

**ASSESSMENT ON THE ACCESS
TO AND UTILIZATION OF LEGAL
SERVICES BY ETHNIC MINORITY
WOMEN**



Hanoi, October 2010

Institute for Studies of Society, Economy and Environment (iSEE)

REPORT

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LIST OF ABBREVIATIONS

ADB	Asia Development Bank
ATSILS	Aboriginal and Torres Strait Islander Legal Services
BJSS	Barangay Justice Service System
DVL	Law on Domestic Violence Prevention and Control
EM	Ethnic Minority
FAO	Food and Agriculture Organization of the United Nations
GEL	Law on Gender Equality
GSO	General Statistics Office Of Vietnam
ILO	International Labour Organization
IOM	International Organization for Migration
iSEE	Institute for Studies of Society, Economy and Environment
J4P	Justice for the Poor
MCNV	Medical Committee Netherlands -Vietnam
MLAA	Madaripur Legal Aid Association
MOCST	The Ministry of Culture, Sport and Tourism
MOLISA	The Ministry of Labor, Invalids and Social Affairs
NGOs	Non Government Organizations
RLA	Revitalization of Legal Aid
SMA	The State Manergement Agency
UN	United Nations
UNAIDS	United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	The United Nations Population Fund
UNICEF	The United Nations Children's Fund
UNIDO	The United Nations Industrial Development Organization
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
VAAC	Viet Nam Administration for HIV/AIDS Control
VHLSS	The Vietnam Household Living Standard Survey
WHO	World Health Organization

TABLE OF CONTENTS

LIST OF ABBREVIATIONS	1
TABLE OF CONTENTS	2
FOREWORDS	6
GENERAL INTRODUCTION	6
1. Background	6
2. Research objectives	7
3. Research methodology.....	7
4. Limitations	11
PART 1: OVERVIEW OF ETHNIC MINORITY PEOPLE IN VIETNAM AND GENDER EQUALITY SITUATION AMONG ETHNIC MINORITY GROUPS	12
1. Population distribution and classification of ethnic minorities in Vietnam.....	12
2. Poverty and causes of poverty among ethnic minorities in Vietnam	12
3. Ethnic minority women and gender equality situation among ethnic minorities.....	16
4. Society management and customary laws of ethnic minorities	21
PART 2: LITERATURE REVIEW ON THE ACCESS TO LEGAL SERVICES BY ETHNIC MINORITY WOMEN	24
1. Types of legal services in Vietnam	24
2. Utilization of legal services by ethnic minority women.....	27
3. Adequacy of legal services and barriers to access to legal services by ethnic minority women.....	28
PART 3: ASSESSMENT ON THE ACCESSIBILITY OF EM WOMEN – FIELD STUDY IN BAC KAN AND AN GIANG	34
1. Introduction to the research site	34
2. Supply of legal services/legal aid.....	35
3. Needs for use of legal services of EM men and women.....	37
4. Level of access to legal services	43
5. Barriers to the access to and utilization of legal services	48
PART 4: INTERNATIONAL EXPERIENCE IN PROMOTING ACCESS TO LEGAL SERVICES FOR ETHNIC MINORITY WOMEN	51
A. EXPERIENCES IN INCREASING SUPPLY	51
B. EXPERIENCES IN INCREASING DEMAND	54
PART 5:	
FINDINGS AND RECOMMENDATIONS	55
Reference	58

Annex 1: Questionnaire for local people	61
Annex 3: Summary of Legal Services.....	75

List of Tables

Table 1: Field study participants

Table 2: Poverty rate per region for 2006 – 2008

Table 3: Population above 10 years old can read and write per regions and gender

Table 4: Birth rate and death rate per ethnicity

Table 5: Percentage of people telling about the places for last delivery and birth attendants

Table 6: Key indicators about study site

Table 7: Number of individuals, organizations providing legal service/legal aid for people in Bac Kan and An Giang (2009 data)

Table 8: Problems encountered by people in the last 12 months - Ranking by popularity

Table 9: Problems encountered by people in the last 12 months – Ranking by level of annoyance perceived by people encountering the problems

Table 10: Summary of annoying problems encountered by people in study area

Table 11: Comparison of commonly faced problems/concerns between EM women and men and Kinh women

Table 12: Rate of people experiencing basic legal formalities

Table 13: Rate of people once heard about organizations, bodies in relation to legal services/legal aid

Table 14: Rate of people handing their problems of concern by own ways, in order of popularity of problems

Table 15: Rate of acceptance among men and women in particular problems

Table 16: Number of individuals, organizations providing legal service/legal aid for people in Bac Kan and An Giang in 2009

Table 17: Proportion of people receiving legal aid or consultancy from organizations

Table 18: Rate of people not using legal services/aids for different reasons

Table 19: Factors considered important in utilization of legal service/aid

List of Figures

Figure 1: Analytical framework

Figure 2: Varied poverty rates among ethnic groups

List of Boxes

Box 1: Issues related to marriage and family

Box 2: Land disputes and resolution in Bac Kan

Box 3: Awareness among men and women toward legal aid

FOREWORDS

Vietnam has long been praised for its political commitment for gender equality as well as equality between different ethnic groups. Vietnam constitution states that male and female citizens are equal in all fields, including politics, economics, culture, social and in the family. Any discriminatory behaviors towards women and violation to women's dignity will be forbidden. However, in reality, there still exist many gender differences. In general, women are still in inferior position compared to men in all aspects of life, with ethnic minority (EM) women are among the most disadvantaged and endure both gender and ethnicity inequality.

Law on Gender Equality (GEL) and Law on Domestic Violence Prevention and Control (DVL) passed by the National Assembly of Vietnam in 2006 and 2007 respectively create a solid legal basis to safeguard equal rights between men and women. Besides legal framework, it is essential that the people have knowledge on legal issues and procedures as well as be guided and supported to implement their legal rights and responsibilities. . Legal services are important channels to provide citizens with such legal knowledge, guidance and support. As long as women in general and EM women in particular do not have equal access to legal services, it is difficult for them to fully exercise their responsibilities and rights in reality. Given this, promoting EM women's and men's access to legal services is fundamental for successful implementation of GEL and DVL, contributing to achieving gender equality for EM women and men.

The idea of a study on EM women's access to legal services stems from the Joint Programme on Gender Equality between the Government of Vietnam and twelve UN agencies. The Institute for Studies of Society, Economy and Environment (iSEE) would like to convey its sincere thanks to MOLISA, Mrs. Nguyen Dieu Hong, Deputy Program Director; Ms. Tran Thi Phuong Nhung, Project Coordinator and Ms. Ha Thi Van Khanh, UNDP Program Officer and other colleagues for their ideas and valuable opinions and support to iSEE during the course of this study.

The study team would like to convey wholehearted thanks to Department of Labor, Invalids and Social Affairs of Bac Kan and An Giang provinces for coordination with different local stakeholders, organization and facilitation of the field work. Also, we express your deep thanks to relevant agencies and authorities of provinces, districts and communes in the study areas for their time, cooperation, constructive comments and opinions regarding local situation in the study subject. Finally, acknowledgement is directed to people in four communes of Cao Ky, Tan Son in Cho Moi district, Bac Kan province and Co To, Nui To in Tri Ton district, An Giang province for sharing their experience and concerns about their life and needs with the Study Team, helping us understand better the role and actual provision of legal services and legal aid for each group of ethnic minority men, women, Kinh men and women in society.

GENERAL INTRODUCTION

1. Background

Vietnam is home to 54 ethnic groups, each of which has its own language, lifestyle and culture. The most populous is Kinh, representing 85.7% of total population¹. Most of other ethnic minority groups reside in mountainous areas with limited access to information, infrastructure, health and education services compared to Kinh and Chinese groups. Poverty among ethnic minority groups is much higher than the majority groups. According to the Vietnam Household Living Standard Survey (VHLSS) in 2008 by GSO, poverty rate among ethnic minority groups is 48.9% while that of Kinh and Chinese group is just 8.5%. The two poorest regions are the North-West and the Central Highland with poverty rates are 35.9% and 21%, respectively. These two regions are also the most densely resided by ethnic minorities groups. High poverty rate, isolated living areas and limited access to services are factors that make ethnic minority group become one of the most vulnerable and disadvantaged groups in Vietnam.

In particular, ethnic minority women are even more vulnerable than ethnic minority men. Ethnic minority women have less access to resources, little possession of production tools and lower access to social services. Cultural norms among ethnic minority communities plus the fact that many ethnic minority women cannot speak Vietnamese are barriers to ethnic minority women's access to social services and their participation in political decision making processes².

Gender inequality is considered root cause of poverty. Promotion of gender equality among EM groups and empowerment of EM women have long been seen as key to effective and sustainable poverty reduction. Due to differences in gender-disaggregated labour division as well as in culture and custom, needs of women regarding poverty reduction are usually different from men's, particularly, needs of EM women are different from those of Kinh women. Promotion of EM women's participation and voice in design, implementation and monitoring of poverty reduction efforts is essential to ensure their needs are met. Better access to resources for poverty reduction, education and health care by EM women will enable them to have higher income and better health, leading to improving household income and poverty reduction. Alongside with improving access for EM women to other social services, improving their access to legal services is crucial for them to have knowledge to comply with laws, be aware of their rights and responsibilities as well as equally access to resources and capitals to reduce poverty. Two important national programmes for poverty reduction, namely, Socio-economic development for communes in hard situation in ethnic minority and mountainous areas for the period 2006-2010 (Programme 135, Phase II) and the Rapid and sustainable poverty reduction for 61 poor district (Programme 30a) both include the component of legal aid. .

On November 29th, 2006, the National Assembly in Viet Nam passed the Gender Equality Law (GEL), and on November 21st, 2007, it passed the Law on Domestic Violence Prevention and Control (DVL). These two laws have laid a strong foundation to protect equal rights of women and men in all aspects of life. Good implementation of these two Laws in ethnic minority communities in Vietnam will contribute significantly in achieving the objective of gender equality in these communities.

¹ Population and Housing Census, 2009

² Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

The UN/GOV Joint Programme on Gender Equality is being implemented by the Government of Vietnam and twelve UN agencies and Programmes³ for the period of 2009-2011. The joint program consists of strategic, coordinative and multi-sectoral technical assistance to build the capacity of national and provincial duty bearers so that they can better implement the two Laws as well as monitor, evaluate and report on their implementation. The Programme has the following 3 expected outcomes:

1. Improved skills, knowledge and practices for the implementation, monitoring, evaluation and reporting of the Law on Gender Equality and the Law on Domestic Violence Prevention and Control
2. Enhanced partnerships and coordination regarding gender equality within and outside the government
3. Strengthened evidence-based data and data systems for promoting gender equality.

Under joint outcome 3, various activities have been implemented to collect information and data to advocate for gender equality policy for marginalized and disadvantaged groups in the society. The study on situation of the access to and utilization of legal services by EM women is one of those activities. The Institute for Studies of Society, Economy and Environment is commissioned to conduct this study.

2. Research objectives

The study aims to:

- a. Assess the level of access to legal services in 8 areas stipulated in the Gender Equality Law by EM women and men;
- b. Review and assess gender equality situations among ethnic minority groups based on the 8 areas stipulated in the Gender Equality Law: Politics, Economy, Labor, Education and Training, Science and Technology, Culture, Information and Sports, Public Health, and Family;
- c. Identify data gap in assessing the progress of implementing the Gender Equality Law and the Law on Domestic Violence Prevention and Control among ethnic minority population;
- d. Review international experiences on promoting gender equality among ethnic minority or indigenous populations;
- e. Make recommendations on enhancing access to legal services by ethnic minority groups.

3. Research methodology

3.1 Analytical framework of the access to legal services

Definition of legal services

There is currently no standard definition for the concept of legal service. Vietnam Encyclopedia defines service as follows:

Services refer to serving activities to satisfy needs of production, business and daily life activities. According to cases, service may include a specialized job at certain level, permanent or temporary use of a property, joint use of a permanent property and product of a work, or loan⁴.

According to Vietnamese Dictionary, *service refers to acts that directly satisfy certain needs of majority, that are organized and paid⁵.*

³ Twelve UN agencies and programmes include FAO, ILO, IOM, UNAIDS, UNDP, UNESCO, UNFPA, UNICEF, UNIDO, UNIFEM, UNODC and WHO

⁴ Vietnam Encyclopedia downloaded at

<http://dictionary.bachkhoatoanthu.gov.vn/default.aspx?param=1F73aWQ9MzQ3OTcmZ3JydXBpZD0ma2luZD1leGFjdCZrZXI3b3JkPUQIZTElYmlIOGFDSCtWJWUxJWJiJWE0&page=1> on August 5th, 2010

⁵ Vietnamese Dictionary, Da Nang Publishing House, 2010

Based on mentioned definitions, legal services might be understood as work done by expertise persons in organized contexts in order to satisfy people's needs for justice, specifically of being informed, behave and being treated accordingly to rights and laws. Legal services are normally provided by lawyers through such services as participation in litigation, legal consultation, off-procedural representation and other legal services as stipulated in Law on Lawyer. However, the legal framework has been expanded which allows some other subjects besides lawyers to provide legal services. This report also assesses services provided by these subjects.

Analytical framework of the access to legal services

Bertrand et al define access as the extent to which proper services approach and being used by individuals in certain area. Access refers to different aspects, including physical, administration, economics, awareness and psychology⁶.

In service provision, there will be interaction between two sides when one side has demand and the other is able to supply – this is where the demand side has access to the service and the demand met. However, it is assumed that there are cases where the demand and supply exist but do not lead to the utilization of the service. This might be because the supply is not relevant to the demand or there are barriers preventing the utilization of these services by EM women or men even when they have demand. These barriers might be expenditure (cost of services, travel expenses, other related expenses, opportunities cost), language differences, social norms and gender prejudice, etc.

Study on access to legal services includes examination on supply and demand sides and their interaction to see how the supply is relevant to the demand (Figure 1). Both supply and demand sides operate in an environment regulated by legal requirements, culture and practices related to legal services. Hence, this study will examine both supply and demand sides in the context of this environment to figure out its effects on the demand and supply of legal services.

Access to legal services is a condition to ensure justice and gender equality. When women are accessible to legal services, they will better understand their legitimate rights and responsibilities as well as be consulted, guided and supported to demand their rights and implement their responsibilities. In other words, the result of accessing to legal services is ensured gender equality. The study hence will also examine to what extent accessing to legal services have impacts on gender equality.

Specifically, this study will answer following questions:

- The supply of legal services: What is the availability of the services? At what extent is the supply relevant to the needs of EM men and women?
-
- What is the level of usage of legal services by EM men and women? To what extent does the current level of access to legal services meet their needs for legal services? What are needs not yet been met? What are the differences between the level of access to legal services by EM women and that by EM men and other social groups? What are the reasons for such differences?

⁶ Bertrand, J., K. Hardee, R Magnani, and M. Angle. 1995. "Access, Quality and Health Barriers of Family Planning Programmes." International Family Planning Perspective 21(2)

- What are barriers that hinder ethnic minority women from accessing to legal services? What are major strategies to improve access to legal services for ethnic minority men and women?
- How and to what extent does the access to legal services by EM women have effects on gender equality and EM women's situation?

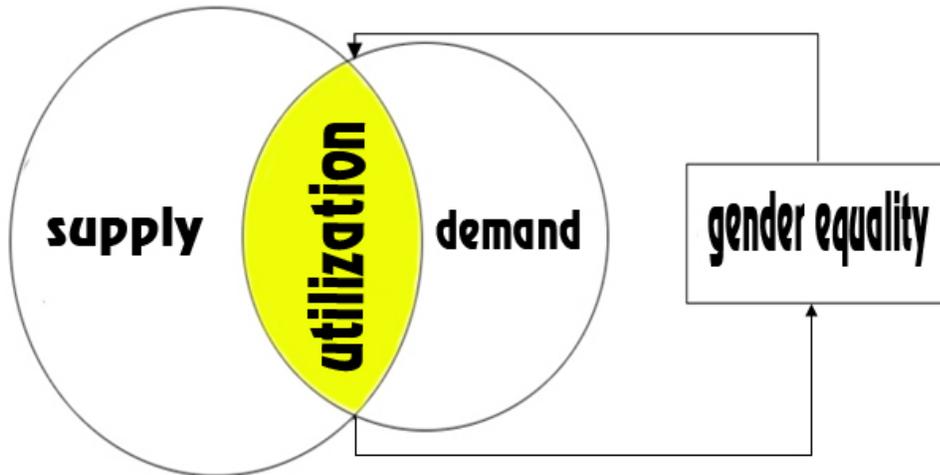


Figure 1: Analytical framework

3.2 Methodology

a. Literature review

A literature review is conducted at the beginning of the study to assess general situation of gender equality among EM communities; current situation of legal service provision, especially in areas where many EM reside and services designed specifically for EM people; and EM needs of legal services. Based on findings from literature review, data gaps are identified and list of data and information to be sought in the field is developed.

Sources for literature review are documents of the government, publications and documents of international and civil society organizations. The following documents are used for literature review:

- Related laws, policies and decisions;
- Reports on ethnic minorities, gender and evaluation report of legal assistance/aid programs.
- Articles, presentations on issues of gender equality, ethnic minorities and legal services;
- Statistical data from the Vietnam Household Living Standard Survey in 2006 and 2008 and the Population and Housing Census 2009.

b. Field study

Based on results from literature review, a field study was conducted in July 2010. The field study aims to validate findings of and fill data gaps identified from literature review. The field study focus on the following aspects:

- Legal service needs of EM women and men in study site
- The current usage of legal services by EM men and women in study site;
- Impacts of accessing to legal services on gender equality (if any) in study site.

Bac Kan and An Giang provinces are selected to conduct field study. These two provinces present relatively different natural, economic and social conditions. Bac Kan is a northern mountainous province with ethnic groups such as Tay, Nung, Mong, Dao, Kinh and some other ethnic minorities groups. An Giang is located in the Mekong River Delta with long border line with Cambodia. Besides the majority of Kinh people, two main ethnic groups in An Giang are Cham and Khmer. In each province, the study team opted out one district in which two communes were selected. Since EM groups living in particularly hard areas are subject to free legal aid, the study team selected one commune in Program 135 and one not in Program 135 in order to compare differences between the two types of communes. One of the findings from literature review is that use of legal services is limited among Vietnamese people in general and EM communities in particular, the study team meant to select location where there are legal interventions taking place to increase the possibility of interviewing EM women and men, who already used legal services in the past. In Cho Moi district of Bac Kan province there is LARCII project supported by CARE International. The project supports to establish and maintain legal clubs for women, especially poor women. Tri Ton is one of two districts in An Giang province where the Legal Aid Center is operating.

Field study employs both qualitative and quantitative methods in collecting and analyzing data. We conducted interviews using questionnaire with 500 local women and men who were randomly selected. These people include EM women, EM men and Kinh women. To validate data and collect qualitative data, the study team also conducted 40 in-depth interviews with EM women, men and Kinh women, staff of DOLISAs, provincial and district Departments of Justice, Legal Aid Centers and their branches, provincial and district Women's Unions, legal aid collaborators, Heads of communes' People Committees, heads of hamlets/villages and some community leaders. We also conducted 21 focus group discussions with total of 100 people from different groups, including EM men and women, Kinh women and village/hamlet reconciliation groups. Details of field study participants are in Table 1.

