex-disaggregated data? If so, how do you go about collecting the data?
- If sex-disaggregated data is not available what else could you use to find out the impact rate on females and males?
- What types of gender specific information could community groups provide to legislative reviewers?
- Are there particular community groups whom you might consult for help and information?

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Step 3 – Specific Questions Regarding Legal Drafting

- Article 31 of the Constitution states that “Every Khmer citizen shall be equal before the law regardless of sex...” Does the proposed legislation comply with Article 31?
- Has the Bill been drafted in clear, plain language?

Step 4 – Questions re Administration, Costs, Regulations and Public Education

With respect to the administration of the Law, will women be involved?

- Are there gender concerns with regards to the implementation and compliance costs of the proposed Law?
- How will the public be educated regarding the Law? Given the high illiteracy rate among women in Cambodia, what methods will be used to disseminate the information?
- With respect to monitoring the legislation, will gender specific concerns be reviewed?

Step 5 – Self-Assessment – The Last Step in Your Analysis

- Have you integrated questions concerning gender throughout the analysis?
- Have all gender implications been identified in the Bill?
- What official and community information was used to in your gender analysis?
- Have you continued to ask the ‘gender question’ at every stage of your analysis?

CONCLUSION

This guide establishes the use of gender as a primary element of every approach to legislative analysis. It outlines a framework and methodology to assist in analyzing proposed legislation from a gender perspective.

It is presented as a step in building a more sector-specific gender analysis framework, and in developing well-researched background documentation that incorporates gender-disaggregated data.

Legislation can change gender relations. The challenge is to create the questions and formulate the analytical procedures that will produce solutions to support gender equality.

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