



Analysis of Scale of Fees for Thai Justice Fund Lawyers

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Abstract

The aim of this research is to assess the current scale of fees for lawyers enlisted by the Thai Justice Fund (TJF) to assist people in need of legal aid. It began with a study of international practices that can serve as a broad guideline for further analysis. Current practices of Thai institutions providing similar services were also examined. It was found that the current scale of fees of the TJF was too extensive; the baseline fee could be expanded by around 500 to 600 percent before the upper limits were reached. This left the exact fee to be determined at the discretion of the TJF fee committee. In addition, since the fee was set ex-ante, including both professional fees and administrative expenses, it was possible that the enlisted lawyer incurred higher administrative costs than was originally envisaged. This study, therefore, proposed that the scale of fees be set according to case complexity; the administrative costs should be paid based on actual activities conducted rather than the lump-sum amount agreed upon before the commencement of legal services on behalf of the TJF.

Keywords: *Scale of fees, Legal aid, Legal fee, Economics of law, Access to justice*

1. Introduction

According to the Constitution of the Kingdom of Thailand, 2017, Section 68, Paragraph 3, “[t]he State shall provide necessary and appropriate legal aid to the poor or underprivileged in accessing justice, including the provision of lawyers,” conforming to the National Development Strategy for creating opportunities and social equality, including access to justice in all dimensions. Therefore, it can be assumed that citizens must be guaranteed the right to receive government services equally, fairly, and thoroughly, including appropriate access to justice to enable them to fight for, claim, or defend their rights fairly.

The Ministry of Justice has an important role in carrying out the mission of helping underprivileged individuals gain access to justice through the “Thai Justice Fund” (TJF). The TJF was established in accordance with the Justice Fund Act, 2015, under the Office of the Permanent Secretary, Ministry of Justice. To carry out its mission, the TJF relies on cooperation with various agencies such as the Court of Justice, litigators, law firms, and the Lawyers Council, especially in the area of hiring lawyers and setting professional fees. According to the Rules of the Justice Fund Committee on Criteria, Methods and Conditions for Helping People in Litigation, 2016, applicants seeking litigation assistance from the fund may be aided in the following ways: (1) provision of lawyer’s fees (Chapter 3, Article 9) and (2) appointment of lawyers and approval of the amount of money for hiring lawyers (Chapter 6, Lawyers Fund Part 2- Approval and Hiring of Lawyers, Article 34, Paragraph 4).

Thus, lawyers are essential to the TJF’s mission of providing effective services: helping in litigation, making applications for the provisional release of the accused, and assisting victims of human rights violations. However, the process of hiring lawyers does not have any clear guidelines. In addition, the fee rates for lawyers enlisted by the TJF are lower than the market rates for similar kinds of litigation services. According to the Justice Fund Committee Rules on the Conditions and Rates of Litigation Assistance from the Justice Fund by virtue of Section 18 (6) of the Justice Fund Act, 2015 and Article 9 of the Rules of the Justice Fund Committee on Criteria, Methods and Conditions for Helping People in Litigation, 2016, as well

as the Rules of the Justice Fund Committee on the Rules, Procedures, and Conditions for Helping People in Legal Proceedings, 2016, Article 9 (1), an enlisted lawyer shall be compensated at the following rates:

- 1) In the Court of First Instance,
 - a) Criminal cases: 5,000–50,000 Baht per case
 - b) Civil cases: 5,000–30,000 Baht per case
 - c) Administrative cases, juvenile and family cases, specialized court cases, and other cases: 5,000–20,000 Baht per case
 - d) Enforcement cases: 5,000–30,000 Baht per case
- 2) In the Appeal Court, 5,000–20,000 Baht per case
- 3) In the Supreme Court, 5,000–20,000 Baht per case

In complicated cases, lawsuits that might affect the public, group cases of 10 or more persons, or cases that might affect the confidence in the justice system, the secretary shall propose to the sub-committee for approval in the form of a fixed payment of any fees different from the aforementioned fees in (1), (2), and (3) if such payment is deemed appropriate.