Methods	Bac Kan	An Giang
<u>Service users</u>		
<i>Questionnaire</i>	253	255
<i>EM women</i>	149	109
<i>EM men</i>	87	93
<i>Kinh women</i>	17	53
<i>In-depth interview</i>	5	10
<i>EM women</i>	1	1
<i>EM men</i>	4	4
<i>Kinh women</i>	0	5
<i>Focus group discussion</i>	11 (55 people)	6 (32 people)
<i>Kinh women</i>	1 (5 people)	1 (4 people)
<i>EM women</i>	6 (35 people)	4 (20 people)
<i>EM men</i>	4 (20 people)	2 (8 people)
<u>Service providers</u>		
<i>In-depth interviews</i>	11	14
<i>Provincial and district DOLISAs</i>	1	2
<i>Legal Aid Centers and branches</i>	2	2
<i>Department of Justice</i>	2	2
<i>Provincial and district Women's Union</i>	1	2
<i>Staff of communes' People's Committees and Justice staff</i>	5	4

<i>Coommunity leaders</i>		2
<i>Focus group discussion</i>	<i>3 (10 people)</i>	<i>1 (3 people)</i>

Table 1: Field study participants

4. Limitations

One major limitation, not only for this study but for other studies on EM in Vietnam, is limited data and information, especially official statistics on EM. Official statistic data do not disaggregate into different EM groups but mention ethnic groups as one group against the other two groups of Vietnamese and Chinese. Furthermore, existing data on EM are not gender-disaggregated either.

Another short-coming of this study is limited availability of documents and studies on provision and usage of legal services as well assessment on access to legal services in Vietnam in general and among ethnic minority groups in particular. Legal education or legal aid for EM people is poorly mentioned in reports on poverty reduction for EM groups. Reports on legal services or legal aid do not satisfactorily mention the access to and usage of legal services by EM. Furthermore, available documents have not looked at outcomes of access to legal services in regards to the achievement of social and gender equality and protection of legitimate rights and interests of ethnic minority people.

As for field study, due to lack of time and resources, the study team could not work in more provinces and regions with larger sample. The research sphere is broad, tackling with two typical issues, namely gender equality in EM groups and access to legal services, but field study was conducted in two highly typical districts of Cho Moi (Bac Kan) and Khmer group in An Giang. Therefore, the study could not ensure the representativeness of diversified EM groups in Vietnam. The assessment on access to and usage of legal services by EM women, hence, relied heavily on secondary data which are limited in terms of EM groups mentioned and geographical areas. Given the fact that the situation of gender equality and access to legal services are different among EM groups and geographical areas, more studies on the access to legal services by EM women and men of different ethnic groups in different regions should be conducted in the future.

The research team could only interview 500 people with questionnaire because of limited resources. As such, number of legal service users in 500 respondents is not big enough to provide statistical data to assess the satisfaction with the services nor how access to legal services have affected the lives of people. Therefore, we do not have enough practical evidences to analyze the effects of accessibility to legal services on gender equality.

Language barriers have prevented the study team to communicate directly with research participants in many cases. In An Giang, almost all questionnaire interviews, in-depth interviews and group discussions are performed via interpreters. Complex knowledge and terminologies related to legal services require interpreters to have adequate knowledge on this issue. However, this requirement was hardly met in the field. The research team have observed difficulties in translating difficult terms for local people. This has certain effects on the quality and quantity of collected information.

PART 1: OVERVIEW OF ETHNIC MINORITY PEOPLE IN VIETNAM AND GENDER EQUALITY SITUATION AMONG ETHNIC MINORITY GROUPS

1. Population distribution and classification of ethnic minorities in Vietnam

Vietnam is a multi-ethnic country with 54 ethnic groups. Kinh (Vietnamese) ethnic group accounts for 87% of national population. Other EM groups make up 13% of the total population, equal to more than 10 million people divided in 53 groups residing mainly in mountainous and highland areas (covering two thirds of national area) from the north to the south of the country. Ethnic groups are diverse in population. Populous groups including Tay, Thai, Muong, Chinese, Khmer, Nung are up to 1 million people each. Other groups like Brau, Roman, O-du have population of only 300 people each. Each EM group has its own rich and unique culture. Religion and beliefs of EM groups are also different. Differences in culture among EM groups also create differences in economic development and their integration into the market economy.

Ethnic minority people in Vietnam reside mainly in northern mountainous region and central highland region, with 75% of their population in these two regions. Two groups, Cham and Khmer, live separately in Mekong delta region. Due to different reasons, ethnic minority groups in Vietnam tend to live intertwiningly with others group in the same area. More than half of districts in the northern mountainous region have 10 or more ethnic groups live next to other groups or intertwiningly with each group in a same village. Furthermore, one ethnic group does not live in the same area but scattered in various areas across the country. This feature is a typical characteristic of ethnic minority people in the North and start to take shape in other areas like Central highland⁷. Scattered distribution of ethnic minorities and cohabitation of various groups in the same area, diversity of culture, language and development level of ethnic minorities in Vietnam pose a challenge to policies implemented in areas with ethnic minorities and policies on ethnic minorities. Policies should take into account not only issues of ethnic minorities but differences among ethnic groups in order not to widen the inequality gaps between the Kinh and the EM or across groups.

2. Poverty and causes of poverty among ethnic minorities in Vietnam

Though Vietnam has recorded impressive achievements in poverty reduction, poverty reduction result and rate is not even across geographic regions and ethnic groups. Poverty is still present mainly in rural areas (6.7% in urban compared to 16.1% in rural areas), in EM groups in comparison with Kinh and Chinese groups. In 2008, the rate of poor households among Kinh and Chinese was at 8.5% only while that of other EM groups was 49.8% on average⁸. Areas with high proportion of EM population such as the North West, Central Highland or Northern Central region have higher poverty rate than other areas.

Region	Poverty rate 2006 (%)	Poverty rate 2008 (%)
Red River Delta	10.1	8.7
North East	22.2	20.1
North West	39.4	35.9
Northern Central	26.6	23.1
Costal Southern Central	17.2	14.7

⁷ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

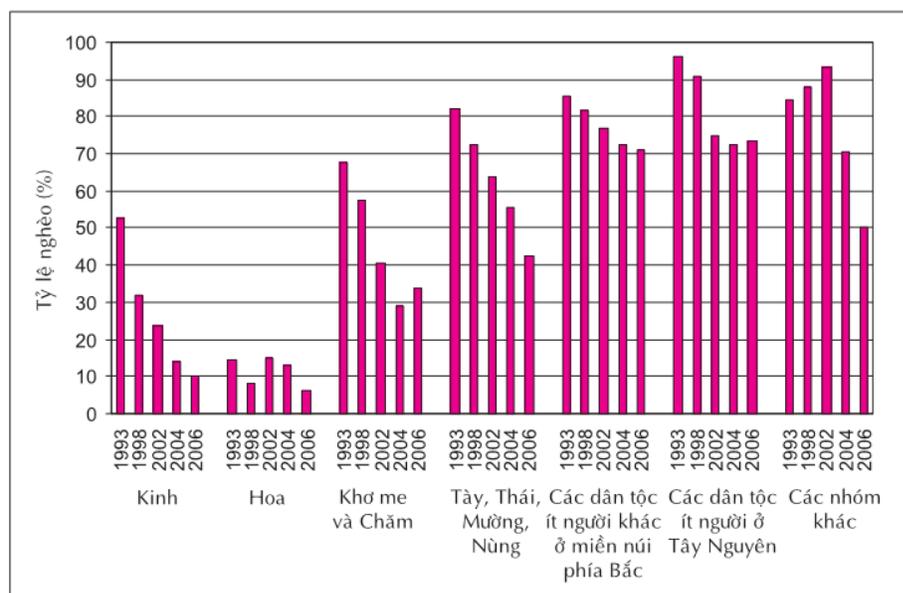
⁸ Poverty Reduction in Vietnam: Gaps behind impressive achievements, CIEM, 2006

Central Highlands	24.0	21.0
South East	4.6	3.7
Mekong Delta	13.0	11.4

Table 2: Poverty rate per region for 2006 – 2008 (GSO base on VHLSS 2006 and 2008)

Current data on poverty simply gather all ethnic minority groups as one to compare and contrast with the Kinh and Chinese majority group. Ethnic minority groups are not homogenous; they are different in terms of their culture, development level and poverty. Even when ethnic minorities live in the same area, impact of poverty on each group is different. In Ha Giang province, poverty rate among Hmong group is as high as 42% while that of Tay group is only 12%. Data of VHLSS 2006 shows that poverty is heavily strikes ethnic minority group in Central Highlands and some groups in the North meanwhile other groups such as Tay and Muong have living condition as equal as to that of Kinh group⁹. Figure 1 illustrates the big difference in poverty rate in various ethnic minorities by periods. Poverty measurement regardless of EM-disaggregated does not reflect the differences among EM groups.

Figure 2: Varied poverty rates among ethnic groups¹⁰



Nguồn: Bob Baulch, T. Hung Pham và Barry Reilly (2007).

With regards to gender, poverty measuring bases on household does not allow to look at poverty from a gender perspective. Even living in the same household, differences in gender and age of members may affect the Asset, Capability and Voice of each member. The Country Social Analysis on Ethnicity and Development in 2009 points out that differences in these

⁹ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

¹⁰ Figure is taken from Vietnam Development Report 2008 – Social Protection, World Bank, 2007

three aspects have strong influences on poverty reduction results. EM women and men, with different gender-disaggregated labour division plus existing gender inequality in their families, have different access to asset, capacity and voice, in which women are usually at more disadvantaged position. Due to this difference, impacts of current poverty reduction policies on ethnic minority men and women are different. Distribution of benefits of poverty reduction programmes does not necessarily mean that all members in the household equally benefit. Therefore, mainstreaming gender into poverty reduction programmes is essential to ensure effective, equal and sustainable poverty reduction. However, current poverty reduction policies still fail to address gender issues. Even Program 135 – Phase II, one of key programs addressing poverty reduction for ethnic minorities, has not yet integrated gender into each step and has no gender-sensitive objectives and indicators.

The following factors are considered key reasons for poverty of EM groups in compared to Kinh group:

Limited access to education and other social services: EM children have lower enrollment and enter school at later age but have higher drop out compared to Kinh and Chinese children. According to the Population and Housing Census in 2009, the rate of Kinh population above 15 years old never been to school is 3.2% compared to 23.3% among other ethnic groups¹¹. Language is the main barrier for ethnic minorities in participating in educational system, which bases mainly on Vietnamese language. Children from ethnic groups, particularly those belonging to groups with no official letters, will face more solid obstacles to attend schools, where Vietnamese is used as official language. A study by Ministry of Education and Training conducted in school year of 2007-2008 shows that pupils of Grade One in 40 provinces do not use Vietnamese comfortably, among those, about 70% of ethnic minority children can not speak or understand Vietnamese as they enter school¹². The absence of nursery and pre-schools for ethnic minority children to get familiar with Vietnamese language is popular. Furthermore, lack of bilingual learning programs makes it more difficult to transfer from EM own language to Vietnamese language in school environment. Teachers are mainly Kinh people and many of them do not speak ethnic minority languages and there are only 8% of teachers across the country are ethnic minority people¹³.

Limited access of ethnic minorities especially ethnic minority women to education leads to poor Vietnamese speaking, reading and writing ability of ethnic minority people. The Population and Housing Census in 2009 indicates the literacy rate of women in the North West and Central Highland is lowest in the country (72.2% and 84.9% respectively) compared to male group in nationwide or women in other regions. In reality, the ability of EM especially EM women to communicate freely in Vietnamese is believed even lower. Out of 3,000 households interviewed in 2008 rural survey, the rate of households using Vietnamese in the Northern Mountainous region, including Lao Cai, Lai Chau and Dien Bien is really low, ranging from 8.3% in Dien Bien to 38.3% in Lao Cai. Limited ability in speaking Vietnamese plus hardship in geographic conditions have prevented the access to other social services of EM people. Language factor, therefore, should be taken into account while design or develop communication, consultation or supporting programmes for EM people. ADB report on gender situation in Vietnam has identified the backward access to health, education and economic opportunities by EM women and girls compared to EM men and Kinh and Chinese

¹¹ Population and Housing Census, General Statistic Office, 2009

¹² Cited from “*What education for the ethnic minorities of Vietnam: Pre-schooling as a pattern of social integration*”, Nguyen Van Phu, Aide et Action

¹³ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

women as first point to be addressed in order to keep efforts in promoting gender equality be on track and effective¹⁴.

Less physical capital compared to Kinh people: Ethnic minorities in Vietnam earn their living mainly from agriculture and forestry, hence land has significant meaning in their life. An emerging problem faced by ethnic minorities is the increase of land shortage. Land policies have faded away community ownership of land in ethnic minority community. Instead, land is allotted to households, individuals or other organizations. Land allocation breaks traditional dynamics in ethnic minority communities. Land becomes a tradable asset and is no longer under community management and a non-tradable property. Economic difficulties while land trading becomes legal have created favorable condition for land trading, especially among ethnic minority communities in Central Highlands. According to Country Social Analysis Report by the World Bank in 2009, about 5% of ethnic minority people have once sold their land. Not to mention breaking down traditional relations in land management, new land management forms have created conflicts among ethnic minorities¹⁵. Provision of information and guidance to people in land trading and resolution of land conflicts has become a strong legal need for ethnic minorities.

Geographic difficulties, lower mobility and limited access to market

Ethnic minority people normally reside in geographically disadvantaged areas with lower mobility and limited access to market. Improvement of infrastructure such as roads, electricity and schools in poverty reduction programs has helped increase the number of households with access to social services. There are, however, areas where EMs live without roads and electricity. This exerts particular impacts on women. Limited ability in speaking Vietnamese, difficulties in mobility plus gender stereotypes have prevent many EM women from getting out of their villages to access services. In this condition, in order to improve access to social services for ethnic minority women, it is essential not only to improve road systems but also to bring the services closer to them.

The ways of planning, implementing, monitoring and evaluating poverty reduction policies and programmes are not totally suitable with EM people:

the results and contributions of poverty reduction programmes in the improvement of living conditions of the poor in general and the EM in particular are undeniable. However, the implementation of these programmes is still not totally relevant with EM people. People's participation, especially that of EM people, is still limited due to such reasons as lack of information, limited capacity of officials and limited ability in speaking Vietnamese of the people. This leads to activities of the projects are not fully met the needs of people, limited accountability in the project's objectives and budget allocation¹⁶. Mai Thanh Son et al in one study recommend policies/programs targeting ethnic minorities to be developed on the basis of respecting their culture diversity and paying attention to indigenous knowledge of ethnic minorities; enhancing grassroots democracy, voice and rights of ethnic minorities; improving adaptability to integration and development for ethnic minority groups¹⁷.

Despite small number of studies, ethnic stigma and discrimination is initially mentioned as a factor that diminishes efficacy of poverty reduction programs for ethnic minorities. Though Vietnam laws recognize equality across ethnic groups, social stigma against ethnic minorities

¹⁴ Report on Gender situation in Vietnam - ADB, 2006

¹⁵ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

¹⁶ Look back the past, encounter challenges – Mid-term evaluation on the National Programme for Poverty Reduction and Programme 135 – Phase II 2006-2008, MOLISA, CEMA and UN, 2009

¹⁷ Initial review of development and search for mechanisms to enhance voice of ethnic minorities in decision making process, Mai Thanh Son and Associates, Ethnic Minorities Working Group, 2007

is relatively common among various social groups with stereotypes that ethnic minorities are backward and lazy, etc. Stemming from this concept, poverty reduction programs for EM, in some cases, focus on altering their traditional livelihoods instead of basing on the experiences and indigenous knowledge of EM people. For example, agricultural extension programs tend to teach ethnic minorities to cultivate water rice, which is not traditional way to most of ethnic minorities. On the one hand, this leads to low effectiveness of such programs. On the other hand, more seriously, this strengthens dependency of ethnic minorities and making them less self-confident and have smaller voices and power¹⁸.

3. Ethnic minority women and gender equality situation among ethnic minorities

Gender relationship, the extent of participation in socio-economic activities, labor division between women and men, accessibility of each gender to resources and benefits, perspectives on norms and standards for men and women, all stem from culture of each EM group. Therefore, gender relationship is diversified and varied among groups. Despite differences, it is obvious that inequality exists between men and women of one group or between women of one group to women of another. The differences in access to property, capacity and voice of ethnic minority women and men, compounded by linguistic and cultural barriers stand as the underlying cause of gender inequalities currently found in ethnic minorities¹⁹. Gender inequality in all aspects as stated in Law on Gender Equality as follows:

a. Gender equality of ethnic minority people in education

As mentioned earlier, current education situation of ethnic minority girls is characterized by high drop-out, late school attendance, school enrolment of ethnic girls lower than that of boys and much lower than Kinh/Chinese girls. Dropping out rate among EMs is twice as high as in Kinh group. Reasons for this situation are listed as poor pre-school education system, which is not not able to prepare EM children with adequate language skills to follow formal education²⁰. EM girls are even more vulnerable than EM boys due to gender perception about education for girls. Premature marriage is one of the reasons making Hmong girls drop out of school²¹. As many as 30-40% Co-Tu and Hre women get married before reaching 17 years old, compared to 3.5% among Kinh and 2.4% among Chinese²². According to World Bank report, Thai, Hmong and Dao groups have significantly low rate of girls going to school compare to boys. Only 31.5% of Hmong girls going to school compared to 93.4% among Kinh. In Dac Nong, Hmong school pupils are boys only²³. Girls account for 70% of total dropping out. In a financially difficult situation, even though there are tuition fee reduction policies, other costs for education are also burden for many EM families, and girls are likely to stop schooling first.

This has led to high and uneven rate of illiteracy among EMs groups, reflecting in Table 3. According to National Housing and Population Census in 2009, the rate of women above 5 years old never attended school in provinces with more EMs is always higher than that among men and that in major cities such as Hanoi and Ho Chi Minh city²⁴.

[and Development in Vietnam, World Bank, 2009](#)

¹⁹ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

²⁰ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

²¹ Oxfam Hong Kong. 2010. Evaluation of VTM-90007-01-0910A. Livelihood program between OHK and OGB in Đắk Glong district, Đắk Nông province

²² Current situation of female EM staff in management, Ethnography Journal, 2: 1994, Vũ Đình Lợi, 1994

²³ Oxfam Hong Kong. 2010. Evaluation of VTM-90007-01-0910A. Livelihood program between OHK and OGB in Đắk Glong district, Đắk Nông province

²⁴ Population and Housing Census 2009, GSO

	Kinh	Tay	Thai	Muong	Khmer	Hmong	Other
Proportion of literate population above 10 years old (%)	96,2	94,9	81,9	94,5	75,6	46,0	77,6
Proportion of literate male above 10 years old (%)	97,6	96,6	90,9	96,3	80,9	62,5	84,5
Proportion of literate female above 10 years old (%)	94,9	93,2	73,0	92,6	70,7	29,5	70,6
Proportion of population above 15 years old never attended school (%)	3,2	4,3	17,8	4,2	23,9	61,4	23,3

Table 3: Rate of population above 10 years old who are literate and rate of population never attended school²⁵

b. Gender quality of ethnic minority people in health

The Population and Housing Census in 2009 reveals some differences in health status of EM women compared to Kinh women. The average life span of Kinh women is higher than that of other EM groups except for Tay, Thai, Muong, Khmer and Hmong at 76.7 years old compared to 70.9 years old and relatively higher than that of Hmong women of 67.5 years old. Related to reproductive health, EM women tend to have more children than their Kinh counterparts. However, the infant death rate among EM is much higher than that among Kinh (32% compared to 12.9% in 2009). Specifically, this rate is as high as 45.5% among Hmong (Table 5).

