

Legal assistance with the issue of ensuring human rights in Vietnam

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Abstract

Ensuring human rights in general and human rights for disadvantaged groups is always valued by the Vietnamese government. Vietnam ensures the rights of disadvantaged groups by promulgating and fully implementing policies and legal documents that recognize the rights of disadvantaged groups. The Law on Legal Aid in 2017 was born once again affirming Vietnam's concern for the disadvantaged in ensuring human rights and also demonstrating Vietnam's commitment to protecting the rights and interests of the disadvantaged. legitimate interests of "weak people" in society.

Keywords: human rights, legal aid, disadvantaged groups, guarantee rights, policy, law

Introduction

The role of legal aid in ensuring human rights in Vietnam

Vietnam has been developing and implementing legal aid for its citizens as one of the measures to ensure human rights. Legal aid for a particular group of citizens, so that the law becomes a measure of social justice, is also considered as one of the measures to organize the implementation of the law, bring the law to life, and contribute to political stability, governance and economic development. In addition, the Government of Vietnam also identifies legal aid as a form of monitoring the activities of the public authorities to minimize to a minimum the situation of arbitrariness, abuse of power and violations of human rights. Everyone's right to legal aid is enshrined in the Constitution and specific laws, and there is a mechanism for resources to ensure implementation in real life in Vietnam.

Legal aid is increasingly being affirmed in social life as a legal measure to contribute to the protection of human rights. Due to its association with the human right to protection, legal aid activities have a strong impact on the process of formulating and organizing the implementation of the law. Good implementation of the legal aid policy for disadvantaged people is in fact one of the important parts of the mechanism to ensure the implementation of human rights. That role is reflected in:

Firstly: legal aid is a free legal service - an integral part of the legal services market in Vietnam. Here, the service package that the State provides for the poor is completely free, associated with legal products to ensure that the provisions of the law reach all classes of people regardless of rich or poor., geographical circumstances, social status, ethnicity, beliefs. The birth of legal aid has added to poor citizens a kind of free service so that they can use the law as a tool to protect their rights when there is a threat of violation. It cannot be denied that recognizing human and civil rights in laws is a great step forward in legislation and is a very important measure to ensure human rights and citizens' rights, but that's all. is not enough. It is important that those rights people know and know how to exercise their rights... In order for citizens' rights to be guaranteed to

be implemented in life, sometimes the State must be bound through the responsibilities of other specific subjects, which must first be the responsibility of the State (through its apparatus), then of society and of citizens. That is, the provisions on citizenship must be implemented by the State by creating various suitable opportunities for citizens with physical, mental, financial, socio-economic different societies can still have equal access to rights and exercise their rights. With this approach, legal aid is a measure used by the state as a tool to ensure equality in access to human rights and citizenship.

Second: legal aid is a social policy of Vietnam in the overall social policies for the poor, the lonely elderly, the disabled, HIV-infected, dioxin-infected, and children without refuge, ethnic minorities permanently residing in areas with extremely difficult socio-economic conditions. Due to their physical, mental or economic, or language disabilities, they often have limited legal awareness, are vulnerable, and are unable to exercise their rights and protect their rights and interests on their own. legitimate, vulnerable to other subjects. They are the people who easily fall into the vicious cycle of poverty, pessimism, inhibition, are easily suppressed, exploited, abused, so they are pessimistic, depressed and their civil rights are easily violated. lead to the negative. Legal aid as a free legal service will create opportunities for these people to access, use, and ask for help when there is a need or when there is a problem. As a tool, legal aid provides them with equal opportunities to access and enjoy their rights, benefits and incentives from the State's poverty reduction and hunger eradication policies, but to rise to poverty alleviation. improve lives and strictly enforce the law, limit law violations caused by ignorance, and feel secure in doing business and living.

Third: legal aid directly participates in the case according to statutory procedures to protect the legitimate rights and interests of the poor, people with meritorious services to the revolution and other subjects, contributing to the dissemination of legal aid., legal education, protecting justice, ensuring social justice, preventing and limiting disputes and law violations, avoiding violations,

arbitrariness, abuse of power and infringing upon the civil rights of the public authorities and other entities. Therefore, the good implementation of legal aid is also a channel for public service supervision in the requirement of strict and consistent enforcement of the law, ensuring fairness and equality for all citizens before the law. State agencies in handling the affairs of the people. Through each specific legal aid case, it is possible to see the shortcomings of the civil service and especially the responsibility to serve citizens of state officials and civil servants. Activities of cadres and civil servants will be reviewed and evaluated objectively; defects and errors are recommended to be rectified. Since then, "legal aid is a tool to protect the interests of the State, society and individuals, to limit and eliminate violations of the law by public actors and individuals" ^[1].