From the criteria, it can be seen that the range of fees is still wide, with no consideration of the nature of the case or definition of complicated cases. Therefore, based on Section 11 (6) on collecting, analyzing, and researching information on supporting the operation of the TJF under the Justice Fund Act, 2015, the TJF deems it appropriate to conduct research on legal fees for providing legal aid from the fund. The purpose of this case study is to compare the TJF lawyer fees with the rates prevalent at various government agencies such as the Office of the Lawyer General, Court of Justice, Lawyers Council, and Rights and Liberties Protection Department. In addition, the research also seeks to study whether the scale of fees is consistent with the obligations of lawyers and types of cases, as well as study and develop a tool to track the payment of fees to TJF-enlisted lawyers, which can help ensure that the TJF continues to operate efficiently.

Literature Review on Guidelines for Setting Lawyer Fee Rates in Selected Countries

The discussion in this section is based on Holness (2014), Open Society Justice Initiative (2015), and Open Society Foundations (2019), as well as information from relevant agencies in the United Kingdom, Italy, Australia, the United States, and Canada. It was found that, in general, there are three methods for determining lawyer fees. The first method is to set a fixed rate according to the type of case. The second method is to determine the hours spent on a case. The third method is to hire lawyers to work full time and pay them a salary. In this case, the salary must be in accordance with the workload and their responsibilities. Details are shown in Table 1.

Furthermore, it is worth noting that the rates will depend on the type and complexity of the case so that they reflect the workload assigned to a lawyer, with each country having different fee levels for lawyers. For example, in the United Kingdom, the rate ranges from US\$ 783 to US\$ 939, a difference of 19.9%, while the difference is 34.3% in the United States and 312.7% in Australia. These differences depend on the cost of living and the complexity of the litigation process in each country. They also depend on the guidelines for developing the criteria for determining legal rates in each country. However, to have an appropriate lawyer's pay system, a database system on litigation and the complexity of litigation must be developed sufficiently to act as a guideline for determining the appropriate rates (Hammergren, Harvey, & Petkova, 2017). For example, in Australia, lawyers are charged based on the activities performed. The amount of time spent on each activity and the case type collectively determine the scale of fees (Legal Aid Queensland, 2020).

Table 1 Lawyer fee rates and fee payment guidelines abroad

| Method for setting the fees | Country | Lawyer fee rate (USD) | Guideline for paying fees |
|-------------------------------|--------------------|-----------------------|--|
| According to the type of case | The United Kingdom | 783–939 | Lawyers who provide legal aid are paid a set rate for each type of case and may be paid more on an hourly basis in case there are additional procedures. For criminal cases, |

| Method for setting the fees | Country | Lawyer fee rate (USD) | Guideline for paying fees |
|--|-------------------|-----------------------|---|
| | | | the prosecution lawyer may come from a government-funded agency and be paid a salary. |
| | Italy | 499–1,497 | Lawyers from private law firms are the ones who provide legal aid by receiving fees at the rate specified for each type of case or according to the hours worked. The court is responsible for the payment. |
| | Australia | 441–1,820 | Lawyers who work in government-funded agencies are the ones who provide legal aid. To hire a lawyer from a private law firm, fees are paid by the type of case, which has a standard rate that each state government has set according to the complexity of the case. |
| Hourly, according to the hours spent on the case | The United States | 140–188 | Each state has its own criteria for paying fees to lawyers, including government attorneys providing legal aid on a regular salary. A lawyer from a private law firm will be paid a fixed rate that has been set for each type of case based on each state’s standard fee criteria. |
| | Canada | 109.14–136.43 | State lawyers are paid a salary and have certain responsibilities to fulfill and tasks to be carried out. However, lawyers from private law firms are paid based on the hours spent on a case, according to the national standard fee criteria. However, in practice, the general norm is to consider the hours required for each type of case. |

Source: Summarized from Holness (2014), Open Society Justice Initiative (2015), Open Society Foundations (2019)

2. Objectives

1. To study the international practice of setting lawyers’ scale of fees
2. To develop a framework for setting a standard for lawyers’ scale of fees that is consistent with the nature of the workload of TJF-enlisted lawyers
3. To propose an appropriate scale of fees for TJF-enlisted lawyers, classified according to the types of cases and the workload

3. Materials and Methods

3.1 Conceptual Framework

The conceptual framework used in the study is based on the principle of equal access to justice for people in need, as shown in Figure 1. The essence of this framework focuses on reducing transaction costs for accessing justice, while ensuring that the justice system adheres to acceptable standards (Breger, 1982; United Nations Office on Drugs and Crime, 2016, 2019). For this reason, the setting of fees must take into account not only the nature and type of the case, but also the complexity of the case; only by taking these factors into consideration can the fees be reasonable enough to attract qualified lawyers who can provide legal services to fight the case as fairly as possible. This means that the fees should include both professional fees and litigation-related costs to incentivize knowledgeable lawyers to help people in need sufficiently.

