



Legal barriers in attracting Vietnamese diaspora legal experts: identification and proposed solutions

Dr. Nguyen Hai Yen¹, Nguyen Yen Linh²

¹ Faculty of Law, Hung Vuong University of Ho Chi Minh City, Vietnam

² Law University, Vietnam National University, Vietnam

Abstract

Attracting legal experts of Vietnamese origin residing abroad is an important component of Vietnam's judicial reform and deep international integration. Despite existing guidelines and encouraging policies, the actual engagement of this group remains modest. This article identifies key legal and policy barriers impeding the attraction of these experts, including inconsistencies in the current legal framework, complex administrative procedures, unclear mechanisms for recognition of foreign qualifications and professional experience, as well as limitations in remuneration policies and welfare guarantees.

Using qualitative analysis, the article combines statutory interpretation with a review of academic literature on overseas Vietnamese policies and the legal framework related to attracting diaspora legal experts. A comparative legal method is also employed to examine the experiences of countries such as South Korea, China, and Singapore—jurisdictions with large diaspora communities and relatively effective talent-attraction mechanisms.

This study seeks to answer: (1) What specific legal and policy barriers limit the participation of Vietnamese diaspora legal experts in judicial activities in Vietnam? (2) What international models and experiences could be adapted to the Vietnamese context? (3) What legal and institutional solutions are needed to strengthen engagement and effectively utilize this pool of expertise?

Based on an analysis of existing laws and comparative legal research, the article proposes several recommendations to improve the current framework toward greater transparency and flexibility. In particular, it recommends establishing a national focal agency dedicated to connecting and coordinating Vietnamese diaspora legal experts, designing diverse cooperation mechanisms (long-term, short-term, consultancy, or adjunct positions), and developing digital platforms to facilitate networking.

Keywords: legal experts; legal barriers; talent-attraction policies; overseas Vietnamese; judicial reform

Introduction

In the context of deepening globalization and international integration, developing a modern, effective, and internationally compatible legal system is an urgent requirement—especially for developing countries like Vietnam. In this process, human resources, particularly high-quality legal professionals, play a crucial role. Among them, Vietnamese diaspora legal experts represent a highly promising force, given their expertise, international experience, and ability to bridge global legal norms with Vietnam's domestic legal context.

As of May 2025, the Vietnamese population residing abroad is estimated at around five million.^[1] A large portion of Vietnamese legal experts work in advanced legal systems such as the United States, Canada, France, Germany, Japan, South Korea, and Australia.^[2] Effectively attracting and utilizing this group—especially in law and judicial reform—is strategically important for institutional modernization, capacity building, and promoting Vietnam's international legal cooperation.

Although the Party and the State have issued important documents affirming the role of overseas Vietnamese—such as Resolution No. 36-NQ/TW (2004), Conclusion No. 12-KL/TW (2021), and the Strategy on Overseas Vietnamese Affairs to 2030 (Decision No. 1797/QĐ-TTg, 2019)—the practical implementation of these policies remains limited. A major reason lies in the absence of a specialized legal framework for attracting diaspora legal experts, insufficiently competitive incentives, and ineffective coordination among ministries and agencies^[3].

Many diaspora legal experts report facing difficulties accessing Vietnam's legal system, particularly regarding administrative procedures, recognition of qualifications, and the lack of formal information channels and support mechanisms.^[4] Additionally, the absence of a reliable coordinating focal point and the cautious, sometimes passive attitude of domestic receiving institutions further reduce the effectiveness of existing talent-attraction policies^[5].

The objectives of this paper are to: (i) identify current legal and policy barriers; (ii) analyze their root causes; (iii) study international experiences; and (iv) propose feasible and practical policy solutions to improve the attraction of Vietnamese diaspora legal experts.

The methodology includes qualitative analysis, statutory research, and review of academic publications on diaspora policies. The comparative legal method is also used to examine experiences from countries with large and successful diaspora engagement initiatives, such as South Korea, China, and Singapore. Based on this, the article proposes legal reforms to enhance Vietnam's mechanisms for engaging diaspora legal experts in national development.

Overview of Attracting Vietnamese Diaspora Legal experts

1. Concept of Vietnamese Diaspora Legal experts

In the context of legal integration and reform, clearly defining the policy target group is crucial for designing an effective legal framework. However, the term “legal expert”

has not yet been formally defined under Vietnamese law [6]. Based on practical understanding and academic sources, it generally refers to individuals with advanced legal qualifications (university level or higher) and substantial professional experience in areas such as legal education, legal practice, judiciary, prosecution, legislative drafting, international organizations, or multinational enterprises [7].

