

SOME SPECIFIC LEGAL MEASURES TO PROMOTE THE SOCIAL INTEGRATION OF PEOPLE WITH DISABILITIES IN VIETNAM

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ABSTRACT

This article is about legal measures to promote the social integration of the people with disabilities in Vietnam. It is divided into three parts. In the first part, the authors give an overview of Vietnamese law for social integration of people with disabilities (I). In the second part, the measures to promote social integration from people with disabilities in Vietnam shall be interpreted (II) and the final part deals with suggestions for further promoting the social integration of people with disabilities in Vietnam (III).

Keywords: social integration, people with disabilities, legal measures.

I. Overview of Vietnamese law for the social integration of people with disabilities

According to sample survey, from the end of 2016 to the beginning of 2017, *6,199,048 people with disabilities* live in their households across the country, of which 663,964 children aged from 2 to 17 and 5,535,084 people aged from 18 or older. ¹The results of the household survey also show that 7.06% of the population aged from 2 and over in Vietnam is disabled and the

¹*General Statistics Office and UNICEF*, Results of the National sample survey of people with disabilities, 2019, p. 14. On January 11, 2019, the General Statistics Office and UNICEF announced the results of the National disability sample survey in Vietnam. This is the first large-scale survey using international disability identification standards to collect comprehensive information about the lives of people with disabilities in Vietnam, conducted by the General Statistics Office in two years, 2016 and 2017, with technical assistance from UNICEF was carried out.

proportion of children aged from 2 to 17 with disabilities is 2.83% and adults aged from 18 and over is 8.67%.² Every five households has at least one person with a disability.³

The number of people with physical and mental disabilities is above average in Vietnam. This is also due to the long-term effects of the Agent Orange, which was used by America in the Vietnam War.⁴

Integration of people with disabilities is in our opinion very important. It means “the process of making or combining the whole into one”.⁵ Integration comes from the Latin *integrare*, which means to restore, become independent or integrate. One can understand that parts are integrated into a whole.⁶ In other words, integration refers to the incorporation of outsiders into something that already exists, without changing the basic framework.

According to *John Scott*, “social integration” refers to the principles by which individuals or actors in a society are connected to one another. The term societal integration could encompass both order and conflict, harmony and contradiction.⁷ *Stefan Lange* and *Uwe Schimank* explain that social integration is the classical sociological topic of the relationship between the individual and society.⁸ In my opinion, social integration is not a one-way street. It wants to include the outgroups and requires individuals to conform to the majority system in order to be a full member of society.

Vietnamese state authorities have carried out numerous activities to create favorable conditions for people with disabilities to integrate into society.

On 30th July 1998, the Standing Committee of the National Assembly issued an Ordinance on Disabled Persons (ODP). It is the first normative legal document in Vietnam on *disabled persons*

² *General Statistics Office and UNICEF*, *ibid.* (Fn. 1), p. 15.

³ *General Statistics Office and UNICEF*, *ibid.* (Fn. 1), p. 16.

⁴ *Dao Mong Diep; Phan Vinh Tuan Anh*, Rights of Children with Disabilities, *Tạp chí nghiên cứu lập pháp*, 2017, No. 16, pp. 18-19.

⁵ *Bryan A. Garner*, *Black's Law Dictionary*, 9th ed., 2010, p. 880. “Integration means the process of making the whole or combining into one.”

⁶ *Endruweit, Trommsdorff, Burzan*, *Dictionary of Sociology*, 3rd ed., 2014, p. 370.

⁷ *John Scott*, *A Dictionary of Sociology*, 4th ed., 2014, p. 1026: “Social integration refers to the principles by which individuals or actors are related to one another in a society. The term social integration can embrace both order and conflict, harmony and contradiction.”

⁸ *Stefan Lange, Uwe Schimank*, *Governance and Societal Integration*, 2004, p. 16.

(*người tàn tật*). This ordinance regulates the responsibilities of family, state and society towards disabled people as well as their rights and duties.

