

# Vietnam Legal Aid for Ethnic Minorities

**Dr. Ta Thi Minh Ly**

Former Director of National Legal Aid Agency – Ministry of Justice,  
President of Vietnam Judicial Support Association for the Poor (VIJUSAP)

# Content

- Legal documents of legal aid for EM in Vietnam;
- How to practice legal aid, the range of legal aid, beneficiaries and fiscal issues;
- The tendency and problems of the legal aid services;
- Future plans for the improvement the quality of legal aid providers;

# Legal documents of legal aid for EM

- Law on legal aid 20 June 2017 and
- Law on lawyers 2017 with policies on providing legal aid to the EM.
- 15/12/2017, Decree 144/2017/ND-CP on guidelines for the Law on Legal Aid;

In 2017

In 2012

- Joint Circular No. 01/2012/TTLT-BTP-UBDT dated January 17, 2012 of the Ministry of Justice and the Committee for Ethnic Minority Affairs guiding the provision of legal aid to ethnic minorities.

- Resolution No. 88/2019/QH14 dated November 18, 2019 of the National Assembly approving the master plan for socio-economic development in ethnic minority and mountainous areas in the 2021-2030 period;
- The Prime Minister of the Government on October 14, 2021 approved the Decision No: 1719/QĐ-TTg phase 1 from 2021-2025.

2021-2025

## *Guiding documents*

15/11/2017: Circular 08/2017/TT-BTP on guidelines for Law on Legal Aid and documents in legal aid activities;

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21/06/2018: Circular 09/2018/TT-BTP on criteria for determination of complex and typical legal aid cases;

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29/06/2018: Joint Circular 10/2018/TTLT-BTP-BCA-BQP-BTC-TANDTC-VKSNDTC guiding the implementation of a number of regulations of law on legal aid in procedural activities;

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28/08/2018: Circular 12/2018/TT-BTP guiding the professional activities of legal aid and quality management of legal aid cases;

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# Types of legal aid

Legal advice	Representation in judicial proceedings	Extrajudicial representation
Provide guiding and giving opinions on specific cases, support in drafting documents related to disputes, complaints and other legal problems; guide the mediation, negotiation and agreement on settling the cases.	Defend and protect legitimate rights and benefits of legally-aided persons during court hearings and when working with investigation and prosecution agencies.	Act as extrajudicial representatives of the legally-aided persons when working with competent state agencies which are not relevant to judicial proceedings.

# Fields of legal aid



Criminal law, criminal procedure and criminal judgment execution;

Civil law, civil procedure and civil judgment execution;

Marriage and family law and the law of children;

Administrative law, complaints, denunciations and administrative procedure;