The term “overseas Vietnamese” is defined in Article 3 of the Law on Vietnamese Nationality (2008) as “Vietnamese citizens and persons of Vietnamese origin who permanently reside abroad.” Resolution No. 36-NQ/TW (2004) dated March 26, 2004 recognizes them as “an inseparable part of the Vietnamese nation.” Accordingly, “Vietnamese diaspora legal experts” refers to individuals of Vietnamese origin living and working abroad who possess advanced legal expertise and practical experience and who are capable of contributing to Vietnam’s legal development.

According to unofficial data from the Ministry of Foreign Affairs, approximately 5.3 million Vietnamese reside in more than 130 countries and territories [8]. Among them are thousands of lawyers, legal academics, international justice specialists, and arbitrators working in advanced legal systems such as the United States, Canada, France, Germany, Australia, Japan, and South Korea [9].

2. The Role of Diaspora Legal experts in Vietnam’s Legal Reform

Attracting diaspora legal experts is strategically significant for Vietnam’s judicial reform and legal modernization.

First, this group serves as a knowledge bridge between Vietnam and the world. Having been trained and worked in advanced legal systems, they are familiar with modern legal doctrines such as the rule of law, separation of powers, judicial independence, and human rights protection. Their expertise is crucial for Vietnam’s efforts to internalize international commitments and implement domestic legal reforms [10].

Second, diaspora legal experts can directly participate in policy-making and legislative drafting through independent consultancy, policy review, and technical assistance. In fact, many experts have contributed to major legislative projects—such as the Civil Code, Law on Enterprises, Investment Law, and Commercial Arbitration Law—mainly through international cooperation programs with the Ministry of Justice, the National Assembly Office, or UNDP [11].

Third, they play an important role in enhancing the quality of legal education in Vietnam. With their experience teaching at leading universities abroad, they can support curriculum development, modern pedagogical methods, and the internationalization of legal education [12].

Fourth, as Vietnam increasingly engages in international investment dispute mechanisms such as ICSID, UNCITRAL, and WTO, diaspora lawyers and arbitrators become essential. They can serve as counsel or advisors to the Vietnamese government in large-scale international disputes, helping safeguard national interests [13].

Finally, diaspora legal experts contribute to promoting Vietnam’s legal image globally through academic exchanges, publications, and professional networks, thereby strengthening Vietnam’s position in the international legal community.

3. Existing Policies on Attracting Diaspora Legal experts

Although the Party and State have issued various policies to attract overseas Vietnamese intellectuals, current measures remain general and lack specificity for the legal sector. Major policy documents—such as Resolution No. 36-NQ/TW (2004), Conclusion No. 12-KL/TW (2021), and Decision No. 1797/QĐ-TTg (2019)—emphasize the role of overseas Vietnamese intellectuals but do not explicitly identify diaspora legal experts as a distinct group [14].

Some programs, such as Project 165 (cadre training), Project 922 (talent recruitment), or international legal cooperation projects with UNDP and JICA, involve short-term engagement of Vietnamese diaspora experts. However, these initiatives lack long-term mechanisms and a dedicated coordinating authority.

As a result, the actual participation of diaspora legal experts in Vietnam’s legal system remains very limited. According to unofficial statistics from the Ministry of Foreign Affairs, only about 3–5% have ever engaged in academic teaching, consultancy, or policy review in Vietnam [15]. Most contributions occur through short-term workshops, guest lecturing, or project-based consultancy, while long-term engagement in public institutions is rare due to legal, administrative, and psychological barriers.

Identifying Legal and Policy Barriers in Attracting Overseas Vietnamese Legal experts

1. Lack of a Specialized Legal Framework for Attracting Overseas Vietnamese Legal experts

Although the Vietnamese Government has issued many policy documents expressing goodwill in attracting overseas Vietnamese to contribute to national development, there is still no specialized legal framework regulating the recruitment, utilization, and promotion of Vietnamese-origin legal experts. The absence of specific regulations for this distinctive group has made cooperation and engagement activities passive, fragmented, and ineffective.