In this Ordinance, the term “disabled person” (*người tàn tật*) is used and explained. Disabled persons, as defined in this Ordinance, are “ *disordered in one or more parts of the body or functions, regardless of the causes of the disability, which manifest themselves in various forms of disability and which reduce the ability to be active and cause many difficulties in work, life and study.* ” (Art. 1 ODP)

Disabled people are supported by the state to integrate into society. Art. 3 VBP regulates that: " 1. The state promotes and creates favorable conditions for disabled people to exercise their political, economic, cultural and social rights on an equal basis and to develop their skills to stabilize their lives, integrate into the community and participate in social participate in activities. 2. Disabled people are supported by the state and society in health care and functional rehabilitation, in finding suitable jobs and are entitled to other statutory rights. Disabled children and people who became disabled as a result of the effects of dioxin during the war enjoy special protection and care from the state and society. 3. Disabled people have a duty to overcome difficulties, integrate into the community, respect the law and public order and respect social ethics.”

On 17th June 2010, the National Assembly passed the Act relating to people with disabilities(DPA). This Act came into effect on 1st January 2011 and replaced the ODP. It contains provisions on the rights and obligations of people with disabilities; responsibility of the state, family and society towards people with disabilities. It proves that the Vietnamese government has made constant efforts to promote the social integration of people with disabilities. He has created many favorable conditions to better ensure the rights of the people with disabilities.

In November 2014, Vietnam ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) ⁹. As a result, the UNCRPD has become one part of Vietnamese law.

In Vietnamese Constitution 2013 (VV 2013), the state has regulated further policies to support people with disabilities. According to Art. 59 Para. 2 VV 2013, "*The state (...) implements*

⁹UN - CRPD specifies existing human rights for the living situation of people with disabilities with the aim of promoting their equal opportunities in society. According to Art. 1 CRPD, “ *people with disabilities include people who have long-term physical, mental, intellectual or sensory impairments which, in combination with various barriers, may prevent them from participating fully, effectively and on an equal footing in society.*”

measures to support older people, people with disabilities, poor people and people in difficult circumstances” Moreover, following Art. 61 Para.3 VV 2013, “*the state implements measures to enable people with disabilities to general education and vocational training.*”

According to Art. 2 Para. 1 DPA, a person with a disability (người khuyết tật) means “ a person who has a defect in one or more parts of the body or a functional impairment that manifests itself in the form of a disability and leads to difficulties in working and living and studying. ”

In the DPA, the term "Access" was also clarified. According to Art. 2 para. 8 DPA: “Access is the ability of people with disabilities to use public facilities, means of transport, information technology, cultural, sporting, tourist and other services that are suitable for themselves to integrate into society.” Nevertheless, there is still no interpretation in this Act relating to "social integration". In our opinions, the central idea of integration is that people with disabilities live and live together in all areas of life in a self-determined manner from the start. Everyone is accepted by society as they are and can live a life without barriers.

There are 6 types of disability according to Art. 3 para. 1 DPA. They are: “a) mobility impairment; b) hearing and speech impairments; c) visual impairment; d) neurological defects; e) intellectual disability; g) Other disabilities.” In addition, people with disabilities are classified according to the following degree of disability: " a) Persons who are particularly severely disabled are those who, because of their disability, are no longer able to carry out their everyday activities; b) a severely disabled person is a person who, because of their disability, is unable to perform a range of everyday tasks; c) A person with a slight disability is a person with a disability that does not fall under the cases referred to in points a and b of this clause." (Art. 3 para. 2 DPA).

The rights of people with disabilities have been specified. According to Art. 4 DPA the following rights are guaranteed:., a) Equal participation in social activities; b) live independently and integrate into the community; c) exemption or reduction of some contributions for social activities; d) health care, rehabilitation, cultural studies, vocational training, employment, legal aid, access to public works, transport, information technology, cultural services, sports, tourism and other services appropriate to the type and degree of disability; d) Other statutory rights.” However, people with disabilities also need to fulfill their civic responsibilities in order to achieve social inclusion.”

