HO CHI MINH NATIONAL ACADEMY OF POLITICS

HOANG MINH SON

THEORETICAL AND PRACTICAL FOUNDATIONS OF FIRST-INSTANCE ADJUDICATION OF CIVIL CASES BY PEOPLE'S ASSESSORS AT PEOPLE'S COURTS IN VIETNAM

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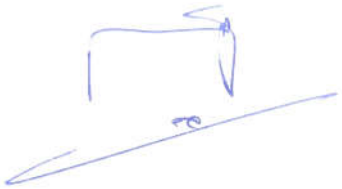
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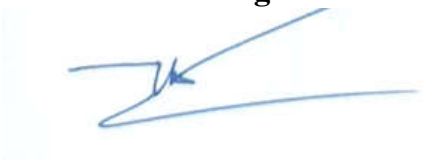
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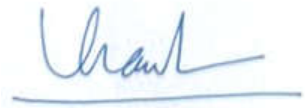
Assoc. Prof. Dr. Tran Quang Hien

Supervisiors

1. Assoc. Prof. Dr. Truong Ho Hai



2. Assoc. Prof. Dr. Nguyen Thi Tuyet Mai



Reviewer 1: Assoc. Prof. Dr. Nguyen Hoang Anh
Vietnam National University, Hanoi

Reviewer 2: Assoc. Prof. Dr. Luong Thanh Cuong
Academy of Public Administration and Governance

Reviewer 3: Assoc. Prof. Dr. Hoang Hung Hai
Ho Chi Minh National Academy of Politics

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INTRODUCTION

1. Rationale for the study

The participation of representatives of the people in adjudication is a constitutional principle reflecting the democratic character of Vietnam's socialist rule-of-law state and the vesting of state power in the people. People's Assessors (hereinafter, assessors) examine evidence and decide cases alongside judges, contributing to the protection of justice, human rights, citizens' rights and lawful interests, while providing public oversight of adjudication.

Reform of the assessor institution is linked to judicial reform, the implementation of Resolution No. 27-NQ/TW and the development of the socialist rule-of-law state. Since 1 July 2025, the People's Courts have operated under a three-tier structure, with the establishment of regional People's Courts and changes in jurisdiction. These developments require adjustments to assessor selection, assignment, training and support.

The market economy, international integration and digital transformation have generated increasingly complex disputes involving property, transactions, business and electronic data. Assessors need appropriate legal knowledge and skills in case-file review and evidence assessment. The development of electronic courts also requires complete, timely and secure access to information.

The law recognises assessors' independence and equal adjudicative powers. In some cases, however, their participation in case-file review, questioning, adversarial proceedings and deliberation remains limited in substance. Assignment, accountability, training and working conditions are not adequately coordinated. The gap between legal status and the capacity to exercise powers must be examined in terms of competence, law and implementation.

Existing literature lacks an in-depth examination of assessors' activities throughout first-instance civil adjudication as an integrated whole. The author therefore selected "Theoretical and Practical Foundations of First-Instance Civil Adjudication by People's Assessors in Vietnam's People's Courts" as the subject of this doctoral dissertation in the Theory and History of State and Law.

2. Research aim and objectives

2.1. Research aim

The dissertation clarifies the theoretical and practical foundations of assessors' first-instance civil adjudication in the People's Courts and proposes guiding principles and measures to support that activity, improve

adjudicative quality and meet the requirements of judicial reform in the new context.

2.2. Research objectives

The four objectives are to evaluate relevant scholarship and identify gaps, hypotheses and research questions; clarify theoretical foundations, necessary conditions and lessons from foreign experience; analyse the legal framework, practice, achievements, shortcomings and causes; and propose guiding principles and measures with implementation responsibilities, resources and a feasible timetable.

3. Research subject and scope

3.1. Research subject

The study examines the theoretical basis for assessors' participation in first-instance civil adjudication in the People's Courts and the implementation of the relevant legal provisions in Vietnam.

3.2. Research scope

The substantive scope covers the theory, law and practice of people's assessors in civil cases under ordinary first-instance procedure. It excludes military assessors, summary procedure and proceedings for non-contentious civil matters. The activities examined begin when assessors are assigned to a case and include reviewing the file, preparing their views and participating in the hearing.

The principal period studied runs from 2020 to the present, with earlier material used where needed to explain historical developments and context. Geographically, the study covers Vietnam, distinguishing provincial and district People's Courts before 1 July 2025 from regional People's Courts following restructuring. The survey sample is not statistically representative of the country as a whole.

4. Theoretical foundations and methodology

4.1. Theoretical foundations

The dissertation draws on Marxist–Leninist dialectical and historical materialism, Ho Chi Minh's thought on the state and law, the Party's positions, and state policies and laws concerning the organisation and operation of the People's Courts and public participation in adjudication.

4.2. Research methodology

The study combines analysis, synthesis, historical inquiry, statistics, comparison, review of practical experience, questionnaires and in-depth interviews. It compares theory and law with case files and empirical data. International comparisons take account of legal traditions, procedural

models, the scope of lay participation and lay adjudicators' decision-making powers.

Purposive sampling was used in 16 provinces and cities and selected central agencies, training institutions and research bodies. All 200 questionnaires distributed were returned and found valid; 100 respondents (50%) were assessors. Questionnaires were checked for respondent eligibility, completeness and compliance with instructions; omissions required by skip instructions were not treated as missing responses. Data were coded, entered and checked against the originals. Percentages were calculated from valid responses to each item, with each option counted separately for multiple-response questions.

Ten people were interviewed in depth using group-appropriate questions. Some questions involved six or nine interviewees; results use the actual number responding. Assessors' views were examined for possible self-assessment and social desirability biases and compared with other groups, interviews and practical evidence. Findings are confined to the sample, without nationwide generalisation.

5. Original contributions

First, the dissertation develops the concept and characteristics of assessors' first-instance civil adjudication, contrasting it with criminal and administrative adjudication to identify the distinctive role of private interests and the parties' right to determine and dispose of their claims (party autonomy).