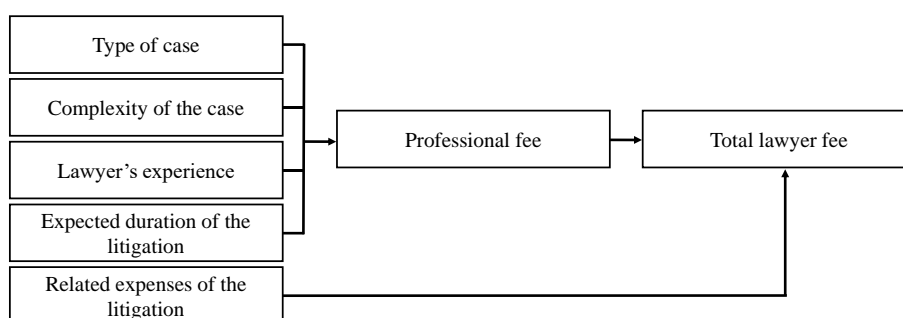


Figure 1 Conceptual framework for setting lawyers' scale of fees

3.2 Population and Sample

The study collected secondary data consisting of 1) research papers, research articles, and related academic articles; 2) documents of various agencies with similar missions; and 3) relevant statistics. This included TJF's legal aid data in fiscal year B.E. 2555–2556 (2012–2013) in each area, classified by the type of case and complexity, or cases that might affect the public, group cases of 10 or more persons, or cases that might affect the confidence in the justice system.

In addition, in-depth interviews and public hearings were also arranged. The in-depth interviews were divided into two groups: 1) the samples in Bangkok and 2) the samples in the provinces. The interviews covered practical issues related to the TJF mission, in particular the role of lawyers, including the mission to help people in litigation in accordance with the Rules of the Justice Fund Committee on Criteria, Methods and Conditions for Helping People in Litigation, B.E. 2559 (2016) and the announcement of the Justice Fund Committee on the criteria, conditions, and rates of legal aid from the TJF.

In addition, there were four focus group discussions, of which the 1st, 2nd, and 3rd meetings had more than 30 participants per session, while the 4th meeting had more than 80 participants. The participants in all four meetings consisted of representatives from agencies, including the Justice Fund Committee, Justice Fund Subcommittee, Provincial Office of the Judiciary, Office of the Lawyer General, Court of Justice, Rights and Liberties Protection Department, Lawyers Council, and Thai Bar Association, private law firms, justice system-related agencies, lawyers, academics, community justice center leaders, people who use lawyers listed on the TJF account, non-profit organizations, the media, and other stakeholders.

3.3 Data Analysis

The study employed both quantitative and qualitative data analyses. The quantitative data analysis used descriptive statistics to analyze the opinions of the participants regarding the present guidelines for fee payment. Moreover, the Fisher's Least Significant Difference (LSD) multiple comparison method was used to determine the geographical differences in lawyer fee rates. The supplementary qualitative analysis performed in this study was primarily content analysis of information obtained from the in-depth interviews with questionnaires and opinions gathered from all four meetings, which included commentary activities and collection of opinions with the help of qualitative questions.

4. Results

4.1 Guidelines for Setting Lawyer Fee Rates

According to the recommendations of participants on suitable guidelines for setting lawyer fee rates, lawyers should receive compensation at the rate specified for each type of case and may receive additional hourly compensation if there are any further procedures or depending on the complexity of the case. The recommendations are in line with the operating guidelines of relevant domestic agencies, such as the Court of Justice, Office of Rights Protection and Legal Assistance to the People, Office of the Lawyer General, and Lawyers Council under the Royal Patronage. These agencies assist people in litigation. The type of case and its nature, including penalties, are taken into consideration for setting lawyer fees. As for the expenses involved in litigation, lawyers can be reimbursed for actual costs incurred or in accordance with the official

regulations of the concerned agency. It appears that the methods used by relevant agencies for setting lawyer fees are similar both domestically and internationally. Therefore, in accordance with the results of the study, the research team came up with the following recommendations on lawyer fees that are appropriate for the TJF: 1) the fee rates should be determined according to the type of case, classified by the level of complexity; and 2) the rates should be divided into two parts: professional fees, or compensation for lawyers who work on the case, and litigation-related expenses. Lawyers can be reimbursed for the actual expenses or according to government regulations. The method of determination of lawyer fees, as suggested in this study, will incentivize qualified lawyers to offer their services and reflect the actual costs incurred in the litigation process.