Currently, the reception and utilization of Vietnamese-origin legal experts are mostly integrated into general policies for overseas Vietnamese intellectuals or foreign experts, such as the 2020 Law on Vietnamese Guest Workers, the 2012 Law on Higher Education (amended 2018), or international cooperation programs of the Ministry of Justice and Ministry of Science and Technology. However, these documents mainly focus on education and science–technology, without specific rules for the legal sector—which has distinctive requirements such as professional ethics, standards for legal practice, recognition of qualifications, trial or litigation skills compatible with the domestic legal system [16].

Furthermore, the concept of “legal expert” has not been clearly defined in the Vietnamese legal system. The absence of a definition makes it difficult to identify target groups for recruitment in sub-law normative documents and administrative policies. As a result, many agencies do not know which legal grounds to rely on when implementing forms of cooperation such as employment contracts, visiting-lecturer appointments, or budget allocation for expert collaboration [17]. In practice, international legal programs in Vietnam often have to use broad definitions like “foreign experts” or “project-based invited experts,” creating a lack of legitimacy and sustainability in long-term cooperation with Vietnamese-origin legal professionals [18].

2. Barriers in Qualification Recognition, Professional Licensing, and Legal Procedures

One of the major barriers is the lack of clarity and flexibility in recognizing foreign degrees and professional licensing in the legal field. Under the Law on Lawyers (2006, amended 2012), to practice law in Vietnam, an individual must: possess a bachelor's degree in law, complete lawyer training, undergo internship at a domestic law-practicing organization, and pass the internship examination. However, there is no specialized mechanism enabling Vietnamese-origin experts who have practiced in advanced legal systems to legally practice in Vietnam in a more streamlined way. They must go through the same procedures as foreigners: submitting applications, degree verification, conversion courses, or professional examinations. This is unrealistic, limits opportunities to attract high-quality talent, and reflects a conservative policy mindset lacking openness to international legal integration.

Moreover, the recognition of foreign law degrees lacks specific guidance for overseas Vietnamese. While fields like healthcare, technology, and engineering have some flexible mechanisms (e.g., dual-degree recognition or fast-track conversion), the legal field still imposes strict requirements that do not match academic or professional norms in Western countries. This indirectly discourages the participation of overseas Vietnamese legal experts in the domestic legal system^[19].

Additionally, legal issues concerning residency, nationality, and work visas pose significant barriers. Some experts holding foreign citizenship face difficulties obtaining long-term visas or work permits in public agencies due to the absence of tailored regulations, preventing them from signing long-term employment contracts or being appointed to official legal positions^[20].

3. Limitations in Tax, Salary, and Social Welfare Policies

One of the key factors influencing long-term cooperation is remuneration, salary–bonus systems, and social welfare. Currently, compensation for experts working with public institutions remains low compared with the private sector, and there is no special mechanism for allowances, housing support, living expenses, or family assistance^[21].

Personal income tax regulations applied to overseas Vietnamese experts remain inconsistent. Some experts are required to pay taxes in both Vietnam and their country of residence (as Vietnam lacks double taxation agreements with certain countries), resulting in a heavy tax burden that discourages participation. In contrast, countries like South Korea and Singapore offer tax exemptions or reductions for the first 5–10 years to attract overseas Korean and overseas Chinese experts to work in the public sector^[22].

Another issue is the lack of a social insurance and health insurance system designed for short-term, part-time, or project-based overseas Vietnamese legal experts. They cannot fully participate in welfare schemes such as pensions, paid leave, maternity benefits, or occupational accident insurance like domestic employees^[23]. The absence of flexible insurance options aligned with their nationality or residency discourages long-term cooperation^[24].

4. Lack of a Coordinating Focal Point and Expert Database

The absence of a designated agency with sufficient authority and capacity to coordinate and manage Vietnamese-origin

legal experts is a major obstacle. Currently, responsibilities are dispersed across ministries such as the Ministry of Justice, Ministry of Foreign Affairs, and Ministry of Education and Training, with no single unit having long-term accountability for coordination, resource allocation, or evaluation of recruitment effectiveness^[25].

Vietnam also lacks a complete, regularly updated national database of Vietnamese-origin legal experts worldwide. While countries like South Korea have a National Science Foundation expert database, and China has the Thousand Talents Program, Vietnam still relies mainly on statistics from diplomatic missions, without a digital platform for expert search by specialty, location, legal field, or national need^[26].