Status of human rights protection through legal aid activities in Vietnam

In recent years, legal aid in Vietnam has gradually been enhanced in terms of service delivery capacity, quality and convenience for people to access. This can be seen through the following key issues:

Firstly: the network of legal aid organizations has been gradually consolidated and consolidated with the participation of a variety of actors, including state legal aid centers with branches, law-practicing organizations, legal consulting organizations. Legal aid providers - Legal assistants, collaborators of the State Legal Aid Center, lawyers, legal consultants, and those with legal knowledge and understanding at the grassroots level. increasingly professional. Legal aid activities in residential areas (mobile legal aid, legal aid club activities, legal aid points, legal thematic activities.) are promoted and increase in the direction of being close to the people, creating favorable conditions for people to access and use whenever they have need, promptly advise, guide, answer, represent and protect the legitimate rights and interests of the people. people.

Secondly: the number of legal aid cases being performed is increasing, the quality is gradually being paid attention to, and the number of cases satisfied by the people is increasing. In particular, with the strengthening of legal aid work in legal proceedings, the number of cases involving legal assistants and lawyers' collaborators is increasing. Participation in the proceedings not only contributes to ensuring the defense rights of the accused and defendants; rights to protect the legitimate interests of other litigants are exercised, but also make them more confident in the court's adjudicating role. Direct participation in interrogation, taking testimonies, examining evidence, meeting witnesses, analyzing case details, causes and conditions for crime to arise have supported the prosecution agencies., the person conducting the proceedings in ensuring the correct identification of the objective truth of the case, shortening the detention time, comprehensively considering the case, the right person, the right crime, and the right law. At the same time, in cases of investigation, prosecution and trial, violations or errors will be recommended to compensate citizens in accordance with Resolution No. 388 of the National Assembly Standing Committee. Participation in the proceedings also makes an important contribution to the conduct of litigation in the spirit of judicial reform,

openness, democracy and transparency. Particularly in civil proceedings, legal aid has assisted the involved parties in understanding the law, properly determining the nature of the dispute, presenting evidences for reconciliation, and implementing the principle of the same difficulties for litigants, especially those with poor qualifications, the poor) who are "the litigants with the obligation to prove themselves" in civil proceedings.

Third: through specific legal aid cases, legal aid organizations have timely detected cases that are not handled legally, have defects, violate civil rights to well implement recommendations on issues related to law enforcement and promptly propose solutions to overcome. In particular, the request to remove obstacles, inadequacies and shortcomings of the civil service, especially arbitrary acts, abuse of power, and law violations of some state officials, contributes to building building a grassroots government of a clean, strong, friendly civil service and serving the people in the spirit of administrative reform.

Fourth, the legal aid policy is increasingly being improved. Over the years, Vietnam has issued many policies and legal documents, especially the Law on Legal Aid 2017 to improve the organization and activities of legal aid. All policies and laws enacted are aimed at ensuring that 95% of the poor, ethnic minorities in extremely difficult communes and 98% of the poor in the country have a need for assistance. Free legal aid: "Improve the legal framework, increase legal aid and access to legal aid for the poor. Expand the legal aid network so that the poor in rural, remote and isolated areas can access legal aid services. It can be said that the legal documents and the formation of the organizational system have formed a system of synchronous legal tools that comprehensively regulate the social relations arising in legal aid activities, bring the legal aid activities to the right place. legal aid activities to a new height, in line with the trend of advocacy and development of legal aid institutions in empowering the poor and protecting human rights in general in the world.

Solutions to improve the effectiveness of legal aid to protect human rights in Vietnam

Despite achieving the above results, in the following years, in order to ensure human rights and citizens' rights, it is necessary to continue to strengthen communication and information on legal aid to the people, especially are in remote areas, areas with extremely difficult socio-economic conditions, ethnic minorities and mountainous areas. Legal aid work should aim at quality, efficiency, increase serviceability, and enhance accountability of legal aid-providing organizations and legal aid providers in terms of service quality. At the same time, it is necessary to strengthen the quality of state management of legal aid to ensure the effective implementation of the provisions of the Law on Legal Aid and its guiding documents, to ensure that beneficiaries legal aid can enjoy legal services with the best quality and legal aid organizations are really reliable addresses for people to access whenever they need to protect their rights and interests. legitimate interests. In order to protect human rights through the provision of legal aid, the State needs to research and implement the following practical activities

Firstly: perfecting the law, improving the legality of legal aid activities of some subjects, especially lawyers.