4.2 Lawyer Fee Rates Classified by Types of Cases

Statistical data on cases handled by the TJF and the legal fees paid for such cases were required in order to classify the cases and analyze the actual fees paid for each type of case to determine the differences. Of the 1,546 cases examined in this study, 78.8% were civil cases, 1.7% were criminal cases, 7.4% were enforcement cases, and 12.1% were other cases in accordance with the TJF's legal aid criteria. Thus, most of the TJF-aided cases were civil cases. The TJF's legal aid criteria stipulate that if the applicant has other channels to obtain assistance, they must first use those channels because there are already other agencies providing legal aid in criminal cases. As a result, the percentage of TJF-aided criminal cases is small.

Table 2 Lawyer fee rates of the TJF in 2012–2019*

| Region | Rates for civil cases (1,513 cases) | | | | Criminal cases (33 cases) | | | |
|---------------------|-------------------------------------|---------|--------|--------|---------------------------|---------|--------|--------|
| | Lowest | Highest | Mean | Median | Lowest | Highest | Mean | Median |
| Bangkok | 10,000 | 30,000 | 25,462 | 27,000 | N/A | N/A | N/A | N/A |
| Northern | 5,000 | 30,000 | 13,590 | 13,000 | 7,000 | 15,000 | 10,666 | 10,000 |
| Central | 2,500 | 30,000 | 15,648 | 15,000 | 7,000 | 50,000 | 22,900 | 25,000 |
| Northeastern | 5,000 | 30,000 | 11,040 | 12,000 | 15,000 | 20,000 | 18,333 | 20,000 |
| Southern | 5,000 | 30,000 | 22,491 | 25,000 | 10,000 | 50,000 | 36,666 | 50,000 |
| Total | 5,000 | 30,000 | 14,926 | 15,000 | 7,000 | 50,000 | 21,512 | 20,000 |

Source: Calculated from the information provided by the TJF

Note: * The figures were adjusted by the average inflation rate to attain their 2020 value.

From the analysis of the statistical data on professional fees provided by the TJF for the fiscal years 2012–2019 for each area, a total of 1,546 cases were identified. Supplementary interviews of provincial officers revealed that the fees were set based on the potential complexity of the litigation process: 1) Low complexity, 2) Moderate complexity, and 3) High complexity. Starting with the determination of the criteria for lawyers' fees paid in cases with moderate complexity, the mean and median rates were used to determine the fee range in moderately complex cases. For example, the analysis of civil case statistics showed that the mean rate was 14,926 Baht and the median 15,000 Baht. The consultant, therefore, sets the maximum fee in moderately complex civil cases at 15,000 Baht, which is in line with the mode in that most of the time, the TJF has paid professional fees at the rate of 15,000 Baht. The next step is that the advisory panel sets the range with the standard deviation, which can be used to determine the width of each level of complexity. For example, for a type of civil case that has a standard deviation of 7,719.84 Baht, the consultant rounds off each level of complexity to be equal to 5,000 Baht in width. As a result, the professional fees in civil cases were as follows: 5,000–10,000 Baht for low complexity cases, 10,001–15,000 Baht for moderate complexity cases, and 15,001–20,000 Baht for high complexity cases.

4.3 Geographical Differences in Fee Rates

Since the original rate was fixed and the compensation for legal expenses was capped within a given range, the total payment to lawyers may not reflect the actual costs incurred. Therefore, the difference in costs incurred in each area must be investigated. Analysis of Variance (ANOVA) was performed with

supplementary analysis using the LSD method in order to demonstrate the geographical differences in fees and the variations in expenses according to the nature of the lawsuit. The findings show that lawyer fee rates vary by region, as shown in Table 3. This finding was consistent with the findings from the in-depth interviews and focus group discussions; that is, the total payment—lawyer fees, travel expenses, and other expenses related to the litigation process—received by the enlisted lawyer differs province-wise. The non-fee portion of the compensation was set based on the average cost that would be incurred in a typical case. Thus, if a case became more complex than was previously envisaged, the concerned lawyer would not be able to apply for additional coverage. These extra expenses must be paid out of the lawyer’s pocket. The risk of incurring such extra expenses could discourage lawyers from undertaking TJF cases. For this reason, the total payment to lawyers should consist of two components. The first component is the professional fee that would vary depending on the type and complexity of the case. The second component is the processing costs, which will be disbursed based on the actual expenses incurred.

