

# GRASSROOTS MEDIATION EU JULE POLICY BRIEF NO. 1

March 2020



EU JULE

**GRASSROOTS MEDIATION?** Grassroots mediation, a community-based form of **dispute resolution**, is the most common mechanism to settle minor disputes in Viet Nam. Grassroots mediation is a voluntary, self-regulatory form of mediation. It resonates with the traditional culture of Vietnamese people that emphasizes the importance of maintaining harmony in families and communities. Other benefits contributing to its wide use include affordability, accessibility, geographical proximity, and confidentiality.

**CONTEXT?** Grassroots mediation is currently regulated by the Law on Grassroots Mediation of 2013. Until the end of 2018, **107,086** mediation teams have been established with over **652,819** mediators. Between 2014 and 2018, a total of **760,755** grassroots mediation cases have been resolved. The Ministry of Justice is the agency responsible for giving guidance and monitoring grassroots mediation activities. The Department of Legal Education and Dissemination - Ministry of Justice is the consulting unit, assisting the Minister of Justice in the execution of these functions.

**GRASSROOTS MEDIATORS?** **Reputable people** in the community who have persuasion and community mobilization skills with an understanding of the law, are often elected to be grassroots mediators. The law stipulates that each mediation team must have at least three mediators, including mediators who are female. In areas with ethnic minority populations, it is compulsory to have mediators from ethnic groups to ensure that the mediators understand the language of the dispute parties. Further policies have been introduced to encourage people with legal expertise, for instance, members of the Viet Nam Lawyers Association, to participate as either mediators, legal advisors, or trainers for mediators.



*There are domestic violence cases stemming from the deeply-rooted patriarchal mindset. We should not let them affect the safety of the children or the wives/ spouses. If the effort of spouses to live together does not result in happiness, I will help them file a lawsuit [for separation].*

**Ms. Phan Thi Hue,**  
Grassroots Mediator in Soc Trang

## EU JULE FIELD SURVEY

- **Objectives:** (1) Assess the current situation of grassroots mediation in Viet Nam; and (2) Outline measures enhancing its quality and efficiency
- **Methodology:** Survey, In-depth Interviews, Focus Group Discussions
- **Timeframe:** July - December 2019
- **Location:** Ha Giang, Dien Bien, Dak Nong, Ha Tinh, Kien Giang, Soc Trang
- **Sample size:** 243 mediators and 357 participants of grassroots mediation

≈ 215,000  
female mediators

≈ 47.3%  
respondents choose grassroots mediation to resolve disputes

≈ 2.9%  
grassroots mediators have qualifications in law





### LAW AND POLICY

- Certain inadequate provisions contribute to undermining the quality and effectiveness of grassroots mediation. For example, the current law provides that a written settlement agreement signed by parties and the mediator is optional, which makes it difficult for the parties to have their agreements legally enforceable under the law on enforcement of civil judgments.
- State funding for grassroots mediation is insufficient. The small amount of payment for the mediator (or in some cases no payment) is disproportional to the given time and effort. As a result, this affects the mediators' dedication, quality of their service, and attracting talented mediators in the future.

### CAPACITY OF MEDIATORS

- Most mediators are highly regarded for their knowledge of local customs and practices; however, their inadequate general knowledge, legal knowledge, as well as mediation skills, are of concern. Up to 40% of the surveyed mediators only completed lower secondary education programme. Only 2.9% of grassroots mediators have qualifications in law. Up to 34.4% of mediators admitted that their lack of mediation skills caused many difficulties in the course of mediating.
- Training programmes on the essential skills to ensure the quality of mediation are insufficient. In three surveyed provinces, only 58.3% of mediators received training on the law related to grassroots mediation. Notably, in all the surveyed provinces, only 31.8% of mediators received legal research skill training workshops.
- The participation of people with legal background and experience, such as members of the Viet Nam Lawyer Association, would help improve the quality of the service. However, the participation in grassroots mediation of the Association currently remains minimal since their network has not expanded to the grassroots level. Survey results show that there is almost no mediator who is members of the Association participated.

### VULNERABLE GROUPS

- Many mediators lack the knowledge, practical skills to ensure cultural, gender and child sensitivity while delivering mediation services. Research findings show 19.5% of mediators have not received any training in working with vulnerable groups. The language barrier between mediators and ethnic minority people prevents vulnerable groups from effectively utilizing grassroots mediation. Mediators from ethnic minority groups also face such barriers in understanding the Kinh language (Viet Nam's official language).



## RECOMMENDATIONS

### LAW AND POLICY

**Amend** the legal framework on grassroots mediation to ensure the quality and effectiveness of the services provided. For example, the law should ensure that the settlement agreements, signed by parties to the dispute, are made compulsory, have a legal basis, and are enforceable.

**Increase** available funding for grassroots mediation to guarantee adequate payment for mediators and to reward mediators for their excellent achievements; as well as to organize events such as contests and seminars to create a mutual learning environment for mediators.

### CAPACITY OF MEDIATORS

**Increase** the quality and quantity of professional training programmes for mediators. In particular, provide training (i) on the legal framework on grassroots mediation and (ii) on mediation skills, including dialogue facilitation between parties, how to work with vulnerable groups, as well as soft skills, including legal research skills. Depending on the content, training programmes can be conducted in either interactive face-to-face or e-learning formats.

**Build** a database of legal documents, training materials and guidelines related to grassroots mediation and organize practical training programmes on how to use such a database.

Develop a network of mediators and promote peer-to-peer learning through contests and experience-sharing seminars.

**Encourage** the participation of people with legal expertise, such as members of the Viet Nam Lawyers Association. One possible solution is to establish consultation teams consisting of Viet Nam Lawyers Association members to provide legal advice to mediation teams. Consultation can be face to face or through different means of communication, including phone calls, emails, and SMS. This flexibility would allow one consultation team to assist multiple mediation teams.

### VULNERABLE GROUPS

**Strengthen** the knowledge and skills of mediators to ensure sensitivity while working with vulnerable groups such as women, children, ethnic minorities. Training programmes should focus on providing knowledge and practical skills needed with consideration to the specific characteristics and needs of each vulnerable group.

*Payment for mediators is still low (200.000 VND for resolved cases and 100.000 VND for unresolved ones). Therefore, the mediators are not enthusiastic. We had to ask them many times until they agree to help. The payment is insufficient for the gasoline, the loss of working day.*



*Grassroots mediator in  
Meo Vac, Ha Giang*



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*This policy brief was produced by the EU Justice and Legal Empowerment Programme in Viet Nam. The EU Justice and Legal Empowerment Programme in Viet Nam (EU JULE) is funded by the European Union with financial contribution from UNDP and UNICEF, and is implemented by these UN agencies in partnership with the Ministry of Justice of Viet Nam.*