On August 5, 2020, Prime Minister *Nguyen Xuan Phuc* ratified the 2021-2030 Disability Assistance Program.¹⁰ It serves to implement the UN - CRPD and to improve the living conditions of people with disabilities. It enables the people with disabilities to participate in all social activities on an equal footing. According to this program, 90 percent of disabled people should have accessed to all medical services by 2026-2030. 80 percent of newborn to 6-year-old children are medically examined in order to detect birth defects and developmental disorders at an early stage and to intervene against all types of disabilities.

II. Measures to promote social integration of people with Disabilities in Vietnam

1. Measures to promote social integration in relation to employment and social security for people with disabilities

Art. 33 DPA stipulates that "the state creates favorable conditions for people with disabilities to restore their work function, receive free careers advice, find a job and work that match the health and characteristics of the disabled person."

According to Art. 158 Para. 1 of the Vietnamese Labor Code (VLC) 2019, the state promotes the labor rights and independence of workers with disabilities, appropriate preferential policies for employers in creating jobs and hiring workers with disabilities in accordance with the DPA.

Art. 34 DPA provides that companies that *employ at least 30% of the total number of employees with disabilities can enjoy numerous incentives*. In addition to support to improve working conditions and disability-friendly environment, companies are also entitled to priority space leasing, tax exemption and reduction.

In order to better support the accessibility of jobs for people with disabilities, a support fund for people with disabilities was set up and regulated in the DPA. This fund was set up to raise funds to help people with disabilities to find work and become self-employed.

According to Art. 44 Section. 1 and para. 3 DPA and Art. 5 of the Decree No. 136/2013/ND-CP of the Vietnamese Government, people with severe disabilities and children with disabilities are entitled to monthly social benefits.

¹⁰Decision No. 1190/QĐ-TTg by Prime Minister Nguyen Xuan Phuc on the Disability Assistance Program 2021-2030, available at the following link:

<https://tulieuvankien.dangcongsan.vn/Uploads/2020/8/7/13/QĐ-1190.signed.pdf>

Eligible persons for the monthly care allowance include the family has a person with severe disabilities who directly cares for and cares for that person; Persons who look after severely disabled people; Persons with disabilities are pregnant or raising children under 36 months.

According to Art. 45 DPA, severely handicapped people who are helpless and unable to take care of themselves are admitted to social security institutions and brought up. The state provides funds to social protection institutions to support disabled people, including:., a) monthly care allowance; b) Procurement of personal items and necessities of daily life; c) Buy a health insurance card; d) buy common medicines; dd) acquisition of tools and resources to support functional rehabilitation; e) burial after death; g) Monthly personal hygiene for women with disabilities.”

According to Art. 46 DPA, people with disabilities who receive monthly social benefits are supported with the funeral costs in the event of death.

Disability Assistance Facility is an organization that cares for people with disabilities and provides counseling and support services. Disabled facilities include: a) social protection institutions; b) service facilities to support people with disabilities; c) Center for supporting people with disabilities in independent living; d) Other facilities for the disabled.

The state invests in facilities and ensures operating funds for public facilities for the people with disabilities.

According to the General Statistics Office and UNICEF, the percentage of people with disabilities in Vietnam aged 15 and over who have a job is 31.7%. The employment rate for people without disabilities is now 82.4%.¹¹

In fact, there is a discrepancy in vocational training, for every 100 people with disabilities aged 15 and over there are only 7 people with vocational training (7%), while this figure is 22 people (22%) for non-disabled people.¹²

The government has made many efforts to support people with disabilities. 4 out of 10 people with disabilities receive a monthly allowance. In 2019, the state ¹³“pays for the provinces the

¹¹*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 91.

¹²*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 76.

¹³*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 96 ff.

equivalent of nearly €700 million a month to support people with disabilities to help them about education and health insurance ”.¹⁴

People with disabilities are largely unemployed in Vietnam. The main source of income for people with disabilities depends mainly on grants from the state and family members. The gap between the income levels of people with disabilities and those without is quite large.¹⁵

There are many factors that prevent people with disabilities from finding employment. Due to personal capacity, people with disabilities are limited in terms of physical, qualifications, abilities and financial opportunities. On the other hand, in many places there are currently no offers or activities to introduce jobs for people with disabilities.¹⁶

2. Measures to promote social integration in relation to health care

According to Art. 22 DPA ensures that people with disabilities are medically examined and treated and make use of appropriate medical services. People with disabilities are entitled to health insurance in accordance with the Health Insurance Act.