Birth and death rate	Kinh	Tay	Thai	Muong	Khmer	Hmong	Other EM groups
Crude birth rate over the past 12 months (child/woman)	2,0	2,0	2,3	2,0	2,0	4,9	2,7
Total fertility rate over the past 12 months (number of alive births/1000 people)	16,9	17,5	22,1	18,4	18,8	37,1	21,5
Infant death rate (below 1 year old) over the past 12 months (death among infant under 1 year old/1000 alive births)	12,9	23,4	27,1	22,2	18,0	45,5	32,0

Table 4: Birth rate and death rate per ethnicity²⁶

Findings from a study on provision and utilization of reproductive health services in 11 provinces supported by UNFPA indicate that in Ha Giang province (a northern mountainous province) a high percentage of women give birth at home with the rate of 46.9% in 2005 and only 58,1% women in that province gave birth with the help of trained birth attendants. Besides, Ha Giang also has the lowest rate of pregnant women going for prenatal care more than 3 times during their pregnancy compared to other study areas of UNFPA. The rate is only 45.2% in 2005 compared to 97.5% of Thai Binh – a northern lowland province and 94.3% of Phu Tho - a northern midland province²⁷.

Table 5: Percentage of people telling about the places for last delivery and birth attendants

Province	Place of birth delivery	Birth attendants
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²⁵ Population and Housing Census 2009, GSO

²⁶ Population and Housing Census 2009, GSO

²⁷ End-Line Survey Report: Provision and Utilization of Reproductive Health Care Services in 11 UNFPA-Supported Provinces in the 6th Country Programme. UNFPA 2006

	At home		At health facilities		Health workers		Others	
	2003	2005	2003	2005	2003	2005	2003	2005
Phu Tho	11	4.1	89	95.9	91.7	98.8	8.3	1.2
Ha Giang	68	46.9	32	53.1	42.5	58.1	57.5	41.9
Yen Bai	22.6	12.4	77.4	87.6	89.8	92.4	10.2	7.6
Hoa Binh	14.3	3.1	85.7	96.9	93.1	97.4	6.9	2.6
Thai Binh	0	0	100	100	100	100	0	0

Source: End-Line Survey Report: Provision and Utilization of Reproductive Health Care Services in 11 UNFPA-Supported Provinces in the 6th Country Programme. UNFPA 2006.

HIV infection has been increasing in Northern mountainous provinces which are populously resided by ethnic minorities. As stated in the report by Vietnam Administration for HIV/AIDS Control (VAAC) in 2009, 7 out of 10 provinces with highest prevalence per 100,000 people are in Northern mountainous region with big population of ethnic minorities, including Dien Bien, Thai Nguyen, Son La, Yen Bai, Bac Kan, Cao Bang and Quang Ninh. The top of 599 infected people/100,000 people is recorded in Dien Bien. This prevalence is parallel with increasing vulnerability to HIV infection of EM women. Though most people infected with HIV in these provinces are men and the main transmission mode is through drug injection, their partners normally have limited knowledge and understanding on safe sex, limited access to sexual health services, little confidence and few skills as well as facing culture barriers to negotiate for safe sex.

In related to benefiting from health programs, the Country Assessment report also indicates that while other group do benefit from the program of providing free health insurance, EM women do not. They do not usually go to and have health check at state health centers due to their cultural-related hesitance and unable to speak Vietnamese.²⁸

c. Gender equality of ethnic minority people in labor and employment

Ethnic minorities have less economic development opportunities, especially women. 87% of ethnic minority women living in rural areas involve in agricultural production and they have fewer chances to involve in paid employment. Even with paid employment, EM women are paid half of what Kinh and Chinese women receive for the same employment (15% versus 31%)²⁹. Limited access to education stands as the top cause leading to limited opportunities to get off-farm jobs for ethnic minority women.

Population and Housing Census reveals the differences between EM women and men, in almost all ethnic groups, the proportion of employed women is less than 50% of employed labors (Kinh group is 46.4%, Tay is 48.3%, Thai is 49.1%, Muong is 48.4%, Khmer is 50% and other EM group is 47%)³⁰.

d. Gender quality of ethnic minority people in household, land and property ownership

Labor division in households in many EM communities presents obvious gender norms. Men's works often are considered as "heavy" and require "technical skills" and connection with external, while that of women is considered "lighter" and not important³¹. Spatial

²⁸ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

²⁹ Report on Gender Situation Review in Vietnam, Asia Development Bank, 2006

³⁰ Population and Housing Census, 2009

³¹ Poverty Monitoring report using participatory methods in some rural communities in Vietnam, Hoàng Xuân Thành et al., 2010 and Report on field study in Tha Giang Chai village, Ta Ngao commune and Pa Bon village, Chan Nua commune in Sin Ho district, Lai Chau province – Initially sum up development methods and mechanism to enhance voices of EM communities in decision making process by Khuc Thi Thanh Van

division of labor division allows men to be out to do trading activities and communicating with outsiders. Social Country Assessment found that unlike Kinh, EM men go to market more often than women, even though their going to market does not necessarily involve transactions. A research by Rambo et al on Kinh, Tay, Thai and H'mong group in the northern mountainous areas show that the role of women in most society in mountainous areas [in Vietnam] is limited within their household, whether their parents' house before marriage or their husband's house after marriage, taking care of family members. Social prestige of the women bases firstly on the success they gain with this role, particularly on the extent of care they take for their family³². Matriarchal groups in the Central Highland show that even Ede, Mngong and J'rai women have more decisive voice in their family, gender-disaggregated labour division within these groups has no big differences to that of patriarchy groups. Ede women are responsible for cooking, doing housework and taking care of family members while men are in charge of field work. Such labor division leads to the fact that women have to work more but their work is usually not recognized. Van Kieu women in Dakrong, Quang Tri work from 10 to 12 hours on average in comparison with 4-5 hours by men³³. Other study by Rambo in the Northern mountainous areas also figures out that working hour of women is often longer than that of men. Research on Kho Mu, Black Thai and Tay people in 2004 by Isabel Fischer and Tina Beuchelt in Son La and Bac Kan also shows that while women are cooking, men rest and while women work about 14 hours/day, men only work about 8-10 hours/day³⁴.

Encountering the same threat of land transaction and land lost due to effects of land policies as mentioned earlier like EM men, EM women have to further suffer from strict regulations on property possession of girls and women in traditional society. In patriarchal communities in the Northern mountainous areas, all assets are under men's possession, management and decision³⁵. Traditional regulations on men's role in worshipping parents and ancestors in patriarchal society are main reasons for unfairness to women. In patriarchal groups like H'mong, Dao, Bru-Van Kieu, property in a household belongs to the household head – mainly men. This explains the preference of sons. One research in Sa Pa shows that H'mong, Dao and Giay people prefer having sons since only sons have the right to inherit property and will maintain property for the family. If the family has no sons, their property will be transferred to children of their siblings. Therefore, if they have no sons, they might adopt others' sons or adopt their sons-in-law as their sons³⁶. H'mong women live dependently on the land of their husband's houses and are considered as subsidiary labor in the family even they have to work harder in longer hours compared to men (Summary and Evaluation of the Project VTM-90007-01-0910A of Oxfam Hongkong). For matriarchal society, land and inheritance are transferred to daughters in the family; women have higher position like in Ede or Mngong community in the Central Highland. However, their culture norms are challenged by policies

and Nguyen Trung Dung in 2008 for Oxfam Hong Kong show that men's work includes clearing the field, ploughing, building house, husbandry and trading while that of women includes planting, cooking, collecting wood, taking care of the children and family members.

³² Rambo, Terry, Trần Đức Viên, Phạm Tiến Dũng, Nguyễn Thanh Lâm và Nguyễn Thị Bích Yến, *Northern Mountainous Areas: Some Environment and Socio-Economic Issues, Chapter 6: Society Structure*, National Politics Publishing House, East-West Center, 2001

³³ Lê, Kim Lan, Gender-disaggregated labour division in production of Bru Van Kieu in D'krong district, Quang Tri. *Science on Women*, 2005

³⁴ Fischer, I và Beuchelt, T., *Make natural resources last by changing women's access to assets – experiences from northern Vietnam*. Presentation at International Conference on Agriculture research for development, Stuttgart-Hohenheim, Germany, 10/2005 downloaded from: <http://www.tropentag.de/2005/abstracts/full/51.pdf>

³⁵ Ditto

³⁶ Nguyễn Thị Thanh Tâm, Some characteristics of Gender Equality among EM groups (surveyed in some areas in Sa Pa). Magazine of Gender and Family Study No. 2. 2006. Family and Gender Institute, 2006

or habits and attitudes of local officials (mainly Kinh people belonging to patriarchal society) who are not familiar with acknowledging the role as household head and land possession by women³⁷. Ownership of assets is strongly linked to the status and role in families. Normally, those who have assets are the ones who make decisions, have access to capital and technical training courses. This has been pointed out in reports by Hoang Ba Thinh's, or report by Mai Thanh Son et al or reports by Le Thi Ly that men take more loans or go to training extension workshops more than women, especially after the policy of allocating forest to the people.

The new policy to include both husband's and wife's names in land use certificate has been implemented but results are still minimal. Report on Vietnam Rural Economic Study – result of rural household survey in 2008 show that in 12 provinces, number of land use right certificates registered with names of both wife and husband (2006-2008) is 32% in Lai Chau, 27% in Lao Cai and 17% in Dak Lak. These are three provinces with the most household heads as ethnic minority people joining the survey with respective rate of 75.5% in Lao Cai, 85.9% in Lai Chau and 36.4% in Dak Lak³⁸ (in total 3000 households covered in the study). For agricultural land, while 36% of land use right certificate held by Kinh/Chinese people register names of both wife and husband, this figure is correspondingly 21% for ethnic minorities. Rate of residential land use right certificate without names of both wife and husband in ethnic minorities is 77%. However, some reports note that even when having their names on land use certificates, many EM women are not able to take this opportunity due to their dependence on men and their lack of confidence³⁹.

Domestic violence situation is stated at alarming level across the country. According to a study conducted by Vietnam Women's Union in Thai Binh, Lang Son and Tien Giang, 40% of surveyed women say they once get beaten by their husband (Vietnam Women's Union, 2006, cited from Vietnam News, March 13th, 2006 Vietnam Women's Union prevents domestic violence)⁴⁰. The result of Family survey in 2008 also reflects the fact that 21.2% of families in Vietnam used to experience at least one form of domestic violence such as physical offense, verbal offense or coercive sex. The report also reveals that drunkenness, economic pressure, dissents in doing business are major causes of domestic violence. However, there are still no comprehensive studies on prevalence and forms of domestic violence in ethnic minorities though it is believed that high prevalence of domestic violence here stem from poverty and gender bias.

e. Other fields

Statistics in culture, sports, information, and science – technology have not been properly done and if any, not disaggregated by gender, not to mention by ethnicity. As such, it is difficult to provide a reliable evaluation on current gender equality situation of ethnic minorities in these fields⁴¹. This is a gap to provide a full-scaled assessment on gender equality situation in ethnic minorities based on eight fields stated in Law on Gender Equality. Nevertheless, this gap of information and data can be filled in coming time when collection of statistical data by gender and ethnicity is compulsory as guided by Decision No.43/2010/QĐ-TTg dated June 02, 2010 on promulgation of national targets.

f. EM women as agents of development and shaping gender perspective in EM communities

³⁷ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009

³⁸ Country Social Analysis – Ethnicity and Development in Vietnam, World Bank, 2009.

³⁹ Project documents of Oxfam Hong Kong and report of CASI/CARE.

⁴⁰ Report on Gender Situation Review in Vietnam, Asia Development Bank, 2006

⁴¹ Government Report on implementation of national goals on gender equality in 2009

Besides analysis on gender inequality between men and women in one ethnic group or between one EM group and Kinh or some other groups, some studies have demonstrated that EM women has internal force and potentials for self-development and the development of their community and locality. A study by Le Kim Lan on Bru - Van Kieu people shows that women's contribution to their family income is higher than that of men, correlatively with the level of contribution in terms of types of work and working time spent by men and women. Bru – Van Kieu women are responsible for all steps from selecting the seeds/breeds, caring to harvesting in cultivation and husbandry⁴². A research by Duong Bich Hanh on H'mong young women in Sapa also shows that they have actively participated in tourism market in Sapa, contributing to their family economy and even become independent in terms of economic, which never happened with H'mong women previously. H'mong women in Sapa have become key contributors to the economy. These young women have challenged traditional gender roles in their communities as well as changed the perceptions of local people and tourists on the image of EM women. Such changes in gender roles have led to other changes in the society such as division in handicraft making process, or the development of hired labors to cover farming or housework for women participating in tourism market⁴³. Therefore, efforts towards advancement of EM women should not consider them as victims needed support but respect and create favorable conditions to mobilize their indigenous knowledge and skills.

EM groups in Vietnam are diversified in terms of culture, custom, socio-economic conditions and gender relationship. In each community, the division of responsibilities between women and men in the family and society, norms and expectations towards women and men, etc are rooted from culture and parts of culture. To ensure gender equality and fairness, it is vital to understand gender relationship and traditional gender roles in each community and allow the community to define what gender equality means to them and how to achieve gender equality rather than enforce the understanding of gender relationship of the majority Kinh upon other EM groups. Policies and programs promoting gender equality in EM groups, hence, should take the diversification among EM groups into account.

4. Society management and customary laws of ethnic minorities

Albeit diversification and dissimilarity, EM groups in Vietnam share a common character of having a customary system to adjust relations in each community. The village elder who are respective and know the customary well usually play the role as community leaders and decision-makers in the socio-economic life of the village. However, such role of the elder is not applicable in all communities.

Customary laws reflect a system of values and beliefs of each community and regulate activities in different aspects of life, including formalities of marriage, funeral, and worship and solutions for contradictions and conflicts, etc. According to Legal Dictionary, *customary laws are customs, practices of a community, which are established spontaneously, accepted and observed by community members in their interactions with each other. Customary laws present comprehensive and in rich manner traditional social relations. They are not much changed and still play an important role in social life, even in developed countries.* Professor, Dr. Ngo Duc Thinh (Director of Institute for Folklore Culture Study), after years of studying customary laws, provides a brief description of customary laws as follows: “*Customary law is*

⁴² Lê, Kim Lan, Gender-disaggregated labour division in production of Bru Van Kieu in D'krong district, Quang Tri. *Science on Women*, 2005.

⁴³ The Hmong Girls of Sa Pa: Local Places, Global Trajectories, Hybrid Identities, Duong Bich Hanh, 2006

*a form of indigenous knowledge which is historically established through experience of interacting with environment and society, presented in various forms and handed down from generations to generations by memories and social and production practices. It points to guiding social relations, human and nature relations. Norms are accepted and practiced by the entire community, therefore creating unity and balance in each community*⁴⁴. Customary laws base on the voluntary of each member in the community and reflect unique cultural identities of each ethnic group.

Customary laws, in certain extent, play a valuable and important role as law on adjusting social relations, maintaining and stabilizing society order for the community⁴⁵. In ethnic minority communities, where community values are treasured, the role of customary laws in social life is really high. Customary have normative and coercive nature but based on voluntary and prevention rather than punishment; hence, they can supplement to laws, particularly when laws and regulations are complicated and sometimes unfamiliar with ethnic minorities. The application of customary laws can, to a certain extent, satisfy the requirement of respecting indigenous cultural diversity and knowledge of each ethnic group. In reality, customary laws are still widely applicable in the life of EM in Vietnam. A study conducted with 90 E De women in Central Highland shows that 55 out of 90 women understand very well customary laws, especially those related to marriage and families. Even in communes where the E De and the Kinh live intertwiningly, most of conflicts and inheritance disputes are solved with reference to customary laws. Most women in this study think that the E De should use customary laws to regulate events in life⁴⁶.

Another notable difference is that customary laws are popular within a particular ethnic group and changeable accordingly to contexts. Therefore, the co-existing of customary laws alongside with official law, with both aiming to social justice and order raises the question of acknowledging the role of customary laws in the life of EM and taking customary laws into account while developing policies or considering the possibility of using customary in managing the community officially.

Nevertheless, customary laws are not always consistent with laws and ensure equality. Some ethnic minority groups such as Cham or Raglai in Khanh Hoa province employ trial practices not based on legal requirements. Whenever there are contradictions or conflicts, after unsuccessful mediation, some tests may be used to decide the offender. They might burn a piece of lead to see if the course the lead liquid runs to whom, s/he is the offender. Or two persons having conflict immerse their hands to boiling water, whose hands are burnt is decided offender (for Raglai ethnic groups). One other test is diving, who emerges first is offender. Some offence might be considered serious according to customary laws and will be punished such as having children before marriage but not an offence in official law. Some studies have indicated that customary laws of all ethnic groups have some regulations on gender relations at home and in the society. Some customary laws are more favorable to men. That of Thai Muong Tac in Son La province, for instance, stipulates that when a girl wants to end a relationship with her current boyfriend to start a new one, she has to compensate him for his honor, find him another girlfriend, and pay fine to his

⁴⁴ Customary law and law enforcement, Nguyễn Chí Dũng, article on Legislative Study Journal, No.52, May 2005 downloaded from http://www.nclp.org.vn/nha_nuoc_va_phap_luat/luat-tuc-voi-thi-hanh-phap-luat-1/#refl dated August 5th, 2010

⁴⁵ Values of customary laws under legitimate perspective, Dr. Nguyễn Thị Việt Hương, Memorandum of the 3rd Workshop on Vietnam study, Vietnam – Integration and Development, 2008

⁴⁶ Thu Nhung Mlô, , *Customary Laws and E de women in the past and at present*, a presentation in Customary laws and rural development in Vietnam, Institute for Folklore Culture studies, National Political Publishing House, 2000

family if the two families already know about their relationship. If the girl and her family do not pay fine, then they will be scorned (*Dr. Hoang Luong, Customs in marriage and families of Thai people in Muong Tac, Phu Yen, Son La*). In contrast, customary laws of E de ethnic group in Central Highlands consider women's voice of great importance. In conflicts, especially those without clear evidence and witness as when women are abandoned or in property division, all said by women are considered truth (*Thu Nhung Mlô, Customary Laws and E de women in the past and at present*).

Currently there have been no studies related to the role of customary laws and their effects on responsibilities and rights of ethnic minority women, their differences from laws and whether maintaining such customary laws in daily behaviors may lead to legal consequences concerning rights and obligations of ethnic minorities, and to what extent. Such studies will be significant as customary laws are still widely applicable in the life of EM in Vietnam.

PART 2: LITERATURE REVIEW ON THE ACCESS TO LEGAL SERVICES BY ETHNIC MINORITY WOMEN

1. Types of legal services in Vietnam

Legal services refer to activities that provide citizens with legal information or guidance and support so that they can comply the laws and have their legitimate rights protected.

View from fee perspective, legal services in Vietnam are classified into two types:

- *Free services* including legal aid services provided to some social groups covering also ethnic minorities residing in disadvantaged regions. This service is conventionally provided by State Legal Aid Center (at provincial level) or branches of legal aid center (at district level) or by mass, political-social organizations free of charge to their members. In addition, there are a number of law firms and solicitors providing free or low-fee consulting services to clients (following specific corporate policies). There are also legal aid clubs, legal aid activities of mass organizations (Women's Union, Farmer's Union, Youth Union, War Veterans' Union, etc) being highly active in providing free legal aid services to various social groups (women, ethnic minorities, the poor, etc).

Paid services including services provided by law firms, solicitors, lawyer office, legal consulting center, etc.

Currently used forms of legal services include (a) legal consulting, (b) involving in legal procedure, (c) off-procedural representation, and (d) other legal services. These four forms of services are those permitted to be practiced and provided in accordance with Law on Lawyer. Registered and certified legal counselors are allowed to provide legal consultation.