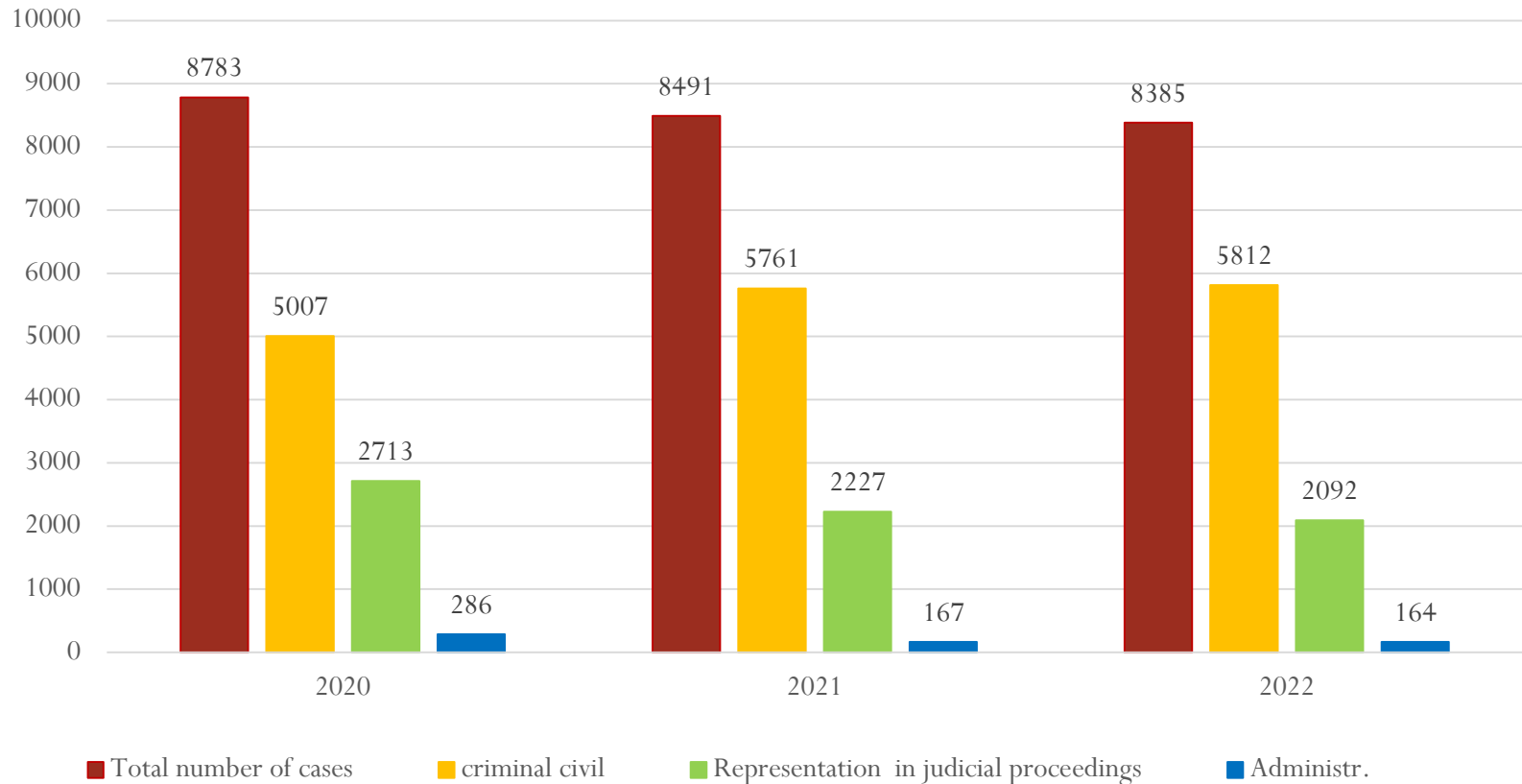
Law on land, housing, environment and protection of consumers' rights;

Law on labor, employment and insurance;

Law on preferential treatment for people with meritorious services to the revolution and laws on other social preferential policies.

# Legal Aid For Ethnic Minority

**Chart 1: Number of legal aid cases by legal forms in 2020, 2021 & 2022**



# Legal aid beneficiaries

- Ethnic minority group in difficulty areas and if they are among 06 other groups of legal aid beneficiaries (Article 7 Law on Legal Aid 2017):





# Legal aid beneficiaries

People in the  
poor  
households

- Poor household in rural areas: *“Having a monthly per capita income of VND 1.500. 000 or lower and deprived of at least 3 indicators measuring deprivation of access to basic social services”*.
- Poor household in urban areas: *“Having a monthly per capita income of VND 2,000,000 or lower and deprived of at least 3 indicators measuring deprivation of access to basic social services”*.

# Legal aid beneficiaries

- Basic social services (06 services), including: Employment; Medical; Education; House; Drinking water and sanitation; information.
- Indicators measuring the level of basic social service shortage (12 indicators), including: Employment; Dependents in the household; Nutrition; Health Insurance; Adult education level; Children's school attendance; Housing quality; Housing area per capita; Domestic water source; Hygienic latrines; Use telecommunications services; Means of access to information.