At the Notice No. 485/CV-VPTW dated May 31, 1995 of the Office of the Central Committee of the Party on the direction of the Secretariat for the Regulation on legal consultancy practice, proposed the Government Party Personnel Committee, The Party Committee of the Ministry of Justice: "determine the appropriate scope of legal consultancy activities of state organizations, social organizations and individuals, first of all, focusing on the state legal consultancy organization...; It is necessary to study and establish a system of free legal consulting services to guide people to live and work according to the law".

In a letter dated December 20, 1995 to officials and employees of the Judiciary sector on the occasion of the 50th anniversary of the establishment of the sector, former General Secretary Do Muoi once again emphasized: "The State must study and establish a system of justice as soon as possible. system of free legal consultancy organizations for the poor, policy-affected families and ethnic minorities. These directives have oriented to renew thinking about the provision of legal services, set a milestone for the process of profound and comprehensive change in awareness, and created a political and legal premise for legal service delivery. birth and development of legal aid work in the next period.

At the 3rd meeting of the 8th Party Central Committee on June 18, 1997, for the first time in the Resolution of the Party Central Committee, it directed the implementation of legal aid work towards: form of legal advice to agencies, organizations and people, creating conditions for the poor to enjoy free legal advice services. This is an important political-legal basis, continuing to affirm the Party's political determination in ensuring the right to access to law for the poor and disadvantaged groups. On that basis, the Prime Minister issued Decision No. 734/TTg dated September 6, 1997 on the establishment of legal aid organizations for the poor and policy beneficiaries. Implementing this Decision, the system of organizing legal aid implementation has been established throughout the country. Legal Aid Department under the Ministry of Justice was established to assist the Minister of Justice in state management of legal aid nationwide.

On June 20, 2006, the Xth National Assembly promulgated the Law on Legal Aid, marking a new development in legal aid activities. In response to the development requirements of the country, the implementation of the 2013 Constitution, many important new procedural laws and laws were promulgated by the National Assembly, the work of strengthening legal and judicial reform, etc. set out requirements to reform legal aid work in the direction of focusing on implementing legal aid cases, ensuring the quality of cases. On June 20, 2017, the XIV National Assembly, the 3rd session, approved the 2017 Law on Legal Aid (100% of the delegates present agreed) with the main goal of improving the quality of legal aid, using available resources. effective and people-centered. The introduction of the Law on Legal Aid in 2017, once again affirms that the Party and State continue to recognize the position and role of legal aid work, marking an important milestone in perfecting the State's institution for human rights. Legal benefits of legal aid recipients are the poor and disadvantaged groups in Vietnam.

Legal aid has been confirmed as a policy of "lawful poverty reduction" in the overall poverty reduction policies of the Party and the State, specifically the National Target Program on poverty reduction for the period 2006-2010, the Program socio-economic development of extremely disadvantaged communes, ethnic minority areas and mountainous areas in the period 2006 - 2010 (Program 135 phase II), Program to support rapid and sustainable poverty reduction for rural areas. poor districts according to the Government's Resolution No. 30a/2008/NQ-CP dated December 27, 2008 and orientations for sustainable poverty reduction in the period from 2011 to 2020 according to the Resolution No. 80/NQ-CP dated 19/ 5/2011 of the Government; Decision No. 32/2016/QĐ-TTg dated 08/08/2016 of the Prime Minister on promulgating legal aid policy for the poor, ethnic minorities in poor districts, poor communes, special villages and hamlets difficulties in the 2016-2020 period and support for complex or typical legal proceedings.

After more than 20 years of establishment and development, up to now, the policy on legal aid for the poor and disadvantaged has been quite complete, including: 01 Law, 01 Decree, 8 Circulars and Joint Circulars current and comprehensive adjustment of legal aid issues: model of legal aid implementation organization, legal aid recipients, legal aid implementation organization, legal aid professional activities, regimes and policies for legal aid implementers, responsibilities of agencies and organizations in legal aid work. Legal aid regulations have also been synchronized in the procedural codes: Criminal Procedure Code, Civil Procedure Code, Administrative Procedure Law and Law on Administrative Procedures. The Law on Enforcement of Detention and Detention, promulgated in 2015, has provisions to ensure the implementation of legal aid.