View under the subjects providing legal services, there are forms as follows:

a. *Lawyer (practice as individual)*

A lawyer is the eligible person to practice in accordance with Law on Lawyers, practice legal services as required by individuals, agencies or organizations (client). Conditions to do practice is *Vietnamese citizen, being loyal to the country, observing constitution and laws, having good virtue, holding bachelor degree in law, having been trained in practice of law, having passed apprenticeship in lawyer practice, and having good health to practice. To do practice, a person, apart from earlier conditions, must obtain a certificate of lawyer practice and be a member of a Bar Association*⁴⁷.

Updated information from Vietnam Lawyer Association indicates that currently Vietnam has 5,076 lawyers, of them 1,516 are female and 3,560 are male. In total number, there are 20 from ethnic minorities and 16 with unidentified ethnicity origin⁴⁸. Almost all provinces have their own bar association but Hanoi and Ho Chi Minh, two big cities, are home to the most two powerful barristers' associations. Provinces not yet establishing bar association are disadvantaged ones with high ethnic minorities such as Lai Chau, Dien Bien, etc.

⁴⁷ Law on Lawyers, Article 2,3,4, 10 and 11.

⁴⁸ Retrieved from http://luatsuvietnam.org.vn/index.php?option=com_lawyer&render=n5684§ion=list downloaded on 5/8/2010

b. *Organizations practicing lawyers' work including law firms, law branch and lawyer practice office*

At present, there are 1,718 law firms, law branches and lawyer offices nationwide⁴⁹, mainly concentrated in big cities. While Hanoi and Ho Chi Minh city are home to 430 and 755 law firms and lawyer offices respectively, there is no law firm or lawyer office in northern mountainous province with ethnic minorities such as Lai Chau or Dien Bien.

c. State legal aid centers and center branches

State legal aid center is the non-productive agency under Department of Justice. It has legal status, stamp, head office and bank account. Staffing and operating cost of the center is decided by people's committee of province or centrally-run cities. According to statistics of National Legal Aid Agency, by the end of 2009, there are 117 branches, 365 legal aid groups and 4005 legal aid clubs, 63 legal aid centers with 746 officials, in which 206 officials are appointed by provincial people's committees as legal paralegals nationwide. Across the country, there are also 150 lawyer offices and 60/85 law consulting centers having registered to provide legal aid.

Regarding result of legal aid activity, by November 30th, 2009, legal aid centers nationwide have provided legal aid for 101,913 cases, increasing 9.4% compared to 2008; including 87,447 case of consulting, 1,005 case of representation, 4,484 case of defense, 1,190 case of off-procedure representation, 823 cases of other forms. Number of persons getting legal aid in 2009 is 92,967 (including 25,962 poor persons, 12,904 policy-targeted persons, 25,853 ethnic minority persons, 4,495 children, 1,812 old persons; 506 disabled persons, and 21,435 others) in fields of criminal, civil, marital, administrative, appeal, accusation, land, housing laws, policies ...⁵⁰. EM people living in disadvantaged areas are among groups receiving state legal aid.

In addition to procedural operations, legal aid can be exercised via such forms as *mobile legal aid* which is growingly popular especially in rural and remote areas. Just like legal aid clubs, mobile legal aid combines legal consulting and dissemination. One useful form of mobile aid involves legal talks on subjects of local people's interest. Through such talks, people understand better about their rights, recognize violations of their rights and demand legal aid.

Legal aid club: Legal aid clubs at communal level are “community-based organizations providing legal aid for communal people through disseminating legal knowledge, legal consultation and resolving conflicts. These are voluntary organizations, consisting of knowledgeable and respected people in the commune. Legal Aid Center originates the establishment of the clubs, then Director of the Department of Justice and Chairperson of the Commune People's Committee recognize the clubs officially” (Ralf Otto, 2006). According to statistics by National Legal Aid Agency, there are now 4005 legal aid clubs across the country. Program 135, Phase II established 1570 legal aid clubs at communes funded by the program and Vietnam Legal Aid Fund.

⁴⁹ Data taken from the website of Vietnam Lawyer Association, August 5th, 2010
<http://luatsvietnam.org.vn/index.php?option=com LAWCOM&render=n5684§ion=list&local=1&pi=1>

⁵⁰ 2009: national legal aid system getting further reinforcement,
http://www.cpv.org.vn/cpv/Modules/News/NewsDetail.aspx?co_id=30089&cn_id=380132#KbXsWKTdmmHf
downloaded August 5th, 2010

d. *Legal consulting centers*

Legal consulting centers belong to socio-political organizations, socio-political and professional organizations, socio-professional organizations, training and legal research institutions and since 2003, civil society organizations providing legal consultation services to people. Legal consulting centers operate in compliance with the Degree No. 77/2008/ND-CP dated 16/7/2998. A survey conducted by UNDP in 26 provinces reveals that legal consulting operations by civil social organizations are generally effective⁵¹.

Among many organizations entitled to set up legal consulting centers, socio-political organizations such as Women's Union, Farmers' Union, Youth Union, War Veteran Union, and socio-political professional organization such as Lawyers' Union are those having personnel and organization network to grass-root levels or adopting more equal approach to the poor and ethnic minority people. Among these organizations, legal consultation by Women's Union has more potential to reach and provide services to EM women. By the end of 2009, VWU has a network of 35 legal consulting centers and legal aid centers operating nationwide⁵². However, currently there are no concrete data on the results of legal consultation in general and legal aid in particular of Vietnam Women's Union and other organizations.

e. *Grassroots mediation groups*

Mediation groups or other relevant groups of people at commune or ward provide mediation accordingly to the Ordinance on conciliation operation at grass-root level. Mediation refers to activities to resolve disputes once arising. This activity is somehow different in nature from foregoing legal services which are intended to prevent disputes from arising and support dispute resolution in court. Ordinance on conciliation operation at grass-root level coming into force in January 5th, 1999 stipulates that "*grass-root conciliation operations refer to guiding, helping, persuading concerned parties to reach an agreement, voluntarily handle the minor legal breaches and disputes among them to maintain unity in the public, prevent and restrict law violations, ensure social order and safety in the public*". Article 5 of Ordinance on Conciliation Organization and Operation provides that "Vietnam fatherland front committee, member organizations under Vietnam Fatherland Front shall be responsible for closely coordinating with state agencies in strengthening conciliation teams and other public conciliation groups to support local conciliation operations".

One strength of mediation group is conciliation workers at grass-root level who live closely with the public, understand well local customs and practices, good for conciliation work⁵³. With respect to efficacy of conciliation work, according to Ministry of Justice, between 1999 and 2008, there were over 3.8 million cases brought to conciliation with success rate surmounting 80%⁵⁴.

f. *Customary law*

Customary law is not a legal service but it is used to regulate social relationship in some EM communities, especially in the Central Highland. With regards to the implementation of law

⁵¹ Cited from Vietnam Development Report 2010 – Modern Institutions

⁵² Information downloaded from the website of Vietnam Women's Union at:

<http://www.hoiphpn.org.vn/newsdetail.asp?newsid=13109&CatID=144> on 1/11/2010

⁵³ Relationship between grass-root conciliation and legal aid, National Legal Aid Agency, Ministry of Justice.

⁵⁴ Cited from Vietnam Development Report 2010 – Modern Institutions

on forest protection, customary law has been used alongside with state law to develop regulations on forest protection of villages. Ministry of Justice, Ministry of Culture and Information and Vietnam Central Fatherland Front issued the inter-ministerial Circular No. 03/2000/TTLT/BTP-BVHTT-UBTUMTTQVN dated 31/03/2000 to guide the development of these regulations. Regulations on forest protection are assessed to have contribution to the adjustment of social relations related to forest protection occurring in community, assisting official legal system and covering the gaps in legal system in adjusting forest protection activities. For the communities, these regulations contribute to recovering and promoting cultural prides of EM communities. Particularly, they have contributed to resolving contradictions and conflicts occurring in the communities and play a significant role in protecting forests in EM communities⁵⁵.

In regards to gender equality and anti-domestic violence, there have not yet cases where customary laws were used during the implementation of Law on Gender Equality. However, the usage of customary laws in other aspects of life suggests the possibility of its application in promoting gender equality and the prevention of domestic violence. In order to do so, it is necessary to have study on the stipulations of customary laws on role, responsibility and right of ethnic minority women and whether maintenance of such customary laws in daily behaviors may lead to legal consequences concerning rights and obligations of ethnic minorities, and to what extent.

2. Utilization of legal services by ethnic minority women

Currently, there are no materials mentioning EM people's uses of paid legal services. EM people seem not to be clients of these services and there are assumptions that they can not afford paid legal services. This assumption needs to be verified in future studies. Utilization of legal services by EM people has currently been mentioned in reports on legal aid only.

However, there have been numerous evidences to conclude that the utilization of legal services by ethnic minority was more limited and far less in comparison with Kinh people. A survey on access to justice conducted by UNDP in 2003 with 1,000 people shows that 84% of surveyed people in mountainous areas do not know legal aid centers while that in rural and urban areas are 52% and 6%, respectively. The number of surveyed people have been to court to solve their cases are 9%, 8% and 1% for people living in urban, rural and mountainous areas, respectively⁵⁶. However, this survey only focuses on people living in mountainous areas but ethnic minority. Moreover, there is no gender-disaggregated data.

According to data of the Bureau of Legal aid, from 1997 to 2008, the Bureau of Legal aid and legal aid centers have solved 1.215.820 cases including 25.426 representing role cases, 47.374 defense role cases, 1.106.439 counseling role cases, 14.533 recommended role cases, and 2.048 reconciled role cases. There were 1.260.680 participants receiving legal aid in total, in which 545.561 are poor people and 198.051 belong to ethnic minority. Number of people receiving legal aid in 2009 is 92.967 (in which 25.962 are poor, 12.904 people entitled to social welfare, 25.853 ethnic minorities, 4.495 children, 1.812 elderly; 506 people with disability, and 21.435 others). This record does not truly reflect the real number of EM users of legal aid, even though it follows the guidelines from the Ministry of Justice. The poor, or children or people with disability might be EM people as well. Furthermore, data is not sex

⁵⁵ Magazine on Legal research No. 71, March 2006, downloaded from: http://www.nclp.org.vn/chinh_sach/su-dung-luat-tuc-huong-uoc-mot-chien-luoc-quan-ly-rung/?searchterm=%22TRANH%20CH%E1%BA%A4P%22 on 30/12/2010

⁵⁶ Survey on people's viewpoint on legal access in Vietnam, UNDP, 2004

and ethnicity disaggregated hence it is impossible to analyze the differences in legal aid usage between EM women and men as well as among ethnic groups.

Gender issues have not comprehensively been mainstreamed in provision of legal aid, which is reflected not only in the way of recording data but also in the implementation plan of legal aid programme. Circular 07/2008/TT-BTP dated 28 October 2008 guiding the implementation of legal aid component in the Socio-economic Development Programme for the Most Disadvantaged, EM and Mountainous regions period 2006 – 2010 and the National Target Programme for Poverty Reduction for the period 2006-2010 state 2 objectives, which are “Ensure 98% of the poor, 95% of people entitled to social welfare..... having legal needs will be supported through legal aid” and “Ensure in reality the rights to legal aid of the poor, poor households, residing in most disadvantaged communes, EM regions and mountainous regions through ...”. Both objectives do not include a target to measure usage of legal aid by EM in general and EM women in particular. These two groups, due to many reasons, including gender and cultural reasons might have limited access to legal aid. The lack of specific target for EM in general and EM women in particular may lead to the possibility that they might not benefit from the programme. In the Circular, there is no requirement on identifying legal needs of EM women or men, but on legal needs of people entitled to this support only.

Within the framework of 135 program phase II, 1.570 legal aid clubs have been established, nearly 12.000 bulletins have been put at local People's Committee and procedural offices. Over 2.000.000 law flyers in ethnic languages were printed and distributed to people (in 13 languages); over 16.000 cassette tapes were republished in ethnic voice and distributed to the poor, ethnic minorities⁵⁷. However, the effectiveness of the legal aid activities have not been assessed and need to be verified through studies with legal service users. It is important to highlight lessons learn from communication in many fields have shown that show two-way and interactive communication is always more effective than one-way communication using communication means. Furthermore, with high rate of EM women can not read and write both Vietnamese and ethnic languages, printed materials might not be effective.

With current materials, it's impossible to assess ethnic men's and women's satisfaction with legal services they use as well as the impacts of using legal services on gender equality. Such assessment needs in-depth study with women and men who have used legal services.

3. Adequacy of legal services and Barriers to access to legal services by ethnic minority women

a. Adequacy of legal services

Adequacy to the subject

All mentioned legal services are for all types of clients regardless of their gender or ethnicity. However, in reality, target clients of some paid services such as independent lawyers or legal consulting offices are normally people with payment ability. While almost all EM women are poor, their ability to pay for services, especially for a litigation procedure when required, needs further study.

Among current forms of legal services, legal aid or legal consulting centers of some socio-politic organizations or some civil society organizations set EM people in general and EM

⁵⁷ Data from assessment report of 135 program phase II.

women in particular as their priority group. However, since 2006, the Law on Legal Aid has narrowed down subjects of legal aid – previously are EM people and children in general, but now only EM people living in most socio-economic disadvantaged areas and children having no one to lean on. Lessening the number of people receiving free legal aid might have adverse impacts on the access to services of EM women and men. For EM people, especially EM women, the majority of who are poor, paying for legal services is out of their capability so excluding them from free services might equal to prevent them from accessing to services.

Adequacy in terms of location

Data have shown that almost all independent lawyers, lawyer offices and legal consulting centers locate in big cities or urban areas. While Hanoi and Ho Chi Minh city have 430 and 755 law firms and lawyer offices respectively, there is no law firm or lawyer office in northern mountainous province with ethnic minorities such as Lai Chau or Dien Bien. Law firms and offices normally locate in urban areas far away from residence of most EM groups. Hence, accessibility of EM people to these centers is limited, especially that of EM women who live far away from location of services and encounter difficulties while travelling out of their villages due to language barriers.

Legal aid seems more accessible to EM people, particularly EM women in comparison with other legal services thanks to: 1) expansion of subjects receiving the services; and 2) expansion of areas covered to commune/ward through legal aid models. Some non-governmental organizations combine legal aid for EM women while implement their programme in EM communities, including raising awareness for EM women on legal issues as well as establishing legal clubs for EM women.

Adequacy in terms of human resources

The imbalance between the number of lawyers and the total population is noticeable. Currently, there are 5,076 lawyers, of them 1,516 are female and 3,560 are male. In total number, there are 20 from ethnic minorities and 16 with unidentified ethnicity origin⁵⁸. With given number of lawyers, particularly EM lawyers (20 lawyers/10 million EM people), the possibility of their involvement in legal services for EM people is very low. Reports by the Ministry of Justice demonstrate that only 20% of court of first case is participated by lawyer and paralegals⁵⁹. A survey was conducted in 2007 to evaluate current situation of lawyer organization and practice in socially and economically disadvantaged provinces, covering 16 provinces, mostly in mountainous region. Survey findings point out that number of lawyers in these provinces is low, accounting for only 3.8% of total national lawyers. The survey also shows that lawyers in mountainous areas are mostly retired public officials and over 60 years old. In lawyers' associations in some surveyed provinces, some registered lawyers do not practice due to old age. Moreover, some lawyers have no degree of law and experience no lawyer training courses provided by Department of Justice and local lawyers' association⁶⁰.

There is a shortage not only of lawyers but of human resources who have ability to provide legal services such as legal consulting as well, especially in EM resided areas. Previous regulations have limited the development of legal consulting centers by requirements on

⁵⁸ Retrieved from http://luatsuvietnam.org.vn/index.php?option=com_lawyer&render=n5684§ion=list downloaded on 5/8/2010

⁵⁹ Data presented by Minister of Justice, Ha Hung Cuong at the meeting on three year review of enforcement of law on legal support in Da Nang November 30th, 2009 at <http://vietnamnet.vn/chinhtri/200911/Chi-20-vu-an-xet-xu-so-tham-co-luat-su-881653/> downloaded on August 5th, 2010

⁶⁰ Development Report, 2010 – Institutions, World Bank, 2010

minimum quantity and quality of counselors. Decree No. 65/2003/NĐ-CP stipulates that it requires at least 3 legal counselors to establish a legal consulting center. Standards to be recognized as legal counselor are having bachelor degree of law, over three years of experience in law practice and having attended the training course on legal consulting skills. In addition, there are other requirements on material conditions of a legal consulting center. These regulations have led to the situation that in remote areas, no legal consulting centers could be established or if yes, these centers do not have sufficient human resources as required⁶¹. The Decree No. 77/2008/NĐ-CP dated 16/7/2008 have created more opportunities for the people in socio-economic disadvantaged areas, EM resided areas and mountainous areas to have more access to legal consulting services by permitting people with intermediate law certificate or over three years of working experience in law or having knowledge on law and being respected in the communities to become legal consulting collaborators.

Persons involving in legal aid include a) collaborators of state legal aid centers; b) lawyer; c) legal counselors working in legal counseling organizations. Paralegals are Vietnamese citizens living in Vietnam meeting following conditions: a) having full civil capacity behaviors, good virtue; b) holding bachelor degree in law; c) holding certificate of legal aid skill training; d) experiencing at least two years in practicing law; e) having good health to fulfill assignment. It is not required that paralegals involved in legal aid need to speak EM language if s/he works in the areas with many EM. This requirement can be difficult to meet but deemed essential in order to ensure effectiveness of legal aid services to EM in general and EM women in particular as many of them cannot read and write in Vietnamese as mentioned in earlier parts. The code of conducts for legal aid only mentions requirement on attitude for paralegals involved in legal aid as “*use of easy to understand language, concise and simple language, relevant to psychological, age and ethical and cultural characteristics of clients. Language used must be clear, it is forbidden to use slang, to have bossy and disrespect attitude*” while the requirement on EM language command is not compulsory⁶². Improving working skills with specific groups, including EM is a content of the *Proposal for capacity building for legal aid for the period of 2008 – 2010 with direction to 2015*, however there is no specific plan in that proposal on building EM language capacity for those working with EM. However, some positive signs indicate possible changes in the near future to promote access to legal aid by EM. The Decision 52/2010/QĐ-TTg dated 18 August 2010 on the policy of legal aid to raise awareness on and knowledge of legal issues for the poor and EM people in poor district for the period 2011 – 2010 defines series of legal aid activities to be implemented in areas with many EM residents as well as capacity building activities for legal aid staff working in these regions, including training ethnic language for paralegals and send communes’ potential paralegals to Law College.

Adequacy in terms of economics

Decree No.28/2007/ND-CP dated February 26th, 2007 by Prime Minister detailing and guiding implementation of a number of articles in Law on Lawyers stipulates the remuneration for lawyers involving in procedures paid by clients not higher than 100,000VND/one working hour, and at the request of procedure execution agency as 120,000VND/a working day. Such level of fee is not affordable with regards to the average per capita income in the northwest region of 550.000VND/month⁶³. Decree No.28/2007/NĐ-

⁶¹ Downloaded from the website of the Ministry of Justice at: http://vbqppl.moj.gov.vn/ct/tintuc/lists/nghin%20cu%20trao%20i/view_detail.aspx?ItemID=2390 dated 1/11/2010

⁶² Code of conduct for legal aid, issued together with Decision 09/2008/QĐ-BTP dated 8 December 2008 of the Minister of Justice

⁶³ Survey on the household living, PSO 2008

CP dated February 26th, 2007 detailing and guiding implementation of a number of articles of Law on Lawyers encourages lawyer offices, law firms or lawyers who practice law as individual to offer reduction or exemption of fee for the poor or people subject to social welfare policies. However, there are currently no documents recording the implementation of this practice in reality.