## **Decree 07/2021/ND-CP on Multidimensional poverty**

- Vietnam has 32 provinces where ethnic minorities live, 53 ethnic minority groups accounting 13.386.330 people (for 14.6% of the country's population). Among 53 group only 32 group have their own letter and language
- The percentage of trained ethnic minority workers is 1 / 3 of the whole country

# **Ethnic people & Legal issues often faced**

- Ethnic minorities have language barriers, often live in mountainous areas with extremely difficult socio-economic conditions, difficult access to information, transportation, health care and culture...
- Ethnic minorities are still vulnerable, especially when they lose the forests, where their beliefs and customs originate.
- Legal issues they often faced with as: land, land use rights, marriage, family, divorce, employment contract, loan agreement, bank loan, property mortgage, purchase contract, compensation, violations of transportation ...
- Issues of legal procedures, of inheritance procedures, loans, land lease...

# Legal aid beneficiaries

## Children

- Those who are being below the age of 16 (Article 1, Law on Children 2016)

## Ethnic minority people

- Ethnic minorities, especially who often live in areas with particularly difficult social-economic conditions as prescribed by law are women, people with disabilities, elderly people.

## Accused persons from 16 years old to under 18 years old

- Accused persons from 16 years old to under 18 years old are those who are from full 16 years to under 18 years old and have been prosecuted for criminal responsibility for a crime prescribed in the Criminal Code

# Legal aid beneficiaries

**Accused persons in the near-poor households**

- Accused persons in the near-poor households are those who have been prosecuted for criminal responsibility for a crime prescribed in the Criminal Code and belongs to a near-poor household;

**People in one of the following cases having financial difficulties**

- Blood parents, spouses and children of patriotic martyrs; persons having merits in nurturing young patriotic martyrs; HIV-positive people.
- People infected with dioxin; elderly people; disabled people;
- Victims in criminal prosecutions from 16 years old to under 18 years old;
- Victims in family domestic violence cases;
- Victims of human trafficking cases as specified in the Law on human trafficking prevention and combat;
- **=> Financial difficulties: people who are in the near-poor households or those who receive monthly social allowances.**

# Financial sources used for legal aid

Financial sources for the legal aid services include state budget; contributions and donations of foreign and domestic organizations, individuals and other lawful capital sources.

The funding from the state budget is allocated in the annual state budget of the legal aid authority in accordance with the Law on budget. Local governments that have not balanced the budget shall prioritize the allocation of budget capital from the annual additional funding to support the settlement of typical or complex legal aid-related cases.

Funding for legal aid services of voluntary organizations shall be guaranteed by such organizations.

# The tendency of the legal aid services

- ❑ Improve the quality of legal aid services:
  - Human resources standards in providing legal aid are more strictly regulated => The legal aid activity of the legal aid officials is similar to the legal services provided by lawyers.
  - Create favorable conditions for people to access and use services, information technology applications, especially strengthens the assurance mechanism for the right to legal aid.
  - Legal aid- providing persons are central and the State not only creates maximum favorable conditions for people to know and implement their rights but also ensures lawful rights and interests of legally-aided persons protecting timely in specific cases.
- ❑ Promote the enforcement of legal aid law: Provision of legal aid and participation in legal dissemination and education with the objectives to help the poor and beneficiaries of social welfares solve legal problems and disputes in specific cases and of specific persons, which directly relate to their rights and interests.
- ❑ Concentrate to dissemination laws for ethnic minority group through efficiency tools, such as leaflet in minority language, meeting at community, use wise man and local people, early legal aid, ext.

# The tendency of the legal aid services

- At present, non-governmental organizations in Vietnam operate in the field of law. In addition to providing *free* legal aid, they charge a number of other legal aid services. This depends entirely on the legal aid beneficiaries, the legal field or the type of legal aid.
- **For example:** VIJUSAP operates 19 centers throughout the country and is the only registered NGO with a specific mandate for providing legal aid. The Association has free legal aid for the right beneficiaries and the field of law as provided by the Law on Legal Aid with the form of legal advice. However, the Association will also charge fees for some legal services if not legal aid beneficiaries as well as form and field of legal aid.
- VIJUSAP is currently targeting free early legal aid and initial legal assistance, a period that State Legal Aid has not yet implemented.