Table 3 Comparison of the differences between pairs of lawyer fee rates, classified by province

| Province | Average | Central | Chai Nat | Nakhon Ratchasima | Chonburi | Nakhon Sawan | Nakhon Pathom |
|--------------------------|-----------|---------|-------------------|-------------------|-------------------|---------------------|-------------------|
| | | 24,840 | 14,411 | 16,885 | 17,812 | 14,990 | 17,736 |
| Central | 24,840 | - | 10,429 (0.00*) | 7,955 (0.00*) | 7,027 (0.00*) | 9,849 (0.00*) | 7,103 (0.00*) |
| Chai Nat | 14,411 | - | - | -2,473 (0.00*) | -3,401 (0.00*) | -579.26 (0.40) | -3,325 (0.00*) |
| Nakhon Ratchasima | 16,885 | - | - | - | -927 (0.17) | 1,894.66 (0.02*) | -851.31 (0.28) |
| Chonburi | 17,812 | - | - | - | - | 2,822.22 (0.00*) | 76.25 (0.92) |
| Nakhon Sawan | 14,990 | - | - | - | - | - | -2,746 (0.02*) |
| Nakhon Pathom | 17,736 | - | - | - | - | - | - |
| Krabi | 23,712 | - | - | - | - | - | - |
| Phichit | 10,743 | - | - | - | - | - | - |
| Chiang Rai | 12,854 | - | - | - | - | - | - |
| Songkhla | 21,948 | - | - | - | - | - | - |
| Ubon Ratchathani | 18,024 | - | - | - | - | - | - |
| Pattani | 15,030.57 | - | - | - | - | - | - |

Note: The numbers in () mean p-value * is significantly different at the 0.05% confidence level.

Table 3 Comparison of the differences between pairs of lawyer fee rates, classified by province (continued)

| Province | Average | Krabi | Phichit | Chiang Rai | Songkhla | Ubon Ratchathani | Pattani | Kalasin |
|--------------------------|---------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|-------------------|
| | | 23,712 | 10,743 | 12,854 | 21,948 | 18,024 | 15,030 | 7,996 |
| Central | 24,840 | 1,127 (0.16) | 14,096 (0.00*) | 11,986 (0.00*) | 2,892 (0.00*) | 6,816 (0.00*) | 9,809 (0.00*) | 16,845 (0.00*) |
| Chai Nat | 14,411 | -9,301 (0.00*) | 3,667 (0.00*) | 1,557 (0.10) | -7,536 (0.00*) | -3,613 (0.00*) | -619 (0.63) | 6,416 (0.00*) |
| Nakhon Ratchasima | 16,885 | -6,827 (0.00*) | 6,141 (0.00*) | 4,030 (0.00*) | -5,063 (0.00*) | -1,139 (0.30) | 1,854 (0.19) | 8,890 (0.00*) |
| Chonburi | 17,812 | -5,900 (0.00*) | 7,069 (0.00*) | 4,958 (0.00*) | -4,135 (0.00*) | -211 (0.85) | 2,782 (0.05*) | 9,817 (0.00*) |
| Nakhon Sawan | 14,990 | -8,722 (0.00*) | 4,246 (0.00*) | 2,136 (0.05) | -6,957 (0.00*) | -3,033 (0.01*) | -40.00 (0.98) | 6,994 (0.00*) |

| Province | Average | Krabi | Phichit | Chiang Rai | Songkhla | Ubon Ratchathani | Pattani | Kalasin |
|-------------------------|-----------|-------------------|-------------------|-------------------|--------------------|---------------------|-------------------|-------------------|
| Nakhon Pathom | 17,736 | -5,976 (0.00*) | 6,992 (0.00*) | 4,882 (0.00*) | -4,211 (0.00*) | -287.85 (0.81) | 2,705 (0.07) | 9,741 (0.00*) |
| Krabi | 23,712 | - | 12,969 (0.00*) | 10,858 (0.00*) | 1,764 (0.10) | 5,688 (0.00*) | 8,682 (0.00*) | 15,717 (0.00*) |
| Phichit | 10,743 | - | - | -2,110 (0.08) | -11,204 (0.00*) | -7,280 (0.00*) | -4,287 (0.01*) | 2,748 (0.00*) |
| Chiang Rai | 12,854 | - | - | - | -9,093 (0.00*) | -5170.08 (0.00*) | -2,176 (0.17) | 4,859 (0.00*) |
| Songkhla | 21,948 | - | - | - | - | 3,923 (0.00*) | 6,918 (0.00*) | 13,953 (0.00*) |
| Ubon Ratchathani | 18,024 | - | - | - | - | - | 2,994 (0.07) | 10,029 (0.00*) |
| Pattani | 15,030.57 | - | - | - | - | - | - | 7,035 (0.00*) |