Adequacy in terms of culture

For EM women, their ethnic culture plays a significant role in their ways of resolving conflicts. One common characteristic of EM communities is the existence of a customary law system to adjust relations in the community. In this system, the old who are respected and know the customary laws well play the leading and decisive role to the community in socio-economic life of the village. Other legal services normally based on complicated and maybe unfriendly legal procedures to the majority of people, particularly EM people. To receive support from legal aid, for instance, it is necessary to have written legal aid request and submit the request to legal aid organizations.

Among forms of legal services, mediation at grassroots level is considered relatively friendly with people, especially EM women. Conciliation workers at grass-root level live closely with the public, understand well local customs and practices, which are of great disadvantage for conciliation work⁶⁴. With respect to efficacy of conciliation work, according to Ministry of Justice, between 1999 and 2008, there were over 3.8 million cases brought to conciliation with success rate surmounting 80%⁶⁵.

b. Barriers to the access to and utilization of legal services by ethnic minority women

Barriers from service providers

- *Insufficient budget:* Over the past few years, demand for legal aid of people has been increased and the contents of cases have increasingly complicated. Therefore, state budget for legal services in general and legal aid system in particular are not enough⁶⁶. Circular No. 07/2008/TT-BTP of Justice Ministry issued on October 21st 2008 guiding the implementation of legal aid policy under the Socio-economic development program for difficult communes in far-flung areas period 2006 - 2010 and National poverty reduction program period 2006 – 2010 stipulates that communes with the proportion of poor households from 25% will be allocated 2.000.000 VND per year for operating legal aid clubs and activities. Budget for centers to carry out mobile legal aid and communication activities, provide materials and information for the poor will be extracted from local budget. Most provinces where ethnic minority groups reside are poor so budget for the activities cannot be much. Shortage of budget certainly affect to quantity as well as quality of legal aid services.
- *Changes in policy:* Since 2006, the Law on Legal Aid has narrowed down subjects of legal aid – previously are EM people and children in general, but now only EM people living in most socio-economic disadvantaged areas and children having no one to lean on. Lessening the number of EM people receiving free legal aid might bring about poor

⁶⁴ Relationship between grass-root conciliation and legal aid, National Legal Aid Agency, Ministry of Justice.

⁶⁵ Cited from the Report on Vietnam Development 2010 – Modern Institutions, World Bank 2010

⁶⁶ Cited from recommendation on “Promoting justice access of vulnerable groups through legal aids of Vietnam Lawyer Association” sent to ASAS. – Nguyen Khac Hai.

access to legal services of ethnic minority women due to their limited capacity to pay for charged services.

- *The capacity of staff involved in provision of legal services on working with EM people:* as mentioned above, human resource for legal services for EM is limited both in terms of quantity and quality (very few lawyers who are EM or Kan speak EM languages and understand well cultures of EM groups). This factor is key barrier for EM in general and EM women in particular in making decision to approach and use a relatively new type of service which normally requires complicated jargons and procedures.
- *Capacity to enforce law, particularly Law on Gender equality and Law on Domestic violence prevention and control:* many reports have raised two issues of limited awareness on gender and the two Laws of officials and people in many areas, particularly in EM residing ones and not enough sanctions to penalize complex violation cases of the Laws. Limited understandings on law of the people hinder them from being aware of their rights; hence, they hardly approach services even when their rights are violated. From the government and service providers' side, limited knowledge on the issues might prevent them from providing services that make EM women satisfactory, leading to their limited reuse of the services when in need in the future.
- *Stigma and discrimination:* There have been no studies showed that prejudice and discrimination are barriers to ethnic minority men's and women's access to legal services. However, the report on National analysis of society by World Bank in 2009 noticed the prejudice towards ethnic minority remains popular from different social groups such as civil servants, intellectuals to dealers, farmers, etc. Under their perspective, ethnic minority are backward, lazy, and limited capacity of earning a living. Such prejudice has adverse impacts on ethnic minority, making them unconfident, voiceless and powerless. Consequently, it is necessary to conduct intensive studies with different ethnic minority groups on whether discrimination and differentiation prevent them from accessing to legal services, especially EM women as they often suffer from double stigma.

Barriers form service users

- *Unfamiliarity with the use of legal services and little faith on justice system:* According to a recent survey on the right to access to legal system in Vietnam, only 6% of surveyed people have approached the court, 4% have connected to legal consultancy centers, and 6% have used lawyer service. The survey also demonstrates that poor people and people living in rural and mountainous areas have much lower awareness of and less access to legal information and framework⁶⁷ and they are usually unfamiliar to use legal services at any forms.
Some documents figure out the ineffectiveness of reconciliation, especially with regards to protecting women's rights. In divorce cases related to domestic violence, for instance, the requirement of reconciling two sides might pave the way for violence re-occurring. Many members of reconciliation groups, particularly those are in remote areas with limited understanding on legal in general and in the Law on Gender Equality and Law on Domestic violence prevention and control might give biased advice and tend to differentiate women. A survey in 2008 with people experienced reconciliation activities shows that the majority of the surveyed people find little gender bias in made decisions. However, in a province, 24% of surveyed people answer that they find gender bias. Given that the Law on Gender Equality and Law on Domestic violence prevention and control

⁶⁷ Dr. Nguyen Khac Hai – The role of social activists organizations in legal aid in Vietnam.

are both new and the majority members of reconciliation groups are male, the tendency of biased reconciliation which discriminates women is likely to happen. Biased reconciliation is extremely high in cases related to local authorities. Results from the same survey reveal that a quite number of surveyed people (14%) believe that ordinary people will be in disadvantages when they have conflicts with state agencies. In a province, up to 34% of surveyed people state there exist such bias⁶⁸.

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- *High illiteracy rate in ethnic minority groups*, especially the situation of many EM women do not know how to read, write and even speak Vietnamese, has prevented them from accessing and sharing information. This condition along with shortage of effective propaganda on law, private and public services system have led to poor understanding on legal services to access and use them effectively. Limited communication in Vietnamese, on the one hand, has made women less confident and prevented them from going out of their villages which in turn has lessened their active accessibility to the services. This, on the other hand, has created difficulty for them to understand language used in legal services in the case the services actively approach them (such as in mobile legal aid and legal education).
- *Poverty and the ability to pay for services*: For ethnic minority people, using paid legal services with good quality to ensure transparency and justice is still out of reach since they do not have enough money to pay for lawyers. Decree No.28/2007/ND-CP dated February 26th, 2007 by Prime Minister detailing and guiding implementation of a number of articles in Law on Lawyers stipulates the remuneration for lawyers involving in procedures paid by clients not higher than 100,000VND/one working hour, and at the request of procedure execution agency as 120,000VND/a working day.
- *Gender perception in ethnic minority communities*: regulations on roles and responsibilities of men and women usually prioritizing men may prevent EM women from approaching and using legal services. Cultural perceptions which believe men are more knowledgeable have built up the women's psychology of acceptance and tolerance even when they are suffered from domestic violence or violated their legitimate rights. Notes from various localities show that not only men but women believe that women's contribution is less and less valuable than that of men and accept men's role as key decision maker in the household and society. A study by Mai Thanh Son demonstrates that women of many EM groups believe that men are more knowledgeable so that women should obey⁶⁹. Work load and long working duration make EM women unable to have time to participate in communication activities on legal issues or pursue time consuming legal procedures.

⁶⁸ Cited from Vietnam Development Report – Modern Institutions, World Bank, 2010

⁶⁹ Mai Thanh Son et al. "Some issues of indigenous knowledge, people's voice, culture shock and vulnerability of EM groups in Dak Nong" and "Some issues of indigenous knowledge, people's voice, culture shock and vulnerability of EM groups in Soc Trang"

PART 3: ASSESSMENT ON THE ACCESSIBILITY OF EM WOMEN – FIELD STUDY IN BAC KAN AND AN GIANG

Based on findings from literature review, the research team conducted field study in Bac Kan and An Giang provinces. The field study aims to validate findings from literature review and cover the gaps of information in literature review.

1. Introduction to the research site

Cho Moi district locates in the south of Bac Kan province, borders to Bach Thong district and Bac Kan town in the north, Dinh Hoa district of Thai Nguyen province in the west, Vo Nhai and Phu Luong district of Thai Nguyen province in the south and Na Ri district in the east. Ethnic groups living in the district mainly are Tay, Nung and Kinh, with Tay is the most populated group. Two communes selected for study include Cao Ky and Tan Son, of which Tan Son commune and two hamlets in Cao Ky communes are in the Program 135. In terms of population, Tan Son commune is resided by Dao only, while in Cao Ky commune, the Kinh is the smallest ethnic group. The main income source of local people is from agriculture and forestry.

Unlike other mountainous districts, transportation system in Cho Moi is easily accessible and convenient. Local people live along inter-provincial, inter-district and inter-commune roads. Radio system is reachable to household level. Tay and Dao ethnic groups live in separate hamlets. People live mainly on agriculture and forestry but long distance from village to the field, where local people work pose a difficulty for local people. Infrastructure such as electricity, schools and health centers is well invested.

Tri Ton is a district in the South West of An Giang province, borders to Cambodia in the west, Chau Thanh and Thoai Son districts to the east, Tinh Bien district to the north and Kien Giang province to the south. Main ethnic groups include Kinh, Khmer and Chinese, with Kinh is the majority group. Two communes selected for the studies are Co To and Nui To communes, with Nui To belongs to the Program 135. Agricultural production is the main income source for both Kinh and Khmer in the two communes.

Poverty rate in Co To in 2009 is 12.6%, while that of Nui To is much higher of 21%. Khmer households outnumber Kinh households for poverty. Unfortunately, no specific data is given in local reports.

It is noteworthy that having 3 children or more is very common among Khmer women; many women have 5-6 children. Early marriage before 18 years old is common, too. According to statistics of the two communes' People's Committees, approximately 10% of households have no access to electricity and 20% have no access to clean water. The transportation system in these two communes is good, so are the schools and health centers. Khmer and Kinh live in different villages; the rate of mix residence is low. Effects of urbanization on the two communes are still hard to be observed. Agriculture is the key economic activity. The landscape of the two communes still preserves the typical one of Western South region. Official religion of the Khmer in 2 communes is Southern Buddhism. Monks play a very important role in the life of local Khmer people.

Table 6: Key indicators about study site

Location	Population	Poverty in 2009	Ethnic	Participation in Program 135
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An Giang	2,144,772 ⁷⁰	8.5% (2008) ⁷¹	Kinh 94.83%, Khmer 3.9%, Cham 0.62%, Chinese 0.65%	12 communes
<i>Tri Ton district</i>				3 communes
Co To commune		12.6%		No
Nui To commune		21%		Yes
Bac Kan	293,826	36.8% (2008)	Tyy 54%, Dao 16.8%, Kinh 14%, Nung 9%, Hmong 5.5%, Hoa 0.4%, San Chay 0.3%	103 communes
<i>Cho Moi district</i>				12 communes
Cao Ky commune			Tay, Nung, Kinh	2 hamlets of Dao
Tan Son commune			Dao 100%	Yes

Source: Secondary documents (data will be added later), VLHSS 2008, (GSO, 2010), CEMA Website.

2. Supply of legal services/legal aid

Legal aid centers are available in both Bac Kan and An Giang provinces. These centers were established in the early 2000s and tasked to provide free-of-charge legal service (legal aid) for the poor and the target of social welfare. There are branches under centers at district level. In Bac Kan, there are three branches out of eight district administrative units located in the Ngan Son, Cho Don, and Ba Be districts. In An Giang, there are two branches located in Chau Doc town and Tri Ton district out of 11 district administrative units in total. At communal level, there are legal aid clubs. There are 100 clubs in Bac Kan out of 113 communes, wards and towns and 58 in An Giang out of 156 communes, wards and towns.

The number of legal assistants in both Bac Kan and An Giang is 4 for each province with balanced gender. They all belong to ethnic majority groups⁷² and cannot speak ethnic minority languages. It is a challenge in providing legal aid for ethnic minorities mentioned by leaders of legal aid centers since a large amount of these people cannot speak Vietnamese.

“The biggest challenge facing ethnic minorities in utilizing legal service is language barrier. Four legal assistants work in our center but none can speak Mong, Dao languages. Thus, it is difficult to disseminate legal information and support these two groups.”

(Head of Legal Aid center, Bac Kan)

Table 7: Number of individuals, organizations providing legal service/legal aid for people in Bac Kan and An Giang (2009 data)

Organizations and individuals	Bac Kan	An Giang
Legal service Center	01	01
Legal assistants:	04	04
Male	02	
Female	02	
Legal aid collaborators:	173	51 (2010)
Male	137	
Female	36	
Lawyers	07	26
Branches of Legal aid Center	03	02

⁷² In An Giang, Kinh people outnumber other ethnic groups, while that is Tay in Bac Kan province. Nationwide, Tay is an ethnic minority group but in Bac Kan they represent a majority group with the best living conditions and development index. Dao, Mong, San Chi, Lo Lo and others are ethnic minority groups in Bac Kan.

Legal aid clubs	100	58
Member of legal aid clubs		672
Lawyers	04	46
Lawyer office	0	29
Law firm	0	01
Independent lawyer	0	01

Source: Interviews of legal aid centers and secondary sources

Apart from legal assistants, there are collaborators in Legal aid centers. As provided in Law on Legal Aid, collaborators are not staffed to legal aid centers and they are not required to hold a bachelor degree on law. If they are not lawyers, they cannot take the representative role but provide legal consultancy within their field of profession. A collaborator can receive payment from centers after providing legal aid for people who are subjects of legal aid. It is a small amount so some collaborators might find it is not worth to follow all financial procedures. The number of collaborators in Legal Aid centers in Bac Kan is 173, female accounting for 25%. There are 7 lawyers, 3-4 of whom are still working, the rest are old. Most collaborators of centers are cadres of communal judicial office, district departments and bodies, provincial public security department, DOLISA, social insurance office. The number of collaborators in An Giang is less than in Bac Kan, only 51 ones. To focus on qualitative aspect, the number of collaborators of Legal aid centers dropped from 120 in 2008 to 37 in 2009, then increased to 51 in 2010. The number of lawyers working as collaborators for legal aid centers in An Giang is much higher than in Bac Kan: 25 versus 7.

As observed by the Study Team, legal aid clubs in communes in study area involve members of communal People's Committee and village heads. These clubs normally work as the organizer of mobile legal aid activities or legal communication activities in the communes. The role of these clubs in providing legal services or consultancy for local people is vague.

Apart from legal aid system as mentioned, there have been legal consultancy centers of socio-political organizations such as provincial Women's Union and Farmer's Union. These organizations also provide law communication and consultancy for their members on issues related to Land Law, Law on Marriage and Family, Law on Complaints and Denunciations, Law on Gender Equality, or Law on Domestic Violence Prevention and Control. In An Giang, legal consultancy center of the provincial Women's Union have actively participated in consulting for women getting married to foreigners. An Giang WU resolves their members' denunciation letters as well. However, in 2009 and six first months of 2010, there were only 2 denunciations by Khmer women and no cases by Cham women.

In An Giang, religious leaders play a very important role in mediation and resolving disputes among local community people. These persons manage pagodas in each village. They are of the same ethnic group and live closely with local people. However, these persons are mainly male, at old age and do not know much about laws, especially Law on Gender or Law on Domestic Violence Prevention and Control. Local people also mention some other people they seek for support while they need to connect with the government. Village heads are the persons that people in Bac Kan normally come to while they have concerns.

I ask a man in the village to write petition for me, whoever need letter of application to a job or petition also ask for his help. He does not request fee but I feel less ashamed if I give him a Zet [a tobacco box]

(Interview with Khmer women, Co To commune, Tri Ton, An Giang)

3. Needs for use of legal services of ethnic minority men and women

Legal services, including a form of free service called legal aid, play very important role in safeguarding justice for the public and building a fair and equal society. Justice, as defined in Vietnamese dictionary, is “the right recognized by society, appropriate to ethics and social interests”⁷³. Safeguarding justice for the public includes, but not limited to, two following things:

- Prevent legitimate rights and interests⁷⁴ of the public from being abused.
- Once their legitimate rights are abused, people may seek satisfactory compensation for damage⁷⁵ via official justicesystem⁷⁶.

Nevertheless, the role of legal services is proved only when two other factors are satisfied. Firstly, legitimate rights and interests of the public must be protected by laws, or in other words, legitimate rights and interests become legal rights and interests. Secondly, people should be aware of their rights and interests being recognized by laws and seek protection from justice system once finding their rights and interests being abused.

Through group discussions, in-depth interviews and interviews using questionnaires the study team have noted numerous concerns of people. Areas with high incidence of concerns include marriage and family, land, benefits from social policies. Results of survey with questionnaire also consolidate that these are popular problems that make the people most frustrated. Result of interviews using questionnaire present no big differences between EM women and men as well as Kinh women in terms of their concerns in life. The biggest difference mentioned in both indepth interviews and survey with questionnaire is related to being beaten or verbally abused. Table 8 shows that physical and verbal offense occupies the eighth rank in terms of frequency but seven first ranks are concerns related to authorities. More women raise the problem of being beaten or verbally abused than men, 19% versus 11%⁷⁷. As per level of significance of the problem (Table 9), physical and verbal abuse is considered as the most critical problem as perceived by sufferers. 87% of the sufferers consider this problem frustrated or very frustrated.

Table 8: Problems encountered by people in the last 12 months - Ranking by popularity

No.	Problems encountered by people in the last 12 months	Ratio (%)	By province (%)		By ethnicity and gender		
			Bắc Kạn	An Giang	Kinh women	EM women	EM people
1	Not being recognized as poor household	52	74	30	51.4	51.9	53.7
2	Not entitled to pro-poor policies	49	72	26	50.0	51.2	44.6
3	Not entitled to obtain loans from policy bank	24	17	31	32.9	19.0	27.1
4	Not being trained on agriculture and forestry	21	20	21	22.9	20.2	19.8

⁷³ Vietnamese dictionary – chief-edited by Nguyen Nhu Y, Culture and Information Publishing House, Hanoi 1998

⁷⁴ Appropriate to the right – Vietnamese Dictionary

⁷⁵ Rightness and appropriateness – Vietnamese Dictionary

⁷⁶ Documents on access to justice refer to the roles of informal justice system (including customary laws, traditional institutions such as Gia Lang, Truong Ban (head person of mountainous village) in safeguarding rights and interests of the public. Since the subject of this study focuses on legal services, we touch mainly on formal justice system. If not explicitly mentioned, the term ‘justice system’ used in this report will imply formal justice system.

⁷⁷ This study is not a study on domestic violence therefore it does not applying all strict standards of a study on domestic violence while asking about the state of being physically and verbally abused. Readers should consider the ratio in this report as references, not reaching any conclusion, for example 20% of women as victims of domestic violence in the research area.

	extension						
5	Not being allotted with forest or agriculture land	19	13	25	18.6	19.4	17.5
6	Not being granted land use right certificate	18	14	21	24.3	12.0	22.6
7	Not permitted to involve in discussion and decision of local issues	16	11	20	18.8	13.2	16.4
8	Being physically and verbally abused	16	22	11	14.3	20.2	11.3
9	Others borrow money without paying back	12	12	12	15.7	7.8	17.6
10	Involved in land dispute with other people	11	17	5	10.0	12.0	9.6
11	Not being satisfactorily compensated once their land is acquired (residential, agricultural, forestry land)	7	4	11	8.6	3.9	12.4
12	Involved in land, asset, inheritance disputes in the family	6	4	8	2.9	6.6	6.8
13	The other party does not follow the signed contract between two parties	6	2	10	4.3	3.1	11.4
14	Being dismissed or terminated from employment contract.	4	0	7	2.9	0.8	7.3
15	Being sued	4	3.5	4	1.4	3.9	4.5
16	Not receive assets after divorce	3	0	6	2.9	2.3	4.0
17	Not obtain the custody of the children or receive contribution for offspring care after divorce	2	0	4	0	1.6	3.5

Source: Interviews with questionnaire

In the area of marriage and family, domestic violence is the biggest concern, mostly physical offenses by husbands to wives. The group of Khmer women in Co To commune, Tri Ton district, An Giang province said.