Second, it systematises the principles, duties, powers, responsibilities, enabling conditions and procedural relationships involved, linking assessors' legal status to their capacity to exercise adjudicative powers.

Third, it compares models of public participation in civil adjudication, identifying their value, limitations and features that may inform reform in Vietnam.

Fourth, it assesses practice from 2020 to the present and the initial effects of the three-tier court structure introduced on 1 July 2025, within the limits of the evidence collected.

Fifth, it proposes measures concerning the institutional model, legislation and implementation, emphasising random assignment subject to eligibility criteria, electronic case files, accountability and protection of independent views, together with priorities, a timetable and impact assessment.

6. Theoretical and practical significance

The dissertation contributes to the theory of democracy, fairness and public participation in the exercise and oversight of judicial power. It provides arguments to inform legislative reform, the organisation of assessors' work, their training, and legal research and teaching.

7. Structure of the dissertation

In addition to the introduction, conclusion, the author's publications, references and appendices, the dissertation comprises four chapters: a literature review; theoretical foundations; influencing factors and current law and practice; and guiding principles and measures to support assessors' first-instance civil adjudication in Vietnam's People's Courts.

Chapter 1
REVIEW OF SCHOLARSHIP ON FIRST-INSTANCE CIVIL ADJUDICATION BY PEOPLE'S ASSESSORS IN THE PEOPLE'S COURTS

1.1. SCHOLARSHIP ON THE THEORETICAL FOUNDATIONS OF ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

Works by Nguyen Dang Dung, Luu Tien Dung, Bui Thi Huyen, Tran Thi Thu Hang and Quan Thi Ngoc Thao clarify the organisation of judicial power, judicial independence, assessors' status and civil hearings. They provide a foundation for further research on public participation in adjudication.

The theories of Hobbes, Locke, Rousseau and Rawls help explain the legitimacy of judicial power. Studies by Sanja Kutnjak Ivković, Valerie P. Hans, Shari Seidman Diamond, Nancy S. Marder and Stefan Machura identify the democratic value and social experience of lay adjudicators, as well as their vulnerability to influence where information, competence and conditions for equal participation are inadequate.

1.2. SCHOLARSHIP ON ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

Work edited by Nguyen Hoa Binh and specialist studies identify shortcomings in assessor selection, training, independence and working conditions. Foreign research adds evidence of citizens' contributions to adjudication. However, analysis of assessors' activities throughout first-instance civil adjudication, and of the relationship between competence, working conditions and meaningful participation in Vietnam, remains incomplete.

1.3. SCHOLARSHIP ON GUIDING PRINCIPLES, REFORM DIRECTIONS AND MEASURES TO SUPPORT ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION

Works by Le Hong Hanh, Nguyen Hoa Binh, Richard L. Jolly, Valerie P. Hans, Robert S. Peck and Stefan Machura offer insights into legislative reform, independence, training, information and working conditions. Further

research is needed on implementation mechanisms, evaluation criteria and their suitability for Vietnam's People's Courts.

1.4. ASSESSMENT OF EXISTING RESEARCH ON ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION AND ISSUES REQUIRING FURTHER STUDY

1.4.1. Assessment of research on assessors' first-instance civil adjudication in the People's Courts

The dissertation builds on existing understanding of assessors' democratic value, legal status and independence. It also recognises that their presence on a trial panel does not, by itself, demonstrate the quality of their participation. Access to evidence, reasoned contributions and independent voting provide a basis for assessing whether they effectively represent the people.

The central research gap concerns the relationship between legal status, competence, working conditions and meaningful participation. Shortcomings involve knowledge, assignment, time, information and the organisation of deliberations. Expertise must complement representativeness while preserving a uniform legal status and adjudicative independence.

1.4.2. Issues requiring further research

The dissertation develops a specific theoretical framework grounded in party autonomy, selectively examines foreign models, evaluates the performance of duties at each procedural stage, and proposes coordinated, feasible measures. Rates of judgments set aside or varied indicate the quality of the trial panel's adjudication; assessors' individual contributions and responsibilities must instead be assessed in relation to the causes and conduct in each case.

1.5. RESEARCH HYPOTHESIS AND QUESTIONS

1.5.1. Research hypothesis

The central hypothesis links assessors' meaningful participation to competence, access to files, preparation time and working conditions. Information and skills gaps between assessors and judges may diminish the significance of equal powers. Representation without relevant expertise may be inadequate for complex disputes; coordinated reform may enhance the democratic character and persuasiveness of judgments.

The hypothesis is examined through four groups of indicators: case-file review and preparation of views; proactive requests, questioning and examination of evidence; presentation of views, deliberation and independent voting; and fulfilment of responsibilities for the trial panel's decisions. Survey, interview and practical evidence are compared within the limits of the material collected.

1.5.2. Research questions

The four questions address: the theoretical foundations and democratic legitimacy of assessors; their development through constitutional and legislative history and the value of international comparison; the performance of their duties and exercise of their powers in relation to competence, assignment and preparation; and guiding principles and measures that reconcile popular representation with specialisation in building Vietnam's socialist rule-of-law state.

Chapter 2
THEORETICAL FOUNDATIONS OF FIRST-INSTANCE CIVIL ADJUDICATION BY PEOPLE'S ASSESSORS IN THE PEOPLE'S COURTS

2.1. CONCEPT AND CHARACTERISTICS OF ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

2.1.1. Historical development of popular representation in adjudication in the People's Courts

The institution evolved from people's adjunct assessors (phụ thẩm nhân dân) under Decree No. 13/SL of 1946, mainly in criminal proceedings, to people's assessors under Decree No. 85/SL of 1950, extending participation to civil matters with rights to examine files and vote. The 1959 Constitution, the 1960 Law on the Organisation of the People's Courts and subsequent legislation consolidated equal powers, collective adjudication and independence.

The 2013 Constitution and the 2015 Civil Procedure Code (CPC) continued to provide for assessor participation at first instance, except under summary procedure. Since 2025, regional People's Courts and the concentration of jurisdiction have required more appropriate selection, training and assignment. This development preserves the institution's democratic foundations while requiring stronger safeguards for the exercise of adjudicative powers.