In practice, many experts are willing to cooperate but do not know about recruitment opportunities, lack reliable contact points, or have difficulty finding domestic partners. The absence of a shared database forces ministries and localities to start from scratch whenever expert consultation is needed, resulting in resource waste, low continuity, and poor effectiveness^[27].

Recommendations for Promoting the Attraction of Overseas Vietnamese Legal experts

1. Establish a Specialized Legal Framework for Attracting Vietnamese-Origin Legal experts

First, it is necessary to develop a specialized legal document or national program for attracting Vietnamese-origin legal experts. This could be a Government Decree or a national action program approved by the Prime Minister, specifying:

1. Definition and criteria for identifying Vietnamese-origin legal experts;
2. Cooperation mechanisms, contract types, working regimes, and remuneration;
3. Responsibilities of ministries, agencies, and localities;
4. Monitoring, coordination, and evaluation mechanisms.

A transparent and stable legal framework would eliminate ad hoc policy application, create convenience for both experts and host institutions, and demonstrate the Government's strong commitment to valuing global Vietnamese intellectual resources^[28].

2. Reform Qualification Recognition and Legal Practice Requirements

The current Law on Lawyers imposes stringent requirements for practicing law, without differentiating between domestic applicants and overseas Vietnamese with extensive international legal experience. This creates procedural redundancy, requiring experts to restart the process from the beginning.

To address this, sub-law documents should be amended to:

- Exempt internship periods and recognize professional certificates as equivalent for experts with over 10 years of practice in OECD countries or major international law/arbitration institutions;
- Establish a separate examination or licensing track for Vietnamese-origin experts.

Singapore provides a model by maintaining a list of globally recognized law schools whose graduates may sit for local bar exams,^[29] and Japan allows foreign lawyers to practice under the Gaiben Law.^[30] These models show that Vietnam can design a suitable pathway for overseas Vietnamese experts—upholding professional standards while embracing international integration.

3. Innovate Remuneration Policies and Create Flexible Financial Mechanisms

Current remuneration is uniform and inflexible. A separate compensation scheme for short-term or long-term legal experts should be established, with decentralized authority to agencies or local units, allowing negotiation within a clear budget framework.

Additional financial support should include housing allowances, living expenses, periodic airfare, and family support. Tax exemptions or reductions for the first 3–5 years should also be considered ^[31]. South Korea's 5-year tax exemption scheme for foreign experts is a valuable example. Experts should also have access to flexible social security packages compatible with their nationality or residency, ensuring stability and security for long-term engagement in Vietnam.

4. Establish a National Focal Point and Build an Expert Database

A specialized agency (e.g., a Department under the Ministry of Justice or Ministry of Foreign Affairs) should be established to:

- Coordinate and manage Vietnamese-origin legal experts;
- Provide legal, administrative, visa, and residency support;
- Maintain an online portal for recruitment and professional opportunities.

A national database integrating information from embassies, legal associations, law schools, and international arbitration/law organizations is essential to facilitate effective searching and engagement ^[32].

5. Promote Academic and Judicial International Cooperation

Academic networks, joint research projects, visiting scholar programs, and international conferences are effective channels for attracting overseas Vietnamese experts. The Ministry of Justice, law schools, and research institutes should actively organize such activities. Priority should be given to inviting Vietnamese-origin experts to participate in major judicial and legislative matters such as investment disputes, treaty negotiations, or legal drafting involving foreign elements ^[33].

Conclusion

Attracting and effectively utilizing Vietnamese-origin legal experts is crucial for developing high-quality human resources and promoting international legal integration. With strong expertise, international experience, and the ability to connect legal systems, this workforce can play a key role in judicial reform and institutional improvement in Vietnam.

However, numerous legal, policy, and administrative barriers—lack of a specialized framework, challenges in degree recognition and licensing, limited financial incentives, administrative hurdles, and the absence of a coordinating agency—have hindered progress.

This study proposes a comprehensive set of solutions, including: (i) establishing a specialized and stable legal framework; (ii) reforming qualification recognition; (iii) creating flexible remuneration mechanisms; (iv) developing

a national focal point and database; and (v) strengthening academic and judicial cooperation.

In an era of accelerated institutional reform and international integration, honoring and enabling the participation of overseas Vietnamese legal experts is not only a strategic imperative but also a political, legal, and ethical responsibility. Vietnam must take decisive and effective steps to transform this intellectual resource into an indispensable component of its 21st-century legal ecosystem.

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