“All of us have been beaten by our husbands. Husbands might beat us due to various reasons such as going out without informing them or they are drunken”.

(Focus group discussion, Khmer women group, Co To commune, Tri Ton district, An Giang)

Similar situation occurs commonly in research communes in Bac Kan province:

“Men, coming back home drunken, usually physically beat and verbally insult their spouses and offspring, damage house and furniture. There are cases of being summoned to the communal office to warn against beating wives several times but there has been no improvement in the situation.”

(Dao ethnic women group in Tan Son commune, Cho Moi district, Bac Kan province)

Here, women are usually beaten, physically and mentally painful. Husbands here beat their spouses as quick as lightning. Even there is a man beating his wife saying ‘you are too talkative, I beat you to death’.

(Mrs. T, Dao ethnic group in Tan Son commune, Cho Moi district, Bac Kan province)

He no longer beats me but making troubles all the time, damaging properties such as dishes, cups, etc; cursing and even threatening to kill with a knife in a hand, kicking me out of home; all clothes were burnt; sometimes he watched to cut me all night”

(Mrs. T, Dao ethnic group in Tan Son commune, Cho Moi district, Bac Kan province)

There are differences in annoyance facing by people in the two provinces. Even there is similarity in popular problems encountered by people in the two provinces; the rate of surveyed people encountering these problems is significantly different. While 70% of surveyed people in Bac Kan feel annoyed of not being recognized as poor household or

entitled to pro-poor policies, only 30% of those in An Giang share the same frustration. There are certainly various reasons for people to consider this issue annoyed, but figuring out these reasons is out of the study framework. It is noteworthy that legal needs vary from localities and areas. Hence, it is difficult to have one common model of legal needs for all EM groups in Vietnam. It is essential to have need assessment specifically for each area.

Table 9: Problems encountered by people in the last 12 months – Ranking by level of annoyance perceived by people encountering the problems

No.	Problems encountered by people in the last 12 months	Level of annoyance perceived by people encountering the problems (%)			
		Very annoyed	Annoyed	Little annoyed	Not annoyed
1	Not having the custody of the children or receiving contribution for offspring care after divorce ⁷⁸	60	10	10	20
2	Involved in land dispute with other person	50	27	19	4
3	Being physically and verbally abused	47	31	17	5
4	Not being satisfactorily compensated once their land is acquired (residential, agricultural, forestry land)	40	26	16	18
5	Not receive assets after divorce	40	40	7	13
6	Being sued	37	53	5	5
7	Others borrow money without paying back	36	32	18	14
8	The other party does not observe the signed contract between two parties.	29	48	20	3
9	Involved in disputes in relation to land, asset, inheritance	26	39	22	13
10	Not being granted land use right certificate	23	20	13	43
11	Being dismissed or terminated from employment contract	21	42	21	16
12	Not permitted to involve in discussion and decision of local issues	17	28	16	39
13	Not being recognized as poor household	17	28	6	49
14	Not being allotted with forest or agriculture land	16	15	11	58
15	Not entitled to pro-poor policies	15	27	13	45
16	Not entitled to obtain loans from policy bank	10	15	8	67
17	Not being trained on agriculture and forestry extension	10	21	15	54

Source: Survey with questionnaire

In the area of marriage and family, in addition to domestic violence, people mention other concerns such as polygamy among Khmer men (An Giang), married women not being entitled to land inheritance (Bac Kan), women having no right to make any decision regarding land assets shared for both husband and wife; women not being shared with assets after divorce, etc. These problems do not occur on wide scale but impact significantly on the life of related persons. The following case provides an example (Box 1).

Box 1: Issues related to marriage and family

Mrs. B's husband (Bac Kan) is a drug addict. She got married in the middle of 1980s. Ten years later, they were allotted 6.4 ha of forest land and the husband's family gave them 50m2

⁷⁸ Number of sample in these categories is too small to provide any meaningful statistical data. Result of these categories is for references and comprehensiveness.

of residential land next to the road. All land use right certificates for residential land and forest land are under her husband's name. In 2005, her husband sold off forest, house, buffalo and valuable assets in the family. Her husband sold things at night so she did not notice until purchasers came to work on her land. She reported the issue to local commune authorities which called for the land purchaser and asked him, who then retold the story to her husband. Her husband then initiated a quarrel with her. For this reason, she didn't dare to follow the fight.

In October 2005, she lodged divorce application to commune authorities and both of them were called for reconciliation. But the effort failed. The application was then forwarded to district level. In October 2006, they divorced finally. At the court, no assets were left to share and she received the custody to take after two children, a 17 year old boy and a 12 year old daughter. She returned to her parents who built a temporary house for her. Since her husband was an addict, she did not dare to take any legal actions and demanded anything.

Mrs. N. (Khmer ethnic group in An Giang)

"Moreover, life is so hard. My husband did not help at all since he had to take care of his junior wife. The situation of one husband, multiple wives is popular. I had no big wants, just a job to take care of my children. My husband is drunk and beats me physically and verbally from time to time. I didn't shout as being beaten. The more I shout, the harder he might beat me."

In the area of land, disputes and land-related issues such as compensation, land and forest allotment, issuance of land use right certificate are not so serious. According to result of survey with questionnaire, nearly 20% of people are annoyed of not being allotted with land, forest and not being granted with land use right certificates in the last 12 months. 11% of people involved in land disputes with people outside family; 6% involving in land (property) dispute as inheritance in the family, and 7% voicing their annoyance related to compensation and land acquisition (see table 7). Though land-related problems do not occur to many people but the level of annoyance they create is relatively high. Most of people facing these problems responded that they are very annoyed or annoyed. When the annoyance is big without legal resolution, it probably leads to extreme acts. In Cao Ky commune, the study team was informed about brothers killing each other as a result of paddy land disputes.

In Bac Kan, people mention more about land disputes while the biggest concern of people in An Giang refers to compensation for land clearance. Due to natural factors, boundary between paddy parcels, including forest, residential and agriculture land, in Bac Kan is not as clearly visible as that in An Giang. When two households involve in a land dispute, failing to resolve by themselves, the case will be brought to local village or commune authorities. Supported by local cadastral staff with a cadastral map, these disputes are normally handled in a peaceful way, just like the case of Mrs. N (Box 2). There are, however, there are many cases in which people have to accept their loss without resorting to governmental authorities for resolution (Mrs A.).

Box 2: Land disputes and resolutions in Bac Kan

Mrs N, Dao ethnic group in Tan Son commune, Cho Moi district, Bac Kan province

"My parents in law gave me a land plot to earn our living. When they were alive, the landmark was still there but the neighbor started to move it, encroaching our land after the death of my parents. I reported the matter to local village authorities but they could not handle. After that, I came to knowledgeable persons in the village to ask them how to lodge a request for resolution to commune authorities. After showing the cadastral map, the neighbor had to return the encroached land to my family. The resolution really satisfied me."

Mrs A, Dao ethnic group in Tan Son commune, Cho Moi district, Bac Kan province
“Our land parcel has no land use right certificate therefore being encroached by neighbors and I did not know how to deal with it. My father passed away long ago and my mother can’t remember clearly the boundary of our parcel. There is nothing I can do about it, just accept the remaining land with frustration.”

Unsatisfactory compensation for land clearance is the problem encountered by a few people (7% of respondent). It, however, ranks high in terms of level of annoyance. Over 50% of people encountered the problem say they are very annoyed or annoyed (Table 8).

“Our big annoyance is the fact that our land is acquired without any compensation. We just feel a big frustration and there is nothing we can do about it since some people used to come to local people’s committee for resolution but failed. Mrs. A’s family is a typical case. Her paddy land was acquired to build canal without any compensation. She and her husband came to commune people’s committee to ask about the matter but no one answered and no compensation came afterward. As such, we have to accept the loss without asking anyone.”

(Interviews with Khmer women in Co To commune, Tri Ton district, An Giang province)

The third group of problems related to entitlement to social services and benefits from social policies, including not being recognized as poor household, not entitled to pro-poor policies or not being trained on agriculture and forestry extension, etc. In terms of frequency, these are the most frequently-encountered problems (Table 7). Two problems with regards to recognition of poor household and entitlement to pro-poor policies are annoyance of 50% questionnaire respondents. In terms of level of annoyance, problems related to poor household status and entitlement to social welfare are in the lowest ranks in comparison with others (Table 9). Only 20-40% of respondents mention that they encounter this problem and feel very annoyed or annoyed.

“When being asked why my family is as poor as his but not recognized as a poor household, responsible persons explain that in order to being recognized as a cultural village, number of poor household must not exceed the rate set by commune authorities. Though the village submitted a full list of poor households, the commune evaluates and cut off some. We have no idea of on what basis they do so.”

(Men of Tay ethnic group in Cao Ky commune, Cho Moi district, Bac Kan province)

“My biggest annoyance is not being recognized as poor households (...). There are households in the village with vast land paddy but still being granted the status of poor household. They are given more land, cows and pigs even. Many people in the village are aware of this situation but nothing we can do about it.”

(Mrs N.N of Khmer ethnic group in Co To commune, Tri Ton district, An Giang province)

“We generally satisfy with our life. Only a few persons feel unfair since they are not recognized as poor households meanwhile they are poor in deed. Such persons do not claim anything for thinking that it is just fine if they are granted the status of poor household or not.”

(Men of Khmer ethnic group in Co To commune, Tri Ton district, An Giang province)

Annoyance of people in the study area are summarized in following table.

Table 12: Summary of annoying problems encountered by people in study area

Problem group	Frequency	Level of annoyance
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Problems related to marriage and family (domestic violence)	Medium High	High
Problems related to land (dispute, allotment of forest land, issuance of land use rights, land inheritance, etc)	Low	High
Problems related to social welfare and services (evaluation of poor household status, entitlement to pro-poor policies, access to credit from social policy bank, involvement in local decision making processes, etc)	High	Low

In comparison between problems causing annoyance of EM women with that of EM men and Kinh women, the followings are observed:

- EM women appear to have less annoyance compared to EM men and Kinh women with regards to not being able to receive loans from Bank for Social Policies. This has correlation with earlier analysis on gender-dissaggregated labour division in EM communities. It can be explained EM women have less annoyance of not being able to take credit from banks since women often do not represent the household to work with the bank, hence they do not experience this annoyance.
- The rate of EM women experience domestic violence (being beaten or verbal abused) is obviously higher than that of EM men and Kinh women. This coincides with the observations of the research team and sharing of local people during in-depth interviews or focus group discussion. For EM women, domestic violence is often the issue mentioned by them at the beginning of an interview and often takes longer time to discuss.
- EM women also encounter fewer problems related to land issues, such as not being granted with land use certificate or not being satisfactorily compensated once their land is acquired. This is correlated with earlier analysis on women's possession of land as well as their ability to grasp opportunities created by possession of land. Men are normally responsible for handling procedures related to land and their names are on land use certificate. EM men, therefore, often encounter more problems and raise more annoyance on this issue than women.

Table 11: Comparison of commonly faced problems/concerns between EM women and men and Kinh women

	Problems encountered by people in the last 12 months	Rate (%)	EM		Kinh women
			Male	Female	
1	Not being recognized as poor household	52	54	52	51
2	Not entitled to pro-poor policies	49	45	51	50
3	Not entitled to obtain loans from policy bank	24	27	19	33
4	Not being trained on agriculture and forestry extension	21	20	20	23
5	Not being allotted with forest or agriculture land	19	18	19	19
6	Not being granted land use right certificate	18	22	12	24
7	Not permitted to involve in discussion and decision of local issues	16	17	13	19
8	Being physically and verbally abused	16	11	20	14
9	Others borrow money without repay	12	18	8	16
10	Involved in land dispute with other people	11	10	12	10
11	Not being satisfactorily compensated once their land is acquired (residential, agricultural, forestry land)	7	13	4	9
12	Involved in land, asset, inheritance disputes in in the family	6	7	7	3
13	The other party does not observe the signed contract	6	11	3	4

	between two parties				
14	Being dismissed or terminated from employment contract	4	7	1	3
15	Being sued	4	5	4	1
16	Not receive assets after divorce	3	4	2	3
17	Not obtain the custody of children or receive contribution for offspring care after divorce	2	4	2	0

Source: Interview with questionnaire

4. Level of access to legal services

The level of access to legal services is assessed under three aspects within this study, including:

- Understanding of people in general and EM women in particular on legal services
- Resolutions people normally use when encountering legal problems
- Having accessed to and used legal services in reality

a. Understanding of local people on laws and legal services

All above problems are provided in state laws and policies such as Law on Domestic Violence Prevention and Control, Land Law 2003, Law on Complaint and Denunciations, regulations and guidelines with regards to evaluation of poor household status, credit facilities from social policy bank or other government supports for poor households, etc. However, awareness of people in research areas on law in general and laws related to their problems in particular as well as on legal protection bodies and procedures for seeking legal protection is generally low. In reality, it is not necessary for people to know all laws but they should know what is legal, what violates the laws and their consequences or where to come to seek for supports when their rights are violated. People know better about some regulations such as wearing hamlet while travelling on motorbike; once land dispute arises, they may come to the local people's committee office to view cadastral map; and that it is required to register when getting married; to get birth certificate for newborn; to get motor driving license if driving a motorbike. Rate of people going through these legal procedures is prettily high (Table 12). These are key subjects of communication activities on laws to the public recently.

Table 12: Rate of people reported to comply with basic legal formalities

Type of formality	Comm on	By province		By Program 135	
		Bac Kan	An Giang	Covered in Program 135	Not covered in Program 135
Birth registration	94%	99%	90%	94%	94%
Land trading procedures at commune	64%	78%	50%	60%	66%
Marriage registration	86%	96%	77%	84%	88%

Source: Survey with questionnaire

One reason to explain this lack of awareness is that these are new laws which require some times for the people and local authorities to understand. Another reason is the information-education-communication activities on these laws are still limited and ineffective. There has been only one workshop on GEL in Co To commune of Tri Ton district in An Giang. Education and communication activities on laws are often conducted via radio system of the mobile cars or at meetings at commune's People's Committee office. In An Giang, the majority of Khmer women do not speak Vietnamese while education is conducted in Vietnamese, therefore it is hard for these women to understand disseminated contents. Not

only in An Giang, a report by a center for legal research and support also indicates that current education activities on law are not effective to EM people or hardly reach EM women in Cho Moi (Bac Kan)⁷⁹.

In group interviews and in-depth interviews, we find that almost 100% of respondents have no idea of Law on Legal Aid and supports of legal aid programme (see Box 3). Even ethnic minorities in Program 135 communes, who are beneficiaries of legal aid, know nothing about this law and the benefits they are entitled in programme. Knowledge on organizations, bodies related to legal service/legal aid, such as Legal Aid Center, legal aid clubs, lawyer offices, etc is quite limited (Table 13). Less than one third of questionnaire respondents mention they once heard about provincial Legal Aid Center and its branches. This rate in Program 135 communes is slightly higher than in communes not covered in Program 135. However, the difference is small. Men have better access to information on legal service/legal aid than women. The rate of men having heard about bodies related to legal service/legal service is significantly higher than that of women; even the rate of EM men is higher than that of Kinh women. Among the groups, EM women group is the group with lowest understand on current legal services.

“We are not shy to seek bodies and centers that support addressing of domestic violence but we are not well informed about places to provide such services and support”

(Group of Dao women in Tan Son commune, Cho Moi district, Bac Kan province)

Box 3: Awareness of men and women on legal aid

Group of Tay men in Cao Ky commune, Cho Moi district, Bac Kan province

Out of five respondents, one have heard about the term ‘legal aid’, but he does not understand the nature of legal aid, its purpose, benefits for individuals and families. Four other persons have never heard about the term legal aid, and they do not know there are places to help answer their concerns. The only thing they do upon encountering any query is to come to village head to ask for solution or just suffer by doing nothing at all.

Group of Tay women in Cao Ky commune, Cho Moi district, Bac Kan province

A woman once participated in a mobile legal aid session but did not understand this activity much; five other women are totally ignorant of the term legal aid, mobile legal aid. They really want to learn about legal aid services.

Table 13: Rate of people once heard about organizations, bodies related to legal services/legal aid (%)

	General	By ethnic group		By gender		By Program 135	
		Kinh	Ethnic minority	Male	Female	Covered in P135	Not covered in P135
Legal club	36	37	36	42	33	35	36
Legal aid club	29	23	30	37	25	25	34
State center for legal aid	27	27	28	34	24	26	29
Branch of state center for legal aid	18	19	18	23	15	17	19
Mobile legal aid	19	18	20	20	18	27	16
Lawyer office	33	37	33	34	32	39	30

⁷⁹ Report on the baseline survey on women’s awareness on legal and rights in Cho Moi district, Bac Kan, LRES, 2007

Legal consulting center	30	32	30	28	33	36	27
Law firm	17	19	16	18	16	19	15

Source: Questionnaire interviews

b. Strategies to solve problems related to legitimate rights and interests

Limited awareness on laws and legal aid is primarily attributed to relatively high rate of people who choose to suffer the fact their rights and interests are abused, compared with other resolutions (Table 14). Normally, when people encounter very annoying problems, they just come to reflect the concern to their village heads. If not successfully handled, they then come to commune level as the last resort. If the problems are not solved then, they will choose to accept the fact. For problems of smaller annoyance such as not being recognized as poor household, not entitled to get loans from social policy bank, acceptance and 'do nothing' is the option of the most respondents. Rate of acceptance among women is normally higher than that among men in almost all problems (Table 15). For problems of high annoyance, such as those related to land or domestic violence, the rate of women choose to accept the problem double that of men. This is understandable since culture of ethnic minorities and of the Kinh tends to emphasize the sufferance and acceptance of women, considering it their virtue. For men, culture places stronger emphasis on might and fight. The study team conducted group interviews and in-depth interviews with nearly 100 women and surprisingly found out only one single case of an EM woman went to Legal Aid Center of Bac Kan to ask for help with her problems related to domestic violence and land disputes. This number is critically low in comparison with frustrated problems faced by people as earlier mentioned. The mindset of acceptance, even when their legitimate rights and interests are abused, makes it more difficult for women to access justice and use legal services/legal aids. Some Khmer women and men in An Giang mentioned their earlier attempts to solves their problems by bringing the issues to local governments but the outcomes were not as they expected, hence their lost their confidence in the legal system. This factor plus lack of awareness of available legal services (Table 13) explains why people tend to choose acceptance as coping strategy for their problems.

“Our big annoyance is the fact that our land is acquired without any compensation. We just feel a big frustration and there is nothing we can do about it since some people used to come to local people’s committee for resolution but failed. Mrs. A’s family is a typical case. Her paddy land was acquired to build cannal without any compensation. She and her husband came to commune people’s committee to ask about the matter but no one answered and no compensation came afterward. As such, we have to accept the loss, without asking anyone.”