2.1.2. Concepts of assessors and their first-instance civil adjudication in the People's Courts

Assessors are representatives of the people, elected or appointed in accordance with law to sit on trial panels alongside judges and adjudicate cases within the court's jurisdiction. Their role is to secure public participation, democracy, objectivity and legitimacy in the administration of justice.

Assessors' first-instance civil adjudication in the People's Courts comprises the procedural acts they perform as representatives of the people

and members of first-instance trial panels, independently and with powers equal to those of judges under the law, from assignment until the panel issues its judgment or decision. Together with judges, they examine and assess evidence, clarify the nature of the dispute, apply the law, safeguard party autonomy and lawful interests, and uphold justice, fairness, public order and the legitimacy of judgments.

Assessors' activities are distinct from the entire process of resolving a case; case-file review is direct preparation for adjudication. Equal powers do not imply identical professional functions. Assessors do not represent the interests of either party to a dispute.

2.1.3. Characteristics of assessors' first-instance civil adjudication in the People's Courts

These activities have five characteristics: popular representation and direct democracy in the exercise of judicial power; the exercise of state power to protect, support and restore civil rights; the combination of legal knowledge with social experience, ethics and occupational knowledge; a part-time role coupled with independence and subjection only to the law; and diverse relationships with procedural authorities, officials, participants and bodies responsible for oversight and support.

Social experience helps assessors understand transactions, personal and property relationships, and patterns of conduct, but must be expressed through questions, observations and reasoned arguments. Occupational knowledge cannot substitute for evidence or expert findings. Holding the role alongside other employment does not diminish the requirements of independence, responsibility and adequate preparation.

In criminal proceedings, the trial panel examines incriminating and exculpatory evidence and criminal liability. Civil proceedings instead determine disputed rights and obligations and are governed by party autonomy. Administrative adjudication centres on the legality of challenged administrative decisions and acts, whereas civil adjudication emphasises the scope of claims and lawful agreements between parties. All three require assessors' independence, impartiality and objectivity; the differences concern the matters to be proved and the scope of decision-making.

2.2. THEORETICAL BASIS FOR ASSESSOR PARTICIPATION IN FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

2.2.1. Rationale for legally requiring assessor participation in first-instance civil adjudication

Assessor participation is grounded in popular sovereignty, democracy in the administration of justice, procedural justice, checks on power and the

balance between public and private interests. Open and impartial procedures, joint examination, critical discussion and collective decisions help limit subjectivity, connect courts with social realities and strengthen the legitimacy of judgments.

Assessors perform five roles: giving effect to popular sovereignty and oversight of judicial power; strengthening the objectivity and fairness of judgments; resolving disputes and stabilising civil relations; identifying legal shortcomings; and promoting legal awareness, education and public confidence. These roles are evaluated by the substance of their participation.

Assessors must perform their duties fully, study cases proactively, remain impartial, comply with the law and take responsibility for their decisions. Individual responsibility operates within collective decision-making and requires examination of each member's preparation, reasoning and vote.

Four basic principles apply: assessor participation in first-instance civil adjudication; independence and subjection only to the law; collective adjudication and majority decision-making; and impartiality and objectivity. Equal powers are expressed through participation in examination, deliberation and voting. Requiring assessors to vote before the presiding judge, who votes last, and recording minority opinions help protect independent views.

2.2.2. Rationale for assessors' duties and powers in first-instance civil adjudication

Assessors' duties and powers must enable them to understand, evaluate and decide cases, drawing on democratic legitimacy, procedural justice, social experience and checks on power. Powers must be accompanied by responsibility, practical support and a clear allocation of authority.

Before the hearing, assessors review the case file, identify claims, evidence, inconsistencies and issues requiring clarification, and request action by the chief judge or assigned judge within their respective authority. Independent voting requires the ability to form an independent understanding of the case. Assessors do not replace judges in accepting cases, independently collecting evidence, conducting conciliation or managing trial preparation procedures.

At the opening of the hearing, assessors and the other panel members verify procedural legality, the panel's composition, attendance and the scope of claims. Postponement, replacement of procedural participants, acceptance of amended or withdrawn claims, and recognition of agreements require collective consideration within the panel's authority. The panel's decision-

making role must be distinguished from the presiding judge's conduct of the hearing.

During the adversarial phase, assessors follow proceedings directly, ask questions, examine evidence, compare arguments and seek clarification of inconsistencies. This subjects their understanding of the case to public scrutiny and reduces reliance on the file alone. Assessors must remain neutral, respect the parties' rights to present their cases and evidence, and avoid imposing conclusions based on personal experience.

During deliberation and pronouncement of judgment, assessors and judges discuss and vote on each issue on the basis of evidence examined at the hearing and the adversarial proceedings. Assessors check and sign the deliberation record, record dissenting opinions and ensure that the judgment reflects the collective decision. Equal powers require reasoning skills and responsibility for the grounds of decision. Cooperation in correcting or supplementing judgments must remain within statutory limits and preserve the integrity of the judgment.

2.3. CONDITIONS SUPPORTING ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

Four groups of conditions are mutually supportive. Political and ideological conditions promote a shared understanding of popular sovereignty and assessors' substantive role; Party leadership through policies and strategic direction must respect adjudicative independence. Legal conditions provide a complete, coherent and transparent framework of rights, duties, responsibilities and implementation mechanisms.

Socio-economic conditions include facilities, research tools, funding, entitlements, available time and legal culture. Conditions relating to court organisation include the allocation of jurisdiction, assignment and management arrangements, coordination and safeguards against interference. Greater competence is effective only when assessors receive suitable assignments, have access to information and can express independent views.

2.4. LAWS ON LAY PARTICIPATION IN FIRST-INSTANCE CIVIL ADJUDICATION IN SELECTED COUNTRIES AND LESSONS FOR VIETNAM

2.4.1. First-instance civil adjudication involving lay adjudicators in selected countries

The dissertation examines the United States, Germany, China and the Russian Federation because of their different models, the relationship between representation and expertise, and their relevance to Vietnam.