Note: The numbers in () mean p-value * is significantly different at the 0.05% confidence level.

4.4 Proposed Guidelines for Setting the Scale of Fees for the TJF

Based on the literature review, domestic practices, and data analysis, this subsection proposes guidelines for setting the scale of fees for the TJF. To develop an appropriate fee structure, the following four steps should be taken:

Step 1 Classify cases according to the level of the courts, namely the Court of First Instance, the Court of Appeal, and the Supreme Court.

Step 2 Classify cases according to the type of case, consisting of criminal cases, civil cases, administrative cases, juvenile and family cases, Specialized Court cases, and other cases.

Step 3 Classify the type of cases according to the level of complexity. The criteria for consideration include the penalty, duration of litigation, prescription, and legal costs. Then, set the lawyer's rate, which would constitute the professional fee.

Step 4 Set other costs related to the litigation, such as the opportunity cost of lawyers, travel expenses, additional fees, and other expenses.

Based on the four steps discussed above, Table 4 proposes lawyer fee rates for legal aid classified by case type and case complexity.

Table 4 Proposed guidelines for setting scale of fees

| Court | Type of case | Complexity of case | Other relevant costs | |
|---------------------------------------|-----------------------|---|---|--|
| 1) The Court of First Instance | Criminal cases | Penalties and duration of litigation | Other relevant costs (reimburse based on actual costs) | |
| | | 5,000–50,000 Baht per case | | Less than 10 years imprisonment / duration of litigation is not more than 6 months, 5,000–10,000 Baht per case |
| | | More than 10 years imprisonment / duration of litigation is 6 months to 1 year, 10,001–20,000 Baht per case | | Death penalty / duration of litigation is more than 1 year, 20,001–30,000 Baht per case |

| Court | Type of case | Complexity of case | Other relevant costs |
|-------------------------------|--|--|--|
| | Civil cases | Prescription and fines | Other relevant costs (reimburse based on actual costs) |
| | 5,000–30,000 Baht per case | Duration of litigation is no more than 2 years / petty case or case without capitals, 5,000–10,000 Baht per case | Travel expenses, fees, other relevant expenses, and lawyer’s additional fees, which, when combined with the rates classified by the type of case, must not exceed 30,000 Baht. |
| | | Duration of litigations 5 years / the capital is not more than 50 million Baht, 10,001–15,000 Baht per case | |
| | | Duration of litigation is 10 years, or the capital is more than 50 million Baht, 15,001–20,000 Baht per case | |
| | Administrative cases, juvenile and family cases, Specialized Court cases, and other cases | Complexity of the case | Other relevant costs (reimburse based on actual costs) |
| | 5,000–20,000 Baht per case | Low complexity, 5,000–7,500 Baht per case | Travel expenses, fees, other relevant expenses, and lawyer’s additional fees, which, when combined with the rates classified by the type of case, must not exceed 20,000 Baht. |
| | | Moderate complexity, 7,501–10,000 Baht per case | |
| | | High complexity, 10,001–12,500 Baht per case | |
| | Execution cases | Complexity of the case | Other relevant costs (reimburse based on actual costs) |
| | 5,000–30,000 Baht per case | Low complexity, 5,000–10,000 Baht per case | Travel expenses, fees, other relevant expenses, and lawyer’s additional fees, which, when combined with the rates classified by the type of case, must not exceed 30,000 Baht. |
| | | Moderate complexity, 10,001–15,000 Baht per case | |
| | | High complexity, 15,001–20,000 Baht per case | |
| 2) The Court of Appeal | 5,000–20,000 Baht per case | 5,000–7,500 Baht per case | Other relevant costs (reimburse based on actual costs), which, when combined with the lawyer’s rate, must not exceed 20,000 Baht |
| 3) The Supreme Court | 5,000–20,000 Baht per case | 7,500–10,000 Baht per case | Other relevant costs (reimburse based on actual costs), which, when combined with the lawyer’s rate, must not exceed 20,000 Baht |