# The problems of the legal aid services

## Legal aid beneficiaries

Expanded scope of legal aid beneficiaries: from 06 types of beneficiaries (Law on Legal Aid 2006) to 14 types of beneficiaries (Law on Legal Aid 2017), in which 08 types of legal aid beneficiaries having financial difficulties.

Beneficiaries must have papers showing their eligibility for legal aid services.

Financial difficulties: people who are in the near-poor households or those who receive monthly social allowances.

=> There are no specific criteria for determining who has financial difficulties in Vietnam so it is very difficult to determine. Therefore, it is easy to miss legal aid beneficiaries.

# The problems of the legal aid services

## Communication activities on legal aid

Decree No.07/2007 /ND-CP which guided the implementation of a number of articles of the Law on Legal Aid 2006 provided for some forms of legal aid such as "Article 35. Mobile legal aid service" and "Article 36. Activities of legal aid clubs". These forms are not inherited and are not regulated by Law on Legal Aid 2017.

Some limitations do not allow people to fully access to legal aid:

- Legal aid providers do not yet have communication skills and communication methods are not really suitable for each target group (ethnic minorities, children, women who are victims in family domestic violence cases ...);
  - Local budgets for legal aid activities are limited.
  - Educational level of some people who are legal aid beneficiaries is still low (especially ethnic minorities living in areas with extremely difficult socio-economic conditions, unable to listen, speak, read, write in Vietnamese).
  - The implementation of legal aid during the Covid epidemic also has many limitations because it is not directly but online or has to use people who do not have extensive experience in the community.
  - Using the network, requesting legal aid online is a big difficulty for ethnic minorities because they are poor in information technology, do not have smart phones, or necessary techniques.
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- The coordination between legal aid organizations and agencies is not really effective, so the introduction and sending of legal aid cases is limited.

# Quality of legal aid providers

Human  
resources  
in  
providing  
legal aid

Conditions for legal aid officials: Have been trained in legal profession or is not required to participate in training course of legal profession; have gone through the probation of legal profession or legal aid.

=> About professional skills, the LA activity of the LA officials is similar to the legal services provided by lawyers.

Lawyers providing LA services under contract with State LA center; lawyers providing legal aid services assigned by LA-participating organizations;

Legal counselors with at least 02 years of experiences in legal counseling service and working in legal aid-participating organizations;

Legal aid collaborators: Persons who have retired, have full civil act capacity, good moral qualities, good health and wish to provide legal aid may become legal aid collaborators, including: LA assistants; judges, inspectors of the court; procurators, inspectors of the Procuracy; investigators; enforcers, examiners in civil judgment enforcement; legal affairs specialist at regulatory agencies.

=> Raising the standard of human resources in providing LA; in while, supplementing conditions of lawyers, legal counselors when participating in LA activities.

=> Law on Legal Aid 2017 not only continues to recognize the participation of experienced lawyers and legal counselors who are operating effectively but also selects LA collaborators who have legal knowledge, practical experience and ensure the time to participate in providing legal aid.

=> improve the quality of legal aid services.

# Future plans for the improvement the quality of legal aid providers

- Continuing to improve the sense of responsibility, the attitude of serving the People of the contingent of civil servants, especially legal aid officials who directly perform legal aid;
- Enhancing training and retraining with appropriate forms towards in-depth orientation in order to raise the professional qualifications and argument skills for legal aid officials, strengthening practical trainings for legal experts;
- Coordination with the Bar Association to select experienced, ethical and professional lawyers to sign a cooperation contract to ensure the requirements and quality of legal aid services;
- Strengthening monitoring the quality of providing legal aid services.
- Based on gender improvement

Thank You!