Comparison covers selection, the scope of participation, decision-making powers and working conditions, distinguishing juries, assessors, lay judges and mixed panels.

The United States exemplifies civil jury adjudication, with citizen selection and a division between fact-finding and the application of law. Germany involves people with occupational experience in areas such as commercial, labour and social matters; lay participation does not extend generally to all ordinary civil disputes. The Russian Federation retains commercial assessors in certain economic cases, subject to expertise and experience requirements, while ordinary civil cases are adjudicated by professional judges.

China's People's Assessors Law of 2018 defines the cases and panel forms involving assessors. On three-member panels, assessors vote on both facts and the application of law. On seven-member panels, they vote on facts and may express views on legal questions but do not vote on the application of law. This distinction is specific to the Chinese model and must not be equated with the equal powers of Vietnamese assessors.

2.4.2. Lessons for Vietnam

No model can be transplanted unchanged into every country. Comparison must consider systems that retain or limit lay participation, as well as the decline of civil juries in the United States. These differences do not establish the absolute superiority of judge-only adjudication or a need to abolish assessors.

An appropriate direction is to retain assessors within the existing constitutional framework while combining representation with competence suited to each dispute. Relevant lessons include random assignment from an eligible pool, practical training, adequate time, employment protection and protection of independent views. Specialist knowledge neither creates different voting status nor replaces evidence.

Selecting suitable assessors for a case must be distinguished from changing the categories of cases in which their participation is mandatory. Within the current framework, the nature of the dispute guides assignment, training and support. Any longer-term reconsideration of mandatory participation requires assessment of quality, time, cost and substantive contributions, together with coordinated treatment of constitutional and procedural-law foundations.

Chapter 3
INFLUENCING FACTORS AND CURRENT PRACTICE IN FIRST-INSTANCE CIVIL ADJUDICATION BY PEOPLE'S ASSESSORS IN VIETNAM'S PEOPLE'S COURTS

3.1. FACTORS AFFECTING ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN VIETNAM'S PEOPLE'S COURTS

3.1.1. Organisation of the People's Courts

Before 1 July 2025, first-instance civil adjudication involving assessors occurred mainly in district and provincial People's Courts within a four-tier system. That date introduced three tiers: the Supreme People's Court, provincial and regional People's Courts; superior and district courts ceased operating. The dissertation's organisational data record 34 provincial and 355 regional People's Courts, the latter established by restructuring 693 district People's Courts.

The concentration of first-instance jurisdiction in regional People's Courts changes assessors' workload, geographical coverage and competence requirements. Provincial People's Courts propose numbers and composition; provincial Vietnam Fatherland Front Committees select and nominate candidates for election by provincial People's Councils. Release from duty and removal from office follow statutory rules on authority. The new model facilitates resource concentration while requiring stronger assessor rosters and assessor delegations, appropriate assignment and sufficient preparation time.

3.1.2. Assessors participating in first-instance civil adjudication

During the 2021–2026 term, there were 16,833 assessors, including 4,306 with legal qualifications (25.58%), 13,130 serving officials (78%) and 8,753 re-elected members (52%). These figures concern assessors generally and provide context for analysing those involved in civil adjudication. Occupational diversity and accumulated experience are advantages, but assessors' concurrent employment affects the time available for preparation and hearings.

Training, legal updating and working conditions have received increasing attention. The dissertation records a hearing allowance of VND 900,000 per person per day from 1 July 2025 under the Ordinance on Procedural Costs. Some regional People's Courts prioritise assignments suited to the case, early scheduling and timely access to files. Nevertheless, of 200 survey respondents, 125 (62.5%) considered existing eligibility standards unsuitable, 91 (45.5%) reported that assessors shared workspace with court staff, and 54 (27%) reported no suitable place for reviewing files.

On management arrangements, 136/200 respondents (68%) considered them inappropriate, 58/200 (29%) appropriate, and 6/200 (3%) gave other views. In separate interviews on this issue, 7 of 9 interviewees (77.8%) considered the arrangements inappropriate. Of 10 interviewees asked about assessors' role, 7 (70%) believed that assessors made an important contribution to the correctness of judgments. The two sources are distinguished: they show recognition of assessors' role alongside a need to improve organisation and support.

3.2. VIETNAM'S CURRENT LEGAL FRAMEWORK FOR ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN THE PEOPLE'S COURTS

3.2.1. Assessor participation in first-instance civil adjudication

The Constitution and the CPC establish assessor participation at first instance, except under summary procedure. A standard trial panel comprises one judge and two assessors; in special cases, it comprises two judges and three assessors. An assessor majority, together with equal powers, provides the legal foundation for public participation in deciding cases and checking power within the panel.

The main weakness is the incomplete connection between rules on panel composition and mechanisms ensuring effective participation. Selection and assignment are insufficiently linked to relevant knowledge and experience, while time, information, professional support and accountability lack coordinated, detailed rules. Assessment should address assessors' capacity to exercise adjudicative powers in each case, rather than merely their attendance.

3.2.2. Assessors' duties and powers in first-instance civil adjudication

Before the hearing, Article 49 of the CPC provides for case-file review and the right to request decisions by the chief judge or assigned judge within their authority. However, rules on file delivery, preparation time, recording the results of review and responding to requests remain insufficiently specific. Late access widens information gaps and weakens the basis for equal voting powers.

At the opening of the hearing, assessors participate in panel decisions on postponement, replacement of procedural participants, the scope of claims and recognition of agreements. The law does not fully specify consultation, obtaining views, verification of grounds or recording disagreement. Collective powers may consequently be reduced to the presiding judge's approach to conducting the hearing.

During the adversarial phase, assessors may ask questions, examine evidence and participate in decisions to suspend the hearing temporarily or

return to questioning and oral argument. Safeguards for initiating requests, addressing disagreements and obtaining assistance with complex evidence remain limited. For electronic material, access rights, data sources, cross-checking and the recording of assessors' views require clarification.