(Interviews with Khmer women in Co To commune, Tri Ton district, An Giang province)

Table 14: Rate of people handing their problems in different ways, in order of popularity of the problems (%)

Problems of concern faced by people in the last 12 months	Self-handling between two sides	Bringing to village head	Asking for help from relatives, neighbors	Bringing to local people’s committee	Resorting to reconciliation team	Resorting to village head	Accepting the problem, doing nothing
Not being recognized as poor household	8	9	4	14	8	35	57
Not entitled to pro-poor policies	8	10	4	13	8	26	67

Not entitled to obtain loans from policy bank	27	12	17	24	23	29	53
Not being trained on agriculture and forestry extension	14	14	15	16	10	25	54
Not being allotted with forest or agriculture land	25	6	7	16	9	20	64
Not being granted land use right certificate	8	11	10	31	17	31	32
Not permitted to involve in discussion and decision of local issues	27	18	21	26	24	36	52
Being physically and verbally abused	45	5	24	22	23	38	24
Others borrow money without repaying	56	5	9	17	12	20	29
Involved in land dispute with other person	28	17	13	46	35	48	17
Not being satisfactorily compensated once their land is acquired (residential, agricultural, forestry land)	15	15	9	50	29	38	21
Involved in land, asset, inheritance disputes in the family	36	10	7	39	16	39	3
The other party does not observe the signed contract between two parties.	19	16	10	45	36	65	16
Being dismissed or terminated from employment contract	26	21	32	39	17	56	17
Being sued	16	16	5	47	26	47	5
Not receive assets after divorce ⁸⁰	21	14	14	21	14	57	21
Not having the custody of children or receiving contribution for offspring care after divorce ¹²	30	10	20	10	10	50	20

Source: Survey with questionnaire

Table 15: Rate of acceptance among men and women in particular problems

Problems faced by people in the last 12 months	Men	Women
Not permitted to involve in discussion and decision making of local issues	33	64
Not entitled to obtain loans from policy bank	37	63
Being dismissed or terminated from employment contract	100	75
Being physically and verbally abused	10	28
Involved in land, asset, inheritance disputes in the family	0	5
Being sued	13	0
Involved in land dispute with other person	12	19
Others borrow money without repaying	21	37
Not being allotted with forest or agriculture land	50	71
Not being trained in terms of agriculture and forestry promotion	41	64

⁸⁰ Number of sample in these categories is too small to provide any meaningful statistical data. Result of these categories is for references and comprehensiveness.

Not being granted land use right certificate	22	40
Not being satisfactorily compensated once their land is acquired (residential, agricultural, forestry land)	10	39
The other party does not observe the signed contract between two parties.	5	36
Not being recognized as poor household	55	59
Not entitled to pro-poor policies	53	72
Not having the custody of children or receiving contribution for offspring care after divorce	0	50
Not receive assets after divorce	0	43

Source: Survey with questionnaire

c. Current situation of utilization of legal service/aid

As reported by legal aid centers, in 2009, 656 people were provided with legal aid in Bac Kan while the figure was 2614 in An Giang. This figure covers all areas⁸¹ and forms of legal aid⁸². Women account for 45% of people receiving legal aid and ethnic minorities represent 20% of all in Bac Kan and 6% in An Giang (Table 16).

Table 16: Number of people receiving legal aid in Bac Kan and An Giang in 2009

Legitimate beneficiaries of legal aid	Bac Kan		An Giang	
	Male	Female	Male	Female
The poor	158	165	877	784
People with merit	23	9	42	7
The elderly	1	0	0	1
Children	4	0	11	40
People with disabilities	0	2	0	0
Ethnic minority	160	130	262	167
Others	04	0	277	146
Total by gender	350	306	1469	1145
Total	656		2614	

Source: Report by legal aid centers in Bac Kan and An Giang. Note: Data in the report of An Giang is dated from October, 1st 2008 to September, 30th 2009.

Thus, number of legitimate beneficiaries receiving legal aid remains limited. Result of questionnaire showed that only 10% of respondents were provided consultancy by legal aid centers. There is no difference between people living in Program 135 communes and those not covered. More ethnic minorities were provided with legal consultancy in comparison with Kinh people. The number of EM men receiving consultancy is 1.5 times higher than that of EM women. Few people have accessed to legal services provided by lawyer offices or independent lawyers.

Table 17: Proportion of people receiving legal aid or consultancy from organizations

	General	By ethnicity		By gender		By program 135	
		Kinh people	Ethnic minority	Male	Female	Covered in Program 135	Not covered in Program

⁸¹ Various areas described in the reports: penal, civil, marriage and family, administrative and administrative complaints, priority for the services rendered, and other areas.

⁸² Include: consultancy, procedural participation, representatives out of procedural activities, others (reconciliation, administrative procedures working, complaints)

							135
Legal aid centers	11	8	11	14	9	11	11
Branches of legal aid centers	5	5	4	6	4	4	5
Site legal aid activities	6	8	6	11	4	5	7
Lawyer offices	5	5	5	5	5	5	5
Legal communication	33	22	35	37	30	28	39
Independent lawyer	2	5	2	2	3	2	2

Source: Survey with questionnaire

5. Barriers to the access to and utilization of legal services

As earlier analysis, reasons for limited usage of legal service/aid by people include:

- Public awareness on legal remains low so they do not actively seek for legal protection for their legitimate rights and benefits as well as passively found solutions for disputes under speculation of law.
- Local people have limited knowledge of Law on Legal Aid and information related to legal aid.
- Many people, especially women tend to suffer and accept the circumstance.

Results of questionnaire also affirms shortage of information concerning legal service (have never been heard about legal service and its location) is main reason for not using services. Another reason is no need for legal service. Language barrier also poses a difficulty: EM people cannot speak Vietnamese and legal aid officials cannot speak EM languages. Besides, costs, including monetary costs and non-monetary costs such as distance and time consuming are barriers for the utilization of legal service/aid. Not many mentioned but it is worth to consider is the issue of fear for stigma and discrimination from *local staff as barrier for the usage of legal aid raised by some Khmer people in An Giang.*

Table 18: Rate of people not using legal services/aids for different reasons

	Percentage	By gender		By ethnicity	
		Male	Female	Kinh	EM
Be unknown to legal service location	64	61	66	75	62
Never heard about legal service	48	46	49	58	46
No need	41	43	40	55	39
Unable to speak Vietnamese	23	25	21	-	26
Distance, farness	21	25	18	22	20
Be time-consuming	20	24	16	22	19
Hesitate to communicate	18	17	18	20	17
Be able to self-handle	18	17	19	31	15
Costly	15	13	16	16	15
Be not sure about the effectiveness of assistance	13	12	14	18	12
Contrast with local customs	2	2	2	4	2

Source: Survey with questionnaire

Another factor makes local people hesitate to utilize legal service/aid is that though they have, in some cases, sought assistance from local authority⁸³, it seemed ineffective. It is usually mentioned at discussions on domestic violence:

“We are beaten by husbands because of our bad behaviors, so we need to be endured and tell noone. (...) It is said that husbands will be arrested by local security guards for beating wife but we have never seen a case in our community.”
(*Khmer women group in Co To commune, Tri Ton District, An Giang province*)

“I was beaten so many times so I decided to inform village head but my husband still beat me again. Then, I reported to communal authority, my husband was called and warned but the situation remains unchanged.”
(*Mrs. N in Tan Son Commune, Cho Moi District, Bac Kan province*)

Authorities at grassroots level are tasked for law and policy enforcement. People usually see administration system through “communal lens” because they mostly work with communal level. If communal authorities work with high enthusiasm and responsibility, people’s trust in the whole system will be enhanced. When communal authority are not able to apply all legal solutions⁸⁴ for protection of people’s rights and interests, people’s trust in authorities will diminish and they no longer want to come to authorities of higher level. It makes people hesitate to seek help from laws and legal services.

Result of questionnaire also specified people’s desire for legal service/aid as follow:

- Easy-to-understand instructions for people on legal service/aid. 78% of surveyed people considered the factor very important or important. It is suggested that customary law should be used more in solving civil conflicts as a friendly form of solution to the culture of EM people.
- Participation of female cadres, 73% of surveyed people considered the factor very important or important.
- Reasonable cost for legal services, 72% of respondents considered the factor very important or important. It is noticed that proportion of people require legal service to be free of charge is lower than those who are ready to pay a reasonable price.
- Legal assistants are ethnic minority or can speak ethnic language, 64% of surveyed people considered the factor very important or important.
- Other factors such as convenient traveling, friendliness of legal assistants are also highly appreciated.

Table 19: Factors considered important in utilization of legal service/aid

Factors	Very important		Important		Not important	
	General	EM women	General	EM women	General	EM women
Information and instructions are not so different from local customs	19	16.7	59	56.0	22	27.2
Participation of female officials	25	22.1	48	45.0	27	32.9

⁸³ Refer to village heads, village security official, village reconciliation group, communal security official and People’s Committee.

⁸⁴ According to Law on Domestic Violence Prevention and Control, cadres at grassroots level are allowed to give sanctions such as counselling, criticizing, issuing forbidden contact order, and fining for perpetrators of domestic violence. However, in study communes, perpetrators were fined only.

Reasonable cost	18	15.6	54	51.8	28	32.7
Legal assistants are of the same ethnic group or can speak ethnic language	11	9.4	53	50.4	36	40.2
Convenient travel, little time-consuming	9	7.8	52	49.8	39	42.4
Free legal service	6	4.3	48	43.8	46	51.9
Friendly legal assistants	6	4.7	47	45.3	47	50.0
Little time consuming	9	7.8	38	38.4	53	53.9
Do not have to go several times	7	4.7	37	38.4	56	57.0
Receive mobile service	4	3.1	39	38.8	57	58.1

Source: Result of survey with questionnaire

PART 4: INTERNATIONAL EXPERIENCES ON PROMOTING ACCESS TO LEGAL SERVICES FOR ETHNIC MINORITY WOMEN

A. EXPERIENCES IN INCREASING SUPPLY

a. Strengthening the coordination of legal services - Experience from Australia⁸⁵

Australia has more than 60 organizations providing legal assistance for indigenous people including Aboriginal and Torres Strait islanders Legal Services (ATSILS), organization for anti domestic violence and legal assistance for indigenous women. ATSILS is formed through the combination of the Associations for Protection of Indigenous people and the Committee for Indigenous People to conduct legal assistance in some certain areas. Many of them have offices in remote areas. These offices are staffed from 3- 100 persons, including lawyers, counselors and administrators. Most of cases handled by ATSILS are penal ones. Other organizations provide support in the field of civic matters and family issues. Some provide special services such as mental health support, financial counseling, counseling for prisoners or suicide prevention programs. ATSILS collaborates with law offices to provide counseling on matters related to families and civic or refer to other offices. Most of ATSILS activities focus on policy advocacy on issues related to their clients either directly or through associations. Support from ATSILS is subject to financial conditions of clients, however most of their clients received support from the government. ATSILS mainly provide direct counseling for their clients. ATSILS also provide phone service for criminal cases. The funding for ATSIL activities is from the federal government. All legal aids are free of charge, even cases involving independent lawyers or law firms.

b. Utilization of existing and familiar unofficial mechanism/institutions in locality

Unofficial mechanism/institutions refer to non-state system which might include long-lasting traditional justice system (such as traditional arbitration involving respectful people or dignitaries in the community or using customary laws, etc) or system of non-governmental organizations. Unofficial mechanism/institutions have common characteristics as follows:

- Based on voluntariness and social pressures to make conflict sides comply with the decision;
- Unofficial and participatory process;
- Based on the principles of deterrent and education rather than punishment;
- Decision making based on compromise rather than application of legal regulations;
- Conflict sides participate and play the center role in the decision making process.

These unofficial mechanism/institutions are familiar with and easily acceptable by the communities than the official justice system. However, these systems do not usually protect the rights of women. The main reason is respected people running these institutions are normally men. Furthermore, these institutions might be affected by the perception of man preference so that women are not always protected. Some of the following initiatives have been implemented to make these institutions more gender sensitive.

Capacity building for existing mechanism in locality - Experience from Indonesia⁸⁶

Revitalization of Legal Aid (RLA), a pilot project implemented by Justice for the Poor Indonesia, has operated since September 2005 in Lampung, West Java and West Nusa

⁸⁵ Cited from the website of the National Legal Aid Agency at: www.nlaa.gov.vn

⁸⁶ Indonesia's Revitalization of Legal Aid (RLA) Program: Strengthening Legal Services for the Poor, by Matthew Zurstrassen, Justice for the Poor – Indonesia

Tenggara provinces. RLA aims to improve access to justice for poor communities, including EM communities in those provinces through:

- Increasing legal and advocacy skill of paralegals;
- Strengthening the capacity of the existing posko (legal aid posts) in providing legal education and mediation services through mediators at village level;
- Providing recommendations for legal aid policy reform at both national and local levels.

One of the principles of the project is to build capacity to existing institutions in community to ensure accessibility of local people, especially marginalized communities such as EM and women. *Posko* (or legal aid points) has been long established and used by local people. However, *posko* does not always represent the rights and benefits of marginalized communities, especially women. Members of *posko* often are volunteers and influential people in communities who are often consulted by community members when they have problems. They are also powerful people and sometimes monitor the work of local governments. The project focused on building legal capacity and conflict resolving skills for *posko* originated from the communities, which is an effective way to ensure the services is provided by those who understand the community very well and know the language and culture of the community. The project also concentrates on mobilizing local women and capacitating them to participate in *posko*. The representation of women or EM people in *posko* has increased the usage of *posko* by EM in conflict resolution. *Posko* members in areas with high percentage of EM and women are trained on legal issues often faced by local EM and women as well as skills to communicate and provide services effectively for these typical groups. The project focus on introducing the *posko*'s services to make communities more aware of *posko* activities and increase the possibility of selecting *posko* services by the communities when they are in need. This has been done through official and unofficial community meetings and with local authorities. Legal education for local people also focus on legal issues often met by local people so that people understand when to seek support from *posko*.

*Mobilizing women's participation in unofficial institutions – Experiences from Bangladesh and the Philippines*⁸⁷

In Bangladesh, *shalish* is a traditional conflict resolution form that is community-based and very popular. Traditionally, *shalish* members are often community leaders or influential people. In traditional society in Bangladesh, *Shalish* is even used to enforce decision of a case. *Shalish* is often used to settle civic issues, sometimes criminal ones. Most common issues include gender, families, violence against women, inheritance, dowry, polygamy and taking care of children. However, as *shalish* is conducted by a group of people so they do not always protect the rights of marginalized groups, especially women. Reports have indicated *shalish* members received bribes to influence the outcome of conflict resolution or *shalish* members made decisions that seriously violate women's rights in case of imposing punishment on women due to their violation of social norms. Given that situation, some NGOs in Bangladesh have undertaken activities to build capacity for *shalish* and change their gender, class and ethnicity bias attitude. With the support from Asia Foundation, Madaripur Legal Aid Association (MLAA) has conducted series of activities, including selecting and training *shalish* members, with focus on women or member of marginalized communities, support on record keeping, training and supporting local women to participate in *shalish* or speak up during *shalish* trails. MLAA also support women in legal procedures if they do not

⁸⁷ Non-state Justice Systems in Bangladesh and the Philippines, Stephen Golub, Boalt Hall School of Law, University of California at Berkeley, January 2003

trust the *shalish*. MLAA also works with other community development projects to provide comprehensive support to women, from business development, literacy to forming women group to empower them and increase the possibility for them to use *shalish* services effectively in protecting their rights.

In the Philippines, *Katurangang Pambarangay* is an official system that based on traditional dispute resolution. *Katurangang Pambarangay* is officially established in 1978 based on a presidential code and there are 42,000 *Katurangang Pambarangay* operating at grassroots level nationwide. This system is considered more effective than the official legal system due to the following reasons:

- It is based on Philippine traditions, using local people to settle disputes.
- It is far less costly than the official system
- It also is far faster

In order to improve confidence and trust of people on services of *Katurangang Pambarangay*, Gerry Roxas Foundation together with some NGOs in Manila have set up the Barangay Justice Service System (BJSS), that include people with understanding and knowledge on laws, many of them are women and will support women, especially EM women when they participate in *Katurangang Pambarangay's activities*. They also plays role as supervisors to monitor the work of *Katurangang Pambarangay* to see whether these institutions treat women and other disadvantaged groups fairly and equally.

c. Increase the friendliness of legal services – Experience from Australia

The model of Community Legal Centers plays a significant role in providing legal services for people in Australia. Currently, there are more than 200 centers in cities, rural and remote areas. These centers are non-profit, community-based organizations which focus on targeting disadvantaged communities. As community-based organizations, their members are representatives of the communities and easily meet legal needs of the communities. Besides providing legal consultation to individuals, the centers focus on legal education for the community and advocating for changes in legal policies aiming to consolidate the union of the community.

The centers play important roles in meeting legal needs of indigenous people, including Aboriginal and Torres Strait islanders. Many centers have specific programmes for these communities. Methods of working with aboriginal communities focus on cooperation and community consultation, which prove to be effective. These centers recruit aboriginal staff and maintain frequent contacts with the communities to learn experiences in resolving problems from the communities.

For aboriginal women, there are quite many barriers preventing them from accessing to community legal services. These barriers include the common untrust in the state legal system, limited awareness of legal services, no access to telephone, economic difficulties, no means of transportation nor childcare services which make them unable to use services via phone or come to appointments. The Legal center for women in Canberra was established to solve those obstacles. The center have conducted consultation sessions with local aboriginal women to understand their problems regarding access to legal services and build strategic action plan with them. Activities of the center include different legal aids such as telephone counseling or direct counseling on issues closely related to the people. The center also organizes forums to discuss legal issues encountering women in the community as well as conducts legal consultation in the community. The establishment of a center for women with

aboriginal women actively participated in its planning and implementation of the plans has significantly increased the number of aboriginal women accessing its legal services.

B. EXPERIENCES IN INCREASING DEMAND

Raising awareness of legal issues and empowering aboriginal women – Experience from Australia

The Community Legal Center in Southern Australia works with aboriginal communities. Aboriginal young women are usually sexually abused and they do not consider it serious legal issue. These young women rarely inform their abused situation since they do not want to create troubles to their families. Even if they want to inform to authorities, communication and transportation obstacles have hindered them from doing so. The Southern Australia Community Legal Center organized a camping event, namely “Live Safe – Being Strong” for aboriginal communities in order to raise awareness of legal issues for these young women as well as enhance their life skills. The camping event combined entertainments with education and connected different communities. It also concentrated on equipping these young women with legal knowledge and skills to protect themselves from sexual abuse. The event was assessed appropriate with the culture of local communities.

PART 5: FINDINGS AND RECOMMENDATIONS

Legal services are in the process of reform and development with diversified forms; however, the access to and usage of legal services by EM women is still limited. Even EM women have high needs of legal services, their access to the services is very limited, much less than that of women of majority groups due to their lack of information and knowledge on their legitimate rights. Little access to legal services by EM women was shown through their limited knowledge and understanding of the services, little utilization of the services when in need but accepting and suffering the violation of their legitimate rights instead.

Needs of EM women and Kinh women have no differences in nature, but the access to legal services by EM women is far less than that of Kinh women due to differences in terms of language, legal knowledge and culture. Increasing accessibility of EM women to legal services require different interventions from those to other social groups due to their distant residence, limited ability of speaking Vietnamese as well as different culture, society management and justice. Therefore, key strategies to increase accessibility of EM women to legal services are bringing the services closer and making them friendlier to EM women.