Every year around “800,000 people with disabilities are entitled to health insurance. The community rehabilitation program for them is being implemented in 51 out of 63 provinces.”¹⁷

If persons with disabilities do not have a family, according to Art . 45 DPA 2010 they can stay in social protection institutions.

There are currently 432 social protection institutions (182 public institutions and 250 non-public institutions) in Vietnam, of which 67 specialize in the care of people with disabilities.¹⁸

¹⁴*VOV World*, Helping people with disabilities integrate into society, available at the following link:

<https://vovworld.vn/de-DE/nachrichten/menschen-mit-behinderung-bei-gesellschaftsintegration-helfen-807411.vov>

¹⁵*Trinh Thi Phuong*, Policy on Job Creation for Persons with Disabilities in Vietnam, Tạp chí khoa học xã hội Việt Nam, 2019 , No. 11 , p. 117-124 .

¹⁶*Nguyen Thu Trang* , Promoting and Protecting the Right to Work of Persons with Disabilities under Current Vietnamese Law , Tạp chí nhân lực khoa học xã hội , 2021 , No. 7 , p . 35-43 . _ _

¹⁷*Thu Hoa*, Vietnam grants rights and interests of people with disabilities,

available under the following link:

<https://vovworld.vn/de-DE/political-updates/vietnam-keeps-rights-and-interests-of-people-with-disabilities-1111720.vov>

The total number of people with disabilities in social protection institutions are sponsored is estimated at almost 20,000 people.¹⁹ Most people with disabilities have used medical services (91.5%).²⁰ 50% of them is helped²¹ to buy a health insurance card and 30% of them is exempt from the costs of medical examinations and treatment.²²

There are still many challenges in promoting social inclusion in relation to health care. In reality, the cost of healthcare for people with disabilities depends most on their families. Medical facilities are still difficult to access for people with disabilities.²³

3. Measures to promote social integration with regard to access to education and information

People with disabilities have the right to access to education. According to Art. 27 DPA, "the state creates favorable conditions so that people with disabilities can study according to their needs and abilities."

Art. 32 DPA 2010 stipulates that: “

1. The state ensures that people with disabilities receive free vocational training advice, selection and training according to their ability and ability the same like other people.
2. Vocational training institutions are responsible for issuing diplomas, certificates and recognition of training occupations when persons with disabilities have completed their training and the conditions prescribed by the heads of state administrative bodies responsible for vocational training have been fully met.
3. Vocational training institutions that organize vocational training for people with disabilities must ensure the conditions for vocational training for people with disabilities and enjoy the preferential regulations prescribed by law.

¹⁸*General Statistics Office and UNICEF*, ibid. (footnote 1), pp. 96-98.

¹⁹*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 60

²⁰*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 71

²¹*General Statistics Office and UNICEF*, ibid. (footnote 1), p. 74

²²*General Statistics Office and UNICEF*, ibid. (footnote 1), pp. 69-72.

²³*Nguyen Thi Minh Thuy*, Factors Associated with Access to Rehabilitation Services for Persons with Disabilities, *Tạp chí Y tế Công Cộng*, 2014, No. 1, p. 40.

4. Persons with disabilities learning jobs and vocational school teachers for persons with disabilities are entitled to statutory regulations and guidelines.”

The Vietnamese state has duty "to expand the model for education of integration and changed the school books to Braille. A sign language system and a writing system for the blind was set up.”²⁴

At the moment there are “about 1130 vocational training centers that also offer vocational training to the people with disabilities. 225 of these are only for disabled people. There are about 400 companies owned by disabled people. In the past period, around 120,000 people with disabilities have been helped with vocational training and job creation through state aid programs.”²⁵

In fact, people with disabilities in Vietnam still face many difficulties in accessing education and information services. Local teachers also face many difficulties in teaching children with disabilities.²⁶

The percentage of children with disabilities attending primary school at the right age is about 88.7%.²⁷