During deliberations, Article 264 of the CPC requires a majority vote on each issue, with assessors voting first and the presiding judge last. Minority opinions must be recorded in writing and included in the case file. Areas requiring improvement include deliberation procedures, record contents, the form and use of dissenting opinions, consistency between deliberations, pronouncement and the written judgment, and cooperation in correcting technical errors within statutory limits. Recognised powers need clear implementation mechanisms; inadequate guidance should not be confused with the absence of a power.

3.2.3. Eligibility, selection, election, release from duty, removal from office, management and support

The law sets eligibility standards, arrangements for forming the assessor corps and working conditions. However, requirements for legal knowledge and social understanding need concrete criteria for assessing case-review skills, issue identification and reasoning. Evaluation, release from duty and removal from office must distinguish loss of eligibility from breach of duty, while ensuring an opportunity to explain and protecting independent views.

Coordination among several bodies requires a clear lead authority and defined duties to provide information and respond. Management of assessors' work must be bounded so that it does not become interference in case decisions. Support arrangements must address time, access to material, training and working tools. These elements form a connected system encompassing recruitment, assignment, performance and accountability.

3.3. CURRENT PRACTICE IN ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN VIETNAM'S PEOPLE'S COURTS

3.3.1. Performance of duties and exercise of powers before the hearing

Courts generally maintain arrangements for assignment, notification and delivery of case files. Many assessors study files proactively, identify inconsistencies and request clarification of evidence or resolution of procedural issues. Preparation enables them to form independent views and participate on a reasoned basis. Following restructuring, some courts continue to prioritise early scheduling, matching assessors to case types and access to files.

Assignment nevertheless remains uneven, concentrated among those with available time, and direct designation remains common. On preparation time, 109/200 respondents (54.5%) selected "more than one day"; 57/200

(28.5%), “a few hours” on the hearing day; 9/200 (4.5%), “less than one hour”; and 25/200 (12.5%), “more than one week”. The relevant interview group comprised six people: three judges, two assessors and one court clerk. Four reported “more than one day” and two “a few hours”.

On assessors’ right to make requests, 155/200 respondents (77.5%) selected the option that assessors had never exercised it; 6 of 9 interviewees (66.7%) expressed a corresponding view. File review is uneven, with some cases involving failures to identify incorrect procedural status, omitted participants or evidential deficiencies. These percentages reflect respondents’ assessments within the sample; case files must be examined before attributing individual responsibility.

The main causes are assignment insufficiently linked to competence, concurrent employment, late provision of files, limited review skills and unclear arrangements for recording and addressing requests. These factors interact and increase reliance on the judge’s summary or assessment.

3.3.2. Performance of duties and exercise of powers at the opening of the hearing

Assessors generally participate in properly constituted panels and help verify procedural requirements, consider absences and replacement of participants, define the scope of claims and check the voluntariness of agreements. Life experience can help identify the parties’ intentions, particularly in family and property disputes and cases affecting vulnerable persons.

In some hearings, however, assessors’ initiative is limited, consultation and voting are formalities, and errors remain in identifying parties’ procedural status or replacing assessors where grounds exist. The dissertation cites an assessor’s participation in the retrial of the same case at the People’s Court of Ch District, Lang Son Province, concerning Judgment No. 03/2023/DS-ST of 26 July 2023, to illustrate the need for safeguards of impartiality.

Regarding assistance with settlement, 52% of 200 survey respondents reported no assessor participation, 39% participation at the presiding judge’s request, and 9% proactive participation. The corresponding proportions among 10 interviewees were 50%, 20% and 30%. The two sources are reported separately. Causes include incomplete understanding, limited skills and insufficiently detailed procedures for obtaining views and recording disagreement. Assistance with settlement must respect voluntariness and must not be understood as an independent power of conciliation vested in assessors.

3.3.3. Performance of duties and exercise of powers during the adversarial phase

Assessors contribute to public hearings, direct examination, questioning and scrutiny of evidence. Across the 2020–2025 reporting periods, they participated in 537,435 first-instance cases: 240,431 civil, 264,704 marriage and family, 24,780 business and commercial, and 7,520 labour cases. Judgments in 10,694 cases were varied for errors attributable to adjudicators (1.99%), and those in 5,329 cases were set aside on that basis (0.99%).

Tables 3.1–3.7 of the dissertation compile data from Supreme People's Court Report No. 382/BC-VP of 5 June 2025. The 2020–2024 reporting years run from 1 October of the preceding year to 30 September of the stated year; the 2025 period runs from 1 October 2024 to 31 May 2025. These consecutive periods do not overlap. The shorter 2025 period must not be compared directly with full years in terms of volume.

District courts accounted for 495,084 cases (92.12%) and provincial courts for 42,351 (7.88%). Their respective rates of judgments set aside or varied for errors attributable to adjudicators were 2.72% and 6.08%. The difference reflects panel outcomes under different conditions, influenced by the dispute, evidence, judges, assessors and scope of review. It cannot justify attributing all errors or contributions to assessors alone.

Appendix 7 adds a sample of 100 complex civil cases: judgments in 88 were affirmed, 9 set aside and 3 varied. Outcomes by category of assessor background are summarised below.

Table 1. Appellate outcomes in 100 complex civil cases by category of assessor background

Category	Cases	Affirmed	Set aside or varied	Rate set aside or varied
1	34	32	2	5.9%
2	28	27	1	3.6%
3	20	16	4	20.0%
4	18	13	5	27.8%
Total	**100**	**88**	**12**	**12.0%**

Source: Table 3.8 and Appendix 7 of the dissertation.

Category 1 includes cases involving assessors trained in law. Category 2 covers training in business, commerce, finance, banking, the environment, intellectual property, land, investment or construction, excluding category 1. Category 3 covers other specialist training, excluding the first two

categories. Category 4 comprises assessors without specialist training who work in mass organisations. The unit of analysis is the case, classified once in order of priority from 1 to 4; percentages use each category's case total.

The differences suggest the relevance of training to issue identification, verification and reasoning. They describe the sample only and do not establish a causal relationship between assessors' expertise and judgment quality. The nature of the dispute, the panel's work and the grounds for affirmation, setting aside or variation must also be examined.