These are findings of the study

Finding 1: Legal services are on the way of innovation with different forms, including paid and free of charge services. However, current legal services *are not really appropriate* for EM people:

- Services are mainly concentrate in cities and urban areas, hence, it is difficult for EM women to access in terms of geographic conditions
- Existing services are developing but unevenly among areas. There is still a lack of services in rural and mountainous areas, mainly in terms of expertise and material conditions
- Legal services for EM people in general and EM women in particular are yet friendly with them, which shown through the lack of officials who can understand EM culture or speak their languages, and ineffective supports for EM people.
- Costs for legal services are still too high compared to ability to pay of most EM women, while free legal aid to narrowed the beneficiaries to only those ethnic minority living in areas with extremely difficult conditions. The provisions overall scope of the policy, such as ethnic minority areas, areas with extremely difficult circumstances will be able to narrow the ethnic minority groups also benefit because people living in areas where there is no complete difficult circumstances. So when these areas are no longer on the list received the support of the state are of course the ethnic minority living in this region is not in the list to receive free legal aid while free of charge legal services have narrowed down the target beneficiaries to EM people living in most disadvantageous areas.

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Recommendation 1: Improve the appropriateness of legal services to EM women in the following aspects:

- Recommendation 1a: Expanding service network to grassroots level, increase its accessibility to people. Legal aid centers or mass organizations or non-governmental organizations implementing legal aid activities should conduct more mobile legal aid and provide more forms of services rather than legal consultation and dissemination for ethnic minority people, especially ethnic minority women should be diversified, which should not only be legal counseling and legal advocacy. Some popular legal services such as guidance on birth registration, marriage registration, divorce

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procedures or land use certificate might be considered to be provided in the community instead of people going to the commune or district authorities which is not easy for EM women. These organizations might cooperate with other programmes to integrate providing legal services with other essential services if necessary.

- *Recommendation 1b:* Legal aid centers, research institutes, non-governmental organizations and legal service providers to conduct comprehensive and anthropology studies on needs, attitude and habits of EM women with regards to legal services to design information-education-communication activities on legal issues and build mediation clubs or groups more appropriate to people in terms of language and culture.

—*Recommendation 1c:* Ministry of Justice and related agencies to study and consider different ways of financial support to legal aids, from covering partially to whole fee of the services. Currently, only some EM groups residing in particularly hard areas receiving free of charge services while the needs for legal services are high and not all EM people need totally free services. Result from field study demonstrates that 72% of surveyed people consider reasonable costs of services important or very important. The rate of people requires free service is not as high as that of people ready to pay reasonable fees.

- Ministry of Justice and relevant agencies should study and consider the proposed arrangement with government rules or regulations funded entirely different from covering partially to whole fee of the services because although 72% of survey people consider reasonable cost of services important or very important, but the rate of people requires free service is not as high as that of people ready to pay reasonable fee. Currently, only some EM groups residing in particularly hard areas receiving free of charge services while the needs for legal services are high and not all EM people need totally free services.

- *Recommendation 1d:* Use of a decision on the establishment of 84/2008/QĐ legal aid funds towards expanding the scope of the object because the scope of the Fund's financial support is the legal aid center, branch support legal under the state while including non-governmental organizations active in this area is an effective way to not be supported and encouraged to participate. Encouraging the engagement of more non-governmental organizations in the provision of legal services to EM people, particularly women. NGOs are now actively participating in poverty reduction and social development programmes for EM communities and implement direct activities with the communities. It is of great advantages if these organizations expand their areas of work to legal services. Ministry of Justice and Legal Aid Foundation to consider and expand the subjects receiving its fund to NGOs if they involve in providing legal aid to EM people.

Finding 2: Some forms of legal services which are more appropriate with EM people are being used such as applying customary laws on the guidance and implementation of laws related to forest protection or grassroots reconciliation with familiar community people to solve conflicts in the community. These forms are particularly useful for EM people in general and EM women in particular since they are familiar, accessible to EM women as well as applying EM existing cultural values. Nevertheless, it is essential to have sufficient information and knowledge on conflicts or contradictions and supplements of customary laws against law in order to use these forms effectively. Influential people in the communities using these traditional institutions should have knowledge and understanding on gender equality and domestic violence as well.

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Recommendation 2: Encourage the use of customary law (temporarily called the form of legal services in non-formal study) Increase the usage of unofficial legal services which are familiar with EM people in general and EM women in particular

- *Recommendation 2a:* Ministry of Justice in cooperation with MOLISA to conduct or support research institutes to conduct studies on customary laws, the similarities and contradictions among customary laws of EM groups and the possibility of applying customary laws in the enforcement of Law on Gender Equality and Law on Domestic Violence Prevention and Control
- *Recommendation 2b:* Organizations such as Women’s Unions, DOLISAs and DOJs to cooperate to raise awareness on gender, gender equality, Law on Gender Equality and Law on Domestic Violence Prevention and Control for grassroots mediators and equip them with skills on resolving/mediating concrete cases related to gender equality and domestic violence prevention normally occur in locality.
- *Recommendation 2c:* Legal service and legal aid centers/branches to mobilize more participation of EM women. Result of field study has shown this factor was considered important by EM women. The form of EM women’s participation might vary from direct involvement in providing legal services if they meet all requirements to providing interpretation or guidance for other EM women. The attendance of EM women at legal service centers might increase the friendliness of the centers towards EM women when they come for services. The centers might mobilize members of local WU or respected women in EM women community then train them on legal knowledge. Decision No. 52/2010/QĐ-TTg dated 18/8/2010 by the Prime Minister on legal aid policy to raise awareness and legal knowledge for the poor, EM people in poor districts for the period 2011 – 2020 clearly stipulates number of legal aid activities as well as capacity building activities for legal aid officials in these areas, including training EM languages for legal aid officials and training intermediate law for EM people who have potentials to become communal justice staff. MOJ should develop concrete criteria for EM female staff to benefit from this policy.

Finding 3: There are *barriers from EM women themselves* limiting their access to legal services such as poverty, limited awareness of legal issues, their psychology of acceptance and sufferance, limited capability of speaking Vietnamese. Improving the access to legal services for EM women means to remove these barriers.

- *Recommendation 3a:* WUs or NGOs to develop models of providing legal services for EM women including capacity building on laws, legal consultation and empowering women so that they are confident in accessing and using legal services. Some model legal clubs of WUs or NGOs have succeeded in improving knowledge and skills for people.
- *Recommendation 3b:* IEC activities on legal knowledge should be more effective, appropriate and “culture sensitive” to EM women. MOJ, WUs and related agencies to enhance IEC activities for people, especially EM women. Current types of IEC activities such as dissemination car, loudspeakers or leaflets are obviously not appropriate to EM women due to their limited time, language barrier and reading comprehension capacity.

Finding 4: Legal aid – a free of charge legal service for EM people has proven to be more appropriate in comparison with other forms of services thanks to its broader cover in every province, its network reaching to district and community level through mobile models. However, people’s awareness of legal aid is still limited.

Recommendation 4: Improve people's awareness of legal aid and legal aid procedures

- *Recommendation 4a*: Departments of Justice, legal aid centers and related programmes to communicate and integrate the communication on legal aid as a type of support to EM people in general and EM women in particular

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Annex 1: Questionnaire

Questionnaire for local people

Dear Mr./Ms.

Ministry of Labor, Invalids and Social Affairs, United Nations Development Programme in collaboration with Institute for studies of Society, Economy and Environment is conducting a study to review the access to legal services of local women and men. The study aims to find out the needs for legal services of local women and men, find out about current usage of legal services and your awareness of available legal services in your area.

To help you answer easier, I'll give some examples of what legal services are. When you have a legal problem, you can go to this service provider for consultation on what to do to protect your rights. Or when you have to do an administrative procedure, you can go there for guidance. Or if you have problems related to the court, such service that can send someone to come along and help you in court.

We will ask you a few questions. All information you provide will be kept confidential. Your name will not be written on this questionnaire. You may refuse to answer any questions. You can stop the interview at any time. The interview will last for about 20 minutes.

Do you agreed to participate in this study?

- 1. Agreed to participate in research
- 2. Not agree to participate in research

The interview is conducted:

- Directly between the interviewer and the interviewee
- Through interpreter

Full name of interviewer:

Village: Commune:

District: Province:

Full name of checker:

Part 1: Need for legal services

In this section, I will ask you a few questions related to some certain situations in life. These situations may give rise to legal encounters.

Q1. When your family have a newborn baby, do you or anyone in your family go to local people’s committee to register the birth for the baby?

- 1. Yes
- 2. No

If yes, continue Q2, if not go to Q3

Q2. How did you get information in order to follow the procedure in this situation?

You can choose multiple answers.

- Read / hear information on radio, newspapers and television
- Told by neighbors or family members
- Read information in leaflets about law
- Get reminded by local officials
- Other (please specify)

Q3. Why do not you follow the procedure in this situation? You can choose multiple answers.

- Do not know what procedures to follow
- Do not know where to go to do procedures
- Hesitate to go to governmental offices
- Time consuming
- Travel long distance
- Costly
- Unable to speak Vietnamese
- Just need to declare to community leaders
- Not necessary to do so
- Other reasons.....

Q4. When you buy or sell land, do you or anyone in your family go to local people’s committee to do the procedure?

- 1. Yes
- 2. No

If yes, continue Q5, if not go to Q6

Q5. How did you get information in order to follow the procedure in this situation?

You can choose multiple answers.

- Read / hear information on radio, newspapers and television
- Told by neighbors or family members
- Read information in leaflets about law
- Get reminded by local officials
- Other (please specify)

Q6. Why do not you follow the procedure in this situation? You can choose multiple answers.

- Do not know what procedures to follow
- Do not know where to go to do procedures
- Hesitate to go to governmental offices
- Time consuming
- Travel long distance

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q13. In the past 12 months, were you in the situation when you were not entitled to obtain loans from policy bank?

1. Yes 2. No

If yes, continue Q14, if not go to Q16

Q14. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q15. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q16. In the past 12 months, were you in the situation when you were dismissed or terminated labor contract?

1. Yes 2. No

If yes, continue Q17, if not go to Q19

Q17. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q18. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head

If yes, continue Q26, if not go to Q28

Q26. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q27. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q28. In the past 12 months, were you in the situation when you were involved in land dispute with someone not in your family?

1. Yes 2. No

If yes, continue Q29, if not go to Q31

Q29. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q30. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q31. In the past 12 months, were you in the situation when someone borrows your money and not pay you back?

1. Yes 2. No

If yes, continue Q32, if not go to Q34

Q32. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed

Not annoyed

Q33. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q34. In the past 12 months, were you in the situation when you were not allotted with forest or agricultural land?

1. Yes 2. No

If yes, continue Q35, if not go to Q37

Q35. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q36. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q37. In the past 12 months, were you in the situation when you were not invited to agricultural and forestry extension workshops?

1. Yes 2. No

If yes, continue Q38, if not go to Q40

Q38. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q39. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders

- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q40. In the past 12 months, were you in the situation when you were not being granted land use right certificate?

1. Yes 2. No

If yes, continue Q41, if not go to Q43

Q41. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q42. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q43. In the past 12 months, were you in the situation when you were not satisfactory with the compensation when your land (residential, agricultural, forestry land) is taken?

1. Yes 2. No

If yes, continue Q44, if not go to Q46

Q44. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q45. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing

Other solutions (Please specify)

Q46. In the past 12 months, were you in the situation when other party does not observe the signed contract between you and him/her?

1. Yes 2. No

If yes, continue Q47, if not go to Q49

Q47. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q48. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q49. In the past 12 months, were you in the situation when you were not recognized as poor household?

1. Yes 2. No

If yes, continue Q50, if not go to Q52

Q50. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q51. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q52. In the past 12 months, were you in the situation when your family was not entitled to policies for the poor?

1. Yes 2. No

If yes, continue Q53, if not go to Q55

Q53. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q54. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q55. In the past 12 months, did you divorce?

1. Yes 2. No

If yes, continue Q56, if not go to Q62

Q56. In the past 12 months, were you in the situation when you did not have custody of the children or receive contribution for offspring care after divorce?

1. Yes 2. No

If yes, continue Q57, if not go to Q59

Q57. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q58. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Q59. In the past 12 months, were you in the situation when you did not receive assets after divorce?

1. Yes 2. No

If yes, continue Q60, if not go to Q62

Q60. Your assessment of the level of annoyance of such problem

- Very annoyed
- Annoyed
- Little annoyed
- Not annoyed

Q61. When you encountered this problem, what did you do? You can choose multiple answers

- Self-handling between two sides
- Bringing to community leaders
- Asking for help from relatives, neighbors
- Bringing to local people's committee
- Resorting to reconciliation team
- Resorting to village head
- Accepting the problem, doing nothing
- Other solutions (Please specify)

Part 2: Use of and experiences in legal services

Now we will move on to your experience in using legal services

To help you answer easier, let me repeat a few examples of what legal services are. When you have a legal problem, you can go to this service provider for consultation on what to do to protect your rights. Or when you have to do an administrative procedure, you can go there for guidance. Or if you have problems related to the court, such service that can send someone to come along and help you in court.

Q62. Where do you often find information related to your concerns or problems? You can choose multiple answers.

1. Radio, newspapers and other mass media
2. Commune’s library or legal books’ shelf
3. Ask neighbors or relatives
4. Flyers / leaflets on law
5. Legal information box
6. Dissemination meetings about laws
7. Consult with community leaders
8. Do not know where to search
9. Ask legal collaborators or legal aid staff
10. Other (please specify)

Q63. Have you ever heard of the following agencies? You can choose multiple answers.

1.	Legal clubs	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
2.	Legal aid clubs	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
3	State legal aid center	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
4	Branches of legal aid center	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
5	Mobile legal aid activities	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
6	Lawyers’ office	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
7	Legal consultancy centers	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
8	Law firm	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet

Q64. Have you ever received counseling or legal assistance from the following agencies/individuals? You can choose multiple answers.

1	State legal aid center	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
2	Branches of legal aid center	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
3	Mobile legal aid activities	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
4	Lawyers’ office	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
5	Communication and propaganda on laws	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
6	Lawyers	1. <input type="checkbox"/> Yes	2. <input type="checkbox"/> Not yet
7	Others:		

If all the answer is not yet, move to question Q65, if “yes” move to question Q66

Q65. Why you have not used legal services. You can choose multiple answers.

- No need
- Do not know where the services are
- Hesitate to communicate
- Hesitate to pay much
- Not sure about the effectiveness of assistance
- Long distance
- Unable to speak Vietnamese
- Time-consuming
- Able to self-handle
- Never heard about legal services
- Go against local customs
- Other (please specify)

Q66. In the future, in order for you to use legal services, what factors are important to you. You will rate the importance of each factor as very important, important and not important

<i>No</i>	<i>Factors</i>	Very important 1	Important 2	Not important 3
1	Free services			
2	Convenient, not taking long time for travel			
3	Friendly and respectful staff			
4	Staff are of the same ethnicity and can speak ethnic language			
5	Reasonable cost			
6	Information and instructions are not so different from local customs			
7	Not time consuming for waiting			
8	Simple procedures no need to travel many times			
9	Outreach service			
10	Having female staff			

Part 3: General Information

Let me ask you some information about you

Q67. Sex: (interviewers autocomplete) 1. Male 2. Female

Q68. How old are you:

Q69. What is your ethnicity?

- 1. Kinh
- 2. Tay
- 3. Nung
- 4. Dao
- 5. Khmer
- 6. Other (please specify)

Q70. What is your main language used at home

Q71. What is your education level:

- 1. No school
- 2. Primary education (class 1 – 5)
- 3. Junior high school (class 6 – 9)
- 4. Senior high school (class 9 – 12)
- 5. College
- 6. University
- 7. Postgraduate

Q72. What's your job?

- Farmer
- Hired laborer
- Worker
- Housework
- Civil servant
- Other (please specify)

Q73. Monthly income

- Less than 200,000 VND / month
- From 201,000 to 500,000 VND / month
- From 501,000 VND / month - 1 million
- From 1 million or more

Q74. Is your family recognized as poor household

- 1. Yes
- 2. No

Thank you for answering these questions.

Annex 2: Summary of Legal Services

Types of legal services	Free of charge	Charged
Legal consultation includes: <ul style="list-style-type: none"> - Guiding, explaining law; - Consulting, providing legal advise; - Drafting application, contract, will, and other documents; - Providing legal documents and information. 	<ul style="list-style-type: none"> - State legal aid centers and its branches⁸⁸ - Legal consultation centers (free of charge for members of organizations in charge; subjects who registered with Justice Department to involve in legal aid) - Lawyer offices, law firms, lawyers (some objects may be deducted or free of charge under private policy of offices, companies, or lawyers when they registered with Justice Department to provide legal aid) 	<ul style="list-style-type: none"> - Legal consultation centers under socio-political, socio-professional organizations, vocational training centers, centers for law research⁸⁹ (legal consultation centers under Lawyer associations, Women's Union, Vietnam Labor Confederation, Vietnam Youth Union, Farmers' Union, Veterans' Union, University of Law in Ho Chi Minh,...) - Lawyer offices⁹⁰ - Law firms⁹¹ - Lawyers (work independently)⁹²
Procedural process, includes: <ul style="list-style-type: none"> - Defending; - Representing ; - Protecting legal rights 	<ul style="list-style-type: none"> - State legal aid centers and its branches⁹³ - Legal consultation centers (free of charge for members of organizations in charge; subjects who registered with Justice Department to involve in legal aid) - Lawyer offices, law firms, lawyers (some objects may be deducted or free of charge under private policy of offices, companies, or lawyers when they registered with Justice Department to provide legal aid). 	<ul style="list-style-type: none"> - Legal consultation centers - Lawyer offices - Law firms - Lawyers (work independently)
Representatives make procedural activity for clients to task law-related works.	<ul style="list-style-type: none"> - State legal aid centers and its branches - Legal consultation centers (free of charge for members of organizations in charge; subjects who registered with Justice Department to involve in legal 	<ul style="list-style-type: none"> - Lawyer offices - Law firms - Lawyers (work independently)

⁸⁸ Establishment and operation under Law on Legal Aid, Decree No 07/2007/NĐ-CP issued on January, 12th 2007 detailed stipulation and guidance on some Articles of Law on Legal Aid.

⁸⁹ Establishment and operation under Decree No 77/2008/NĐ-CP issued on July, 16th 2008 on legal consultation

⁹⁰ Establishment and operation under Law on Lawyer, Decree No 28/2007/NĐ-CP issued on February, 26th 2007 detailed stipulation and guidance on some Articles of Law on Lawyer.

⁹¹ ditto

⁹² Operation under Law on Lawyer, Decree No 28/2007/NĐ-CP issued on February, 26th 2007 detailed stipulation and guidance on some Articles of Law on Lawyer.

⁹³ Establishment and operation under Law on Legal Aid, Decree No 07/2007/NĐ-CP issued on January, 12th 2007 detailed stipulation and guidance on some Articles of Law on Legal Aid.

Types of legal services	Free of charge	Charged
	aid) - Lawyer offices, law firms, lawyers (some objects may be deducted or free of charge under private policy of offices, companies, or lawyers when they registered with Justice Department to provide legal aid)	
Other legal services (to help clients with administrative procedures, translation, document confirmation, transactions; provide legal aid in procedural appeal and other works).	- State legal aid centers and its branches ⁹⁴ - Legal consultation centers (free of charge for members of organizations in charge; subjects who registered with Justice Department to involve in legal aid) - Lawyer offices, law firms, lawyers (some objects may be deducted or free of charge under private policy of offices, companies, or lawyers when they registered with Justice Department to provide legal aid).	- Lawyer offices - Law firms - Lawyers (work independently).

⁹⁴ Establishment and operation under Law on Legal Aid, Decree No 07/2007/NĐ-CP issued on January, 12th 2007 detailed stipulation and guidance on some Articles of Law on Legal Aid.