5. Conclusions

This research aimed to assess the current scale of fees for lawyers enlisted by the TJF to assist people who needed legal aid. It began with a study of international practices that can serve as a broad guideline for further analysis. Current practices of Thai institutions providing similar services were also examined. It was found that the current scale of fees of the TJF was too extensive; the baseline fee could be expanded by around 500 to 600 percent before the upper limits were reached. This left the exact fee to be determined at the discretion of the TJF fee committee. In addition, since the fee was set ex-ante, including both professional fees and administrative expenses, it was possible that the enlisted lawyer incurred higher administrative costs than was originally envisaged. This study points out that in order to establish an appropriate, detailed, and proper fee structure, comprehensive information of various types of cases are necessary so as to classify the

cases by their complexity. Records of both professional fees and processing costs on a case-by-case basis are also important for in-depth analysis to determine the right professional fee rates and estimate the potential litigation costs as realistically as possible. This requires an information technology system that is capable of collecting big data and using AI to analyze the fees. Therefore, it is proposed that the Office of the TJF develop a platform to provide management services in accordance with the fund's mission of assisting people in accessing the judicial system quickly, properly, and affordably. Furthermore, it must be able to analyze data for management and policy formulation (Actionable Intelligence Policy Platform).

Recommendation 1: Build a platform to improve and monitor case statistics and related expenses and to store data in the same format. The developer of the platform should start by exploring user requirements and studying usage characteristics to design usage patterns (Interface) for the convenience of users. This can be useful to everyone including the management of the Justice Fund Office and the Ministry of Justice. This can also link to the central database of the Ministry of Justice (Data Exchange Center: DXC). There should be a guideline on collecting case statistics to make it clear that every case has to be saved on the platform and should always be kept up to date. This does not increase the burden on the concerned staff too much if it is carried out regularly.

Recommendation 2: Establish a system that keeps all the details and histories of the registered lawyers, with this system consisting of two parts as follows: 1) Online Registration Application System for Lawyers, which allows lawyers to apply for registration as a lawyer of the TJF and 2) A system for storing information on cases handled by the TJF, including details of the lawyers' background and litigation proficiency classified by the type of case.

Recommendation 3: Use Big Data and Machine Learning to help predict case complexity, set the lawyer's rate and relevant expenses, and pair cases with lawyers. The system must have information to respond to decision-making, such as the nature of litigation, the grouping of cases, and the duration of the cases.

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9. References

- Breger, M. J. (1982). Legal aid for the poor: a conceptual analysis. *North Carolina Law Review*, 60(2), 282–363.
- Hammergren, L. A., Harley, G., & Petkova, S. (2017). *Case-weighting analyses as a tool to promote judicial efficiency: lessons, substitutes, and guidance* (No. 122041, pp. 1-72). Washington, D.C., US: The World Bank.
- Holness, D. (2014). Coordinating Free Legal Services in Civil Matters for Improved Access to Justice for Indigent People in South Africa. Retrieved from <https://web.archive.org/web/20160406195718/http://www.nylslawreview.com/wp-content/uploads/sites/16/2014/11/Holness.pdf>
- Legal Aid Queensland. (2020). *Scale of Fees*. Retrieved from <https://www.legalaid.qld.gov.au/About-us/Policies-and-procedures/Grants-Handbook/Fees-and-payments/Scale-of-fees>
- Open Society Foundations. (2019). *What Does Justice Have to do with Overcoming Poverty*. Retrieved from <https://www.opensocietyfoundations.org/explainers/what-does-justice-have-do-overcoming-poverty>
- Open Society Justice Initiative. (2015). Legal Aid in Europe: Minimum Requirements Under International Law. *Preuzeto*, 5(2), 2020.
- United Nations Office on Drugs and Crime (UNODC). (2016). *Global Study on Legal Aid: Global Report*. Vienna, Austria: Vienna International Centre.
- United Nations Office on Drugs and Crime (UNODC). (2019). *Handbook on Ensuring Legal Quality of Legal Aid Services in Criminal Justice Process: Practical Guidance and Promising Practices*. Vienna: United Nations Development Programme