Following the establishment of the three-tier court structure, data for 1 October 2025 to 30 June 2026 show the following first-instance caseload and disposal figures for regional People's Courts.

Table 2. First-instance case disposal in regional People's Courts from 1 October 2025 to 30 June 2026

Case type	Caseload	Disposed of	Disposal rate
Civil	258,382	139,391	53.95%
Business and commercial	17,116	7,322	42.78%
Marriage and family	190,868	150,623	78.91%
Labour	3,317	1,893	57.07%
Total	**469,683**	**299,229**	**63.71%**

Source: Table 3.9 of the dissertation, compiled from reference [77].

Civil and marriage and family cases represented 96.92% of disposals; 170,454 cases remained pending. These are overall disposal figures, covering several methods of resolving cases, and must not be equated with the number of cases tried with assessors. They clarify the workload and the need for suitable assignment, adequate preparation time and subject-specific training in regional People's Courts.

Assessors' powers to question and seek clarification of evidence are not exercised consistently. Participation remains dependent on the presiding judge's conduct of the hearing, with difficulties concerning land, credit, business and electronic evidence. Of 10 interviewees, 5 (50%) reported no significant assessor activity in the adversarial phase, 3 (30%) reported limited participation, and 2 (20%) assessed performance positively. These assessments concern participation overall, not merely the number of questions asked.

Causes include inadequate mechanisms for addressing requests and disagreements, limited file review and evidential skills, and incomplete

understanding of the value of adversarial proceedings. Infrequent requests for further questioning, additional argument or a temporary suspension where needed may reduce verification before deliberation. Quality should be assessed through issues clarified, rather than question counts alone.

3.3.4. Performance of duties and exercise of powers during deliberation and pronouncement of judgment

Practice generally complies with requirements on panel composition during deliberation, voting, signing the record and collective responsibility for judgments. Records for the 2016–2021 term identify 35 instances in which assessors disagreed with the presiding judge, including four cases in which the appellate court adopted the assessors' view. These examples demonstrate the value of reasoned independent views but are not a representative measure of deliberation as a whole.

In the survey, 29/200 respondents (14.5%) rated the presiding judge's facilitation of discussion as good, while 146/200 (73%) rated it as ordinary. A total of 162/200 (81%) recognised assessors' important contribution to the correctness of judgments. Positive findings must be considered alongside preparation and reasoned discussion; an "ordinary" rating must not be reinterpreted as "good".

Key shortcomings include the risk that assessors vote first without forming independent views, incomplete discussion of individual issues, ineffective use of dissenting opinions, and errors concerning evidence, deliberation, signature and finalisation of judgments. Of 200 respondents, 118 (59%) believed assessors faced pressure. On deliberative exchanges, 48/200 (24%) reported that the presiding judge explicitly conveyed the leadership's position, while 77/200 (38.5%) reported that the judge only offered suggestions. These findings call for a distinction between professional assistance and the imposition of an outcome.

Causes include insufficiently detailed implementation mechanisms, information and competence gaps, concurrent employment, and weak accountability assessment and oversight. Responsibility must be determined by conduct, fault, the grounds for voting and the support available in each case. Chapter 3 provides the basis for measures linking legislation, implementation and protection of adjudicative independence.

Chapter 4
GUIDING PRINCIPLES AND MEASURES TO SUPPORT FIRST-INSTANCE CIVIL ADJUDICATION BY PEOPLE'S ASSESSORS IN VIETNAM'S PEOPLE'S COURTS

4.1. GUIDING PRINCIPLES FOR SUPPORTING ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN VIETNAM'S PEOPLE'S COURTS

4.1.1. Securing meaningful assessor participation on the basis that state power belongs to the people

Retention of the assessor institution must be accompanied by the capacity to review files, examine evidence, present arguments and cast reasoned votes. Representation must be reflected in the process of reaching judgments. Measures focus on ordinary first-instance procedure; differences between cases guide selection, training and appropriate support.

4.1.2. Aligning assessors' work with judicial reform and the development of Vietnam's socialist rule-of-law state

Judicial reform and Resolution No. 27-NQ/TW should be implemented through safeguards for competence, independence and responsibility. Specialisation must reflect the composition of disputes, including marriage, family, land, inheritance, labour and specialist fields. Modernisation must support access to information, examination of evidence and independent participation.

4.1.3. Linking independence and equal powers to individual responsibility within collective decision-making

Assessors need conditions that enable them to form, express and defend their own views, together with protection against improper influence. Assistance from judges should clarify the law without replacing assessors' voting decisions. Responsibility must be based on conduct, fault and performance of duties, distinguishing misconduct from reasoned disagreement.

4.1.4. Drawing on social experience within the limits of law, evidence and the parties' procedural rights

Social and occupational knowledge must be expressed through questions, observations and verifiable reasoning. Experience cannot replace evidence, nor community ethics the legal basis for a decision. Assessors must respect party autonomy, the burden of proof, equality and voluntariness.

4.1.5. Coordinating safeguards, clarifying responsibilities and adopting a feasible timetable

Selection, assignment, training, access to files, support policies and evaluation must be connected. Each task needs a lead authority, resources

and expected results, with priority given to conditions directly affecting adjudicative powers. Reforms to assignment, data and electronic working methods should be piloted and assessed before wider implementation.

4.2. MEASURES TO SUPPORT ASSESSORS' FIRST-INSTANCE CIVIL ADJUDICATION IN VIETNAM'S PEOPLE'S COURTS

4.2.1. Measures concerning the constitutional model and the political and legal orientation of assessor participation

4.2.1.1. Recognising assessors as a mechanism for public participation in the exercise and oversight of judicial power

Chief judges, judges, civil servants, procedural actors, assessors' employers and assessors themselves need a fuller understanding of meaningful participation. This must translate into respect for assessors' powers to review files, question, deliberate and vote, and a duty to protect independent views. Assessors should not be treated merely as members required for procedural compliance.