At the high school level, only 1/3 children with disabilities of the right age attend school (33.6%) compared to 2/3 non-disabled children (88.6%).²⁸

Only 3 out of 100 schools have a disabled-friendly design (2.9 %), 8 out of 100 schools have access for people with disabilities (8.1 %) and 10 out of 100 schools have access for people with disabilities. 100 schools have toilet facilities suitable to the people with disabilities (9.9 %).²⁹

Not only the lack of facilities, almost 3/4 of schools do not have teachers to teach students with disabilities (72.3 %). Only 1 in 7 primary and lower secondary school teachers is trained to teach students with disabilities (14.1 %).³⁰

²⁴*Thu Hoa*, Ibid, (fn. 17)

²⁵*Thu Hoa*, Ibid, (fn. 17).

²⁶*Tran Thai Duong*, Solutions for Creating Favorable Conditions for Persons with Disabilities to Realize the Right of Access to Information , Tap chí nhà nước và pháp luật , 2017 , No. 12 , p. 52-53 .

²⁷*General Statistics Office and UNICEF*,ibid. (Fn. 1), p. 19.

²⁸*General Statistics Office and UNICEF*,ibid. (Fn. 1), p. 19.

²⁹*General Statistics Office and UNICEF*,ibid. (Fn. 1), p. 19.

Information and communication technology plays a particularly important role for people with disabilities in helping people with disabilities to overcome barriers to social inclusion. People with disabilities with limited hearing and vision have little access to information.³¹The lack of available information channels suitable for people with disabilities makes access to information difficult for people with disabilities.

The percentage of households of people with disabilities that own media is lower than that of households without people with disabilities, specifically: having a television (87.7% vs. 94.4%); have internet use (16.8% vs. 30.9%); have a computer (13.7% vs. 28.6%) and a phone (84.7% vs. 96.2%).³²

There is a large discrepancy in mobile phone usage rates between people with disabilities and people without disabilities (38.85% vs. 73.09%).³³

Access to information via the Internet depends heavily on the financial ability of families and people with disabilities. People with disabilities themselves also have difficulty in finding information when the Internet is available, especially if they do not have the skills to find the information that they need on the Internet.³⁴

4. Measures to promote social integration in terms of participation in cultural, physical training, sports, entertainment and tourism activities

Following Art. 36 DPA, the state supports cultural, physical training, sports, entertainment and tourism activities that meet the characteristics of people with disabilities and creates favorable conditions for people with disabilities to enjoy culture, physical training, sports, entertainment and tourism. In addition, persons with severe disabilities are entitled to reduced ticket prices and service prices for cultural, physical training, sports, entertainment and tourism services (Art. 36 para. 2 DPA).

³⁰*General Statistics Office and UNICEF*,ibid. (Fn. 1), p. 19.

³¹*Tran Thai Duong* , Solutions for Creating Favorable Conditions for Persons with Disabilities to Realize the Right of Access to Information , *Tap chí nhà nước và pháp luật* , 2017 , No. 12 , p. 58 .

³²*General Statistics Office and UNICEF*,ibid. (fn. 1), p. 20.

³³*General Statistics Office and UNICEF*,ibid. (fn. 1), p. 20.

³⁴*Vu Thi Thanh*, Challenges faced by people with disabilities in accessing education , *Tap chí Xã hội học* , 2019 , no. 4 , p. 79-88 .

State and society create conditions for people with disabilities to develop their talents and abilities in culture, art and sport as well as to participate in composing, performing arts, practicing and competing in sports(Art. 36 para. 3 DPA) .

The state supports the design, manufacture and production of tools and equipment for cultural and sporting activities; To encourage agencies, organizations and individuals to design, manufacture and manufacture tools and equipment for cultural, physical training, sports, entertainment and tourism activities that are suitable for people with disabilities (Article 36 para. 4 DPA) .