Second: strengthen the State's management, consolidate the organizational apparatus in legal aid activities

The State is the subject of management and quality control of legal aid services, in order to ensure that legal aid is provided to all subjects who have the right to use this service as a tool to protect legal aid. own legitimate rights and interests, contribute to the realization of democracy, strengthen the socialist legality in the conditions of renewal, realization and industrialization of the country. In addition, the State plays an important role in organizing the provision of legal aid, creating motivation to attract people with sufficient professional capacity, professional qualifications and good moral qualities to participate in legal aid activities. juridical.

Becoming a full member of the United Nations Human Rights Council in 2013 poses a challenge to human rights protection in Vietnam. In addition, the legal aid deployment model of the previous period still has many shortcomings and shortcomings, which cannot ensure the full implementation of the guidelines, guidelines and policies of the Party and State in the field of legal aid. in this area, directly affecting the quality of legal aid services of the people. Therefore, practice requires measures to innovate legal aid work in the direction of improving capacity, strengthening the organization and apparatus of the legal aid agency; strengthen state management in coordination of resources, supervision and quality control of legal aid; financial support for agencies, organizations and individuals participating in legal aid activities; ensure quality and effective legal aid activities.

Third: strengthen coordination among relevant agencies and organizations on legal aid activities

Continue to effectively implement the Inter-sectoral Coordination Program in litigation activities contained in the content of Joint Circular No. 10/2018/TTLT/BTP BCA-BQP-BTC-VKSNDTC-TANDTC dated June 29, 2018. Accordingly, the provincial/city Police, Provincial/City People's Procuracy, Provincial/City People's Court, Provincial/City Military Command, Provincial/City Border Guard Command are members. of the Inter-sectoral Coordinating Council on Legal Aid in litigation activities, it is necessary to continue to coordinate and direct their units to create favorable conditions to assist legal offenders in carrying out procedures for registration or granting of certificates of defense counsels, defender of the litigants' legitimate rights and interests; strictly comply with specialized legal provisions. Proactively perform well inter-sectoral coordination on legal aid in proceedings: Police at all levels direct investigating agencies, prison superintendents, and head of custody houses to create favorable conditions for aid providers. provide legal assistance to meet the accused or defendants, participate in interrogation and provide investigation conclusions; The People's Courts at all levels shall direct specialized courts and lower-level People's Courts to notify the trial schedule to agencies, organizations and individuals providing legal aid, specifying information about legal aid providers. and their opinions, defense and representation in the judgment; The People's Procuracy, People's Courts and Public Security Forces at all levels are responsible for explaining the right to legal aid to the accused, defendants, victims, plaintiffs, defendants, persons with related rights and obligations, ...in the case of being eligible for legal aid according to the law and guiding these subjects to make an application for legal aid and how to contact the Legal Aid Center.

Strengthen the coordination between the Legal Aid Department and legal aid centers under the Ministry of Justice system; strengthen the relationship between the Ministry of Justice and socio-political organizations, socio-professional organizations in legal aid activities in order to promote the strength of the whole society to participate in legal aid work, and at the same time develop the legal aid network. network providing legal aid services other than the state, creating favorable conditions for legal aid beneficiaries to have the opportunity to choose services.

Strengthen the participation of the Bar Federation, Bar Association, Bar Association, etc. to coordinate with the State Legal Aid Center in providing legal aid activities under the management, supervision, inspection and assessment. quality of solving legal aid cases by competent state agencies. Political - social, social - professional agencies and organizations create conditions and encourage their human resources to participate in legal aid activities.

Fourth: strengthen the socialization of legal aid activities
Currently, Vietnam is home to many large enterprises with economic potential, so the Vietnamese government needs to make the most of its resources to mobilize resources of the whole society to realize the goals of the Government. legal aid work. Accordingly, the State needs to select and apply the model of the state and society to jointly perform legal aid activities; create an open legal environment to mobilize law-practicing organizations nationwide to participate in providing legal aid ^[3].

Fifth: promote communication about legal aid activities nationwide

In the coming time, in order to enhance the role of legal aid activities nationwide, state legal aid centers will continue to effectively implement the 2017 Law on Legal Aid and its guiding documents. Implementation guidelines, including Joint Circular No. 10/2018. Promote communication about legal aid activities, especially coordinate with media agencies such as Radio and Television Stations to provide information about legal aid beneficiaries to all classes of people. people in the province. Strengthen coordination with agencies, organizations and mass organizations to effectively deploy legal aid, especially closely coordinate with procedure-conducting agencies nationwide in appointing people to perform legal aid. legal aid, ensuring that 100% of accused, victims and involved parties are eligible for legal aid upon request to receive timely and effective legal aid. legal, attracting all resources to support this activity.

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