4.2.1.2. Combining popular representation with expertise suited to the type of case

Candidate sources should be broadened to create a diverse range of skills, with assignment based on the needs of the dispute. All assessors retain the same legal status and rights to deliberate and vote; grouping by expertise serves only to deploy competence appropriately. Fields affecting everyday life also deserve priority: civil and marriage and family cases account for 505,135 of 537,435 cases (93.99%) in Table 3.1.

Of 10 interviewees, 7 (70%) preferred combining assessors with specialist knowledge and representatives of other social groups. This finding informs reform alongside statistics and case studies. Implementation must control risks of reduced representativeness, occupational conflicts of interest and concentration of assignments in a small group. Evaluation should address participation, preparation time, objectivity and cost.

4.2.1.3. Considering a Law on People's Assessors to strengthen the legal status of public participation in adjudication

A dedicated statute should be considered to connect status, eligibility, assignment, duties, responsibility and support. Its coherence, cost and effectiveness should be compared with amending existing laws. The draft in Appendix 5 concerns ordinary first-instance civil adjudication and is intended to be consistent with the Law on the Organisation of the People's Courts and the CPC. It is a legislative proposal for consideration, not law currently in force.

4.2.2. Measures to improve the law governing assessors' first-instance civil adjudication

4.2.2.1. Clarifying assessors' duties and powers at each stage of first-instance civil adjudication

First, specify notification and delivery of case files immediately after

assignment, ensuring complete documents, updates and a record of when access is provided. Within procedural time limits, preparation time must reflect the volume of material, parties involved, complexity and expertise required. Assessors should prepare proactively and report obstacles; courts must address them.

Second, establish a mechanism for receiving and responding to requests, identifying their content, grounds and competent decision-maker and recording the outcome and reasons for refusal. The right to make requests does not authorise unauthorised absence or unilateral postponement or temporary suspension of a hearing. Such decisions belong to the competent authority and require statutory grounds.

Third, specify the right to request examination or supplementation of evidence, expert examination and clarification of inconsistencies. Assessors act through file review, requests and participation in panel decisions, rather than separate investigations of their own. Occupational expertise assists issue identification; evidence must be obtained and examined through lawful procedures.

Fourth, consider sufficiently early assignment, particularly in complex cases, linked to an access plan and preparation time. Assessors should focus on reviewing material, preparing views and making requests; these functions must be distinguished from judges' duties to collect evidence, conduct conciliation and organise procedural meetings. Professional assistance should clarify the law and trial arrangements, without steering or imposing an outcome.

Fifth, clarify the presiding judge's duty to seek assessors' views at the opening of the hearing and record disagreements through appropriate procedures. During the adversarial phase, secure the right to question, request disclosure of evidence, examine electronic data, seek additional argument or a return to questioning, and participate in decisions on issues arising. Consideration of settlements under Article 246 of the CPC does not confer a separate conciliation power on assessors.

Sixth, specify procedures for deliberation, discussion and voting on each issue, including facts, evidence and the application of law. Preserve the order required by Article 264 of the CPC: assessors first, the presiding judge last. Guidance should cover the contents, receipt, retention and use of written dissenting opinions while preserving the confidentiality of deliberations. Such opinions are considered within the applicable review procedure; they neither initiate review automatically nor necessarily lead to a judgment being set aside or varied.

4.2.2.2. Improving rules on assessors' responsibility, discipline and professional ethics

The grounds, authority and procedures for determining responsibility should reflect assessors' adjudicative powers and concurrent employment,

without simply applying the regime for professional judges. In the survey, 177/200 respondents (88.5%) supported examining responsibility for assessors' errors or breaches. Action must establish conduct, fault and working conditions, allow explanations and protect reasoned independent views.

A code of ethics and conduct should address fairness, integrity, confidentiality, conflicts of interest, contact with parties and refusal of benefits; undertakings or an oath should be considered. Courts should monitor and verify matters within their authority, with chief judges responsible for organisation, recommendations and explanations. Assessor delegations, People's Councils, the Fatherland Front and employers should coordinate within their functions. Findings should identify remedial measures, deadlines and those responsible for follow-up.

4.2.2.3. Ensuring assessors' access to case files and assessment of electronic evidence

Rules should clarify which cases are accessible, when access is granted, how documents are updated and who must provide electronic files. Assessors must be able to examine cited data, question its provenance and integrity, compare sources and participate in assessing its probative value. Technical assistance supports verification without replacing adjudicative responsibility.

The granting, modification and termination of access rights, and the use and retention of documents, must be auditable and linked to confidentiality and incident response. Uploading material to an electronic system does not itself establish evidential value. Where technical conditions are inadequate, alternative access must provide assessors with sufficient information to perform their duties.

4.2.3. Institutional, implementation and support measures for assessors' adjudicative work

4.2.3.1. Reforming assessor selection, composition, election, release from duty, removal from office and management

Candidates should be drawn more widely from agencies, organisations, training institutions and professional associations, with checks on eligibility, exclusions and conflicts of interest. Provincial Fatherland Front Committees nominate candidates based on provincial People's Courts' needs for election by provincial People's Councils. Terms should remain aligned with those of the electing Councils, combining re-election based on substantive evaluation with the election of suitable new members.

The dissertation proposes that the court where assessors serve be the lead body providing support. The chief judge should be responsible for assignment, files, training, support policies and addressing requests.

Assessor delegations should exercise self-management, coordinate and communicate needs, using existing units and personnel. Assignment and evaluation must not be used to exert pressure. Complaints concerning the chief judge must go to the competent authority, avoiding review of one's own conduct.

4.2.3.2. Designing random assignment subject to eligibility criteria within expertise groups suited to case types

Selection should be random within a pool meeting requirements for knowledge, experience, impartiality and availability. An assessor may belong to several groups; grouping creates neither a new office nor a new organisation. Criteria must be set in advance and data verified. Results and reasons for changes must be recorded, with adequate preparation time and continuity of participation.