The fact that public buildings and mass transit systems are not properly designed is also a major obstacle for people with disabilities to participate in society.According to Art. 40 DPA, the following public buildings must be barrier-free for people with disabilities by January 1, 2020: “*a) the office of a government agency;b) railway stations;c) Medical examination and treatment facilities;d) education and training institutions;e) Cultural, physical training and sports work.*”By January 1, 2025, “*all residential buildings, work offices, public engineering infrastructure works and social infrastructure works must meet accessibility requirements for people with disabilities.*”

According to Art. 42 DPA,means of transport must be equipped with convenient boarding and alighting aids that correspond to the specifics of people with disabilities.

The mass media have a responsibility to reflect the material and spiritual lives of people with disabilities. Vietnamese TV stations are responsible for broadcasting programs with Vietnamese subtitles and sign language for people with disabilities, according to the regulations of the Ministry of Information and Communications (Art. 43 DPA).

In fact, there are organizations in the local community that work for people with disabilities. However, the participation of people with disabilities is still very limited. The proportion of people with disabilities taking part in cultural and social activities is very low compared to people without disabilities.³⁵

In addition, society's stigma towards people with disabilities is expressed in many different ways. The stigma of people with disabilities also varies according to the type of disability, age, gender and level of education. In addition, many people with disabilities stigmatize themselves. They have little or no interaction with society. This creates an invisible barrier to the social integration

³⁵*Phan Thi Lan Huong, Disability Law Review – a comparison with the International Convention on the Rights of Persons with Disabilities and Recommendations for Vietnam ,Tap chí Nghề luật, 2020 , No. 2 , p. 42 .*

process of people with disabilities.³⁶In fact, discrimination against people with disabilities in Vietnam is still a serious obstacle to their participation in society. Only 42.7 % of respondents indicated that children with disabilities should go to school with other normal children. About 55 % of respondents believe employers are unwilling to hire workers with disabilities.³⁷

III. Some suggestions for further promoting the social integration of people with disabilities in Vietnam

In my opinion, solutions to further promote social integration should be implemented as below:

1. The state should treat people with disabilities as subjects with the same rights as other members of society, so that they must be respected and fully participate in society. In my opinion, people with disabilities should have rights like normal people. There is a need to change perceptions of the rights of people with disabilities. Many provisions in the PDA are not clearly explained.³⁸In my opinion, in the future there is a need to define more clearly the legal procedures for exercising the rights of people with disabilities. The concept "social inclusion" should be used to replace the term the "social intergration". There would be no barriers to people with disabilities in the future.
2. Policy makers need to calculate and consider the use of policy tools to ensure the rights of people with disabilities and avoid the negative aspects of the policy. For example, unemployment insurance payments for people with disabilities must secure an amount of money that is sufficient for people with disabilities to cover their living expenses for a specific calculated period of time until they find a new job.³⁹It is necessary to have the orientation for the early vocational education of people with disabilities, as well as more favorable conditions for the life of people with disabilities during vocational training.
3. The state must continue to improve health insurance for people with disabilities in order to reduce the burden of medical expenses in line with the ability of people with disabilities to pay. Health insurance should provide coverage for essential preventative medications for people with expand disabilities.

³⁶*Vu Thi Thanh*, Ibid, (fn. 34).

³⁷*General Statistics Office and UNICEF*,ibid. (Fn. 1), p. 22.

³⁸ See *Tran Thai Duong; Tran Thi Thanh Mai*, Ensuring the Rights of Vulnerable Groups in Vietnam – From the Perspective of Assessing Practice Implementing the 2013 Constitution, *Tạp chí nhà nước và pháp luật*, 2020, No. 1, pp.3-15.

³⁹For more details *Phan Thi Lan Huong* ,ibid, (fn. 35).

4. In places where there are many students with disabilities, there should be a policy to increase school support for students with disabilities. There is a need to create websites that focus on providing information about and for people with disabilities .
5. Families of people with disabilities also need to be equipped with skills to live with people with disabilities. Families of people with disabilities also need to learn sign language with people with disabilities to promote family support with people with disabilities.
6. There is a need to specify more clearly the assessment of disability based on ability to work. Only then is vocational training for people with disabilities compatible with the ability to work and the requirements of the profession. Vocational school teachers for the disabled should receive a percentage increase in salary and an allowance for responsibility, and for the disabled, they must receive free vocational training, tuition exemption and reduction, and grant scholarships.

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