After excluding conflicts of interest, the eligible pool should exceed the number of assessors required. If too small, it should be broadened by reference to related competence within the roster elected to serve at that court. Cases where the pool only equals the required panel complement must be separately recorded. The chief judge decides and bears responsibility. A verifiable manual method or integration with existing systems may be used, with a 12-month pilot, an interim review after six months and evaluation before expansion.

4.2.3.3. Strengthening training by role, case type and civil adjudication skills

General skills should be combined with modules reflecting the composition of disputes, prioritising family, land, inheritance, labour and minors while also addressing economic and technical fields. Training should focus on file review, questioning, electronic evidence, reasoning, deliberation and dissenting opinions. The Court Academy should prepare materials; People's Courts should organise training and hearings for professional learning, assess practical application and encourage self-study.

4.2.3.4. Securing entitlements, working conditions and protection for assessors

Support should cover time spent reviewing files, adjudicating and training. Budgets should reflect need and appropriately distinguish those paid from the state budget from those who are not. Courts should provide workspace, documents, equipment, electronic-file accounts and time. Protection for assessors and their relatives against threats, retaliation and unlawful influence should be strengthened, with timely recognition and rewards for substantiated contributions.

4.2.3.5. Strengthening oversight, evaluation and data for assessor management

Criteria should cover assignment, actual participation, file preparation, training, ethics and the exercise of adjudicative powers. Courts compile information, assessors provide self-assessments, delegations comment, and chief judges reach and communicate conclusions, allowing explanations and requests for reconsideration. Review must cover assessors' duties and courts' support responsibilities. Data on judgments set aside or varied must be linked to causes and specific conduct; agreement with judges must not be used as a quality criterion.

4.3. PRIORITIES, IMPLEMENTATION AND IMPACT ASSESSMENT

4.3.1. Setting priorities and implementation options

Priorities should reflect direct impact, feasibility under current law and the relationship between results and resources. Immediate attention should go to files, preparation time, deliberation, recording opinions and clear responsibility; roster review, training and data standardisation should follow. Legislative review should proceed in parallel, informed by implementation results.

4.3.2. Allocating responsibilities and securing resources

The Supreme People's Court should research, propose legislation, issue guidance and review results; provincial People's Courts should consolidate needs, monitor implementation and coordinate resources. Implementing courts' chief judges bear direct responsibility. Electing, nominating, supervisory and self-managing bodies and employers coordinate within their functions. Budgets should distinguish initial and recurring costs, prioritise existing infrastructure and personnel, and include preparation, hearing and training time.

4.3.3. Implementation timetable and conditions for expansion

The first six months after plan approval should cover review of procedures, personnel, data and conditions, and pilot preparation. A 12-month pilot should follow in selected regional People's Courts with different caseload sizes and compositions, with an interim review after six months. Evaluation and adjustments should precede expansion, subject to staffing, transparency, effectiveness and funding requirements. Legislative amendment proposals are expected within 12–24 months; enactment remains subject to legislative authority and the law-making programme.

4.3.4. Assessing the anticipated impact of the measures

The measures may strengthen equal powers in practice, preparation, evidential scrutiny and accountability. Risks of overly narrow groups, reduced representation, concentrated workloads, increased costs, procedures and data vulnerabilities must be controlled. Anticipated effects require testing; investment and organisation must be sustainable and protect adjudicative independence.

4.3.5. Monitoring, evaluation and adjustment

Evaluate organisational task completion, changes in conditions and participation quality, and additional costs. Specify each indicator's subject, denominator, source and date. Compare similar dispute categories before and after implementation, using files and assessors' views. Chief judges are responsible for data; provincial courts consolidate reports to the Supreme People's Court for decisions on continuing, adjusting or ending pilots. Appendix 6 provides an evaluation matrix linking shortcomings, causes, measures and implementation conditions.

CONCLUSION

The dissertation systematically examines the theoretical foundations, law and practice of assessors' first-instance civil adjudication in Vietnam's People's Courts. The main conclusions are as follows.

First, the literature review identifies a gap concerning assessor participation throughout civil adjudication as a whole, particularly the relationship between legal status, competence, working conditions and the ability to exercise adjudicative powers. This approach contributes to understanding public participation in the exercise and oversight of judicial power.

Second, assessors are both representatives of the people and independent, accountable trial panel members with equal powers. Civil adjudication is distinguished by party autonomy, agreement and private interests. Duties from file review to deliberation must combine social experience with law and evidence, while clearly distinguishing the roles of assessors, judges and the panel.

Third, international experience is informative when situated within legal traditions, the scope of participation and operating conditions. Vietnam should preserve the institution's democratic foundations while reforming selection, assignment, training and support. Relevant expertise complements representation without altering uniform voting status.

Fourth, practice demonstrates assessors' contributions but also a gap between recognised powers and the ability to exercise them in file access, evidential scrutiny, adversarial proceedings, deliberation and accountability. Statistics, surveys, interviews and case studies must be used within their proper scope; sample findings must not be generalised, nor rates of judgments set aside or varied directly attributed to assessors alone.

Fifth, the proposed measures fall into three groups concerning the institutional model, the law in force and implementation, with defined priorities, responsibilities, resources and a timetable. The focus is meaningful participation, random assignment subject to eligibility criteria, electronic files, appropriate training, evaluation and protection of independent views. Piloting, monitoring and adjustment test feasibility before expansion and inform legislative reform and improvements in adjudicative quality.

LIST OF THE AUTHOR'S PUBLISHED WORKS RELATED TO THE DISSERTATION

1. Hoang Minh Son (2024), "The Principle That Judges and People's Assessors Adjudicating Civil Cases Are Independent and Subject Only to Law: Practical Application and Some Recommendations", *Journal of Law and Development*, No. 4, pp. 63–71.
2. Hoang Minh Son (2024), "The Legal Institution of People's Assessors in Vietnam: Current Situation and Some Recommendations for Improvement", *Journal of Legislative Studies*, No. 9, pp. 28–35.
3. Hoang Minh Son (2025), "Improving the Legal Mechanism to Ensure Adjudicatory Activities by People's Assessors in Civil Cases in Vietnam", *Journal of Procuracy Science*, No. 08 (92), pp. 44–51.