
The Right to Access and Participation in Transportation of People with Disabilities in Vietnam

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Abstract

For people with disabilities (PWDs), the need to travel, access and participate in traffic, in addition to the universality of ensuring the right to personal mobility, is also extremely urgent because it is a means of transport for PWDs to have access to information, employment, entertainment, social integration and rehabilitation. Moreover, access to transportation is also one of the ways to present the equal rights of PWDs in society. By promulgating the Law on People with Disabilities in 2010 and ratifying the United Nations Convention on the Rights of People with Disabilities (CRPD), Vietnam has really made strides in terms of ensuring the rights of people with disabilities. However, inadequacies in regulations and difficulties in exercising the right to access and participate in traffic are still relatively common. This article focuses on analyzing the legal regulations on the right to access and participate in traffic of people with disabilities and practical implementation in Vietnam, on that basis, proposes solutions to further ensure the right to access traffic for PWDs in the current period.

Keywords: people with disabilities, traffic access, traffic participation, accessibility

Introduction

Transportation is essential for people of all ages and backgrounds to lead a fulfilling and satisfying life. It plays an important role in many aspects of daily life including access to employment, education, health care, shopping and many recreational activities. Transportation is a requirement for full participation in the community². Despite such obvious importance, many people around the world in general and Vietnam in particular do not have access to adequate transportation and the experience is asymmetric for some groups.

For PWDs, the need to travel and participate in traffic is crucial. Encouraging PWDs to access transport services can fundamentally change the livelihoods of PWDs and their families³, helping them improve their lives, and integrate into society and the community. People with disabilities are particularly considered vulnerable groups. Physical disabilities and social prejudices often cause them to suffer double trauma⁴. Barriers to transportation make PWDs less likely to find work, study and access health care, as well as restrict social and recreational activities. Therefore, when there is a need to travel, people with disabilities need to be facilitated to be able to move in the locality or in inner and suburban areas by means of transport, especially by public transport in an easy manner. But the sad thing is that in cities of developing and transitioning countries, this requirement is the exception, not the common rule.⁵

Ensuring access to transport is an important and necessary element for social inclusion of PWDs, which can enable PWDs to play an active role in economic and social development. In developed countries, there has been great

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²Jansuwan, S., Christensen, KM, & Chen, A. (2013). Assessing the transportation needs of lowmobility individuals: Case study of a small urban community in Utah. *Journal of Urban Planning and Development*, 139(2), 104-114; Jill L. Bezyak, Scott Sabella (2017), Public Transportation: An Investigation of Barriers for People With Disabilities, *Journal of Disability Policy Studies* 28(3):1044207317702070 DOI: [10.1177/1044207317702070](https://doi.org/10.1177/1044207317702070)

³DAC Maunder, CJ Venter, T Rickert and J Sentinella, Improving transport access and mobility for people with disabilities, p.1. http://transport-links.com/wp-content/uploads/2019/11/1_833_PA4061-04.pdf

⁴ Department for International Development (2000), Disability, Poverty and Development. UK, London.

⁵ DAC Maunder, CJ Venter, T Rickert and J Sentinella, Improving transport access and mobility for people with disabilities, 1. http://transport-links.com/wp-content/uploads/2019/11/1_833_PA4061-04.pdf

progress in ensuring access to transport for PWDs and is largely in line with uniform standards (although there are also local variations), but in other developing countries, the situation is much more diverse. The issue of supporting and increasing access for PWDs is normally considered a welfare function of the state and of non-governmental organizations. Today, the human rights approach to PWDs, in which all citizens can participate in society and can seize economic opportunities, is gradually being accepted. In some developing and transition countries, there is a growing awareness of the need to gradually remove barriers in the transport environment, but progress has been slow, partly due to limited availability of funding, and partly due to lack of practice and good awareness of PWD issues.

In Vietnam, over the years, the State has adopted many guidelines, policies and set out a roadmap to increase traffic access for PWDs to meet their needs for social and community integration. The law has issued a clear set of regulations and public works standards to ensure that PWDs can easily move and integrate into the community. However, in reality, PWDs still face many difficulties, including traveling and using public transport. Common difficulties of PWDs while participating in traffic are needing assistance, difficulty in moving up and down, having to carry assistive devices such as wheelchairs, crutches, etc. The reason is due to traffic works in Vietnam have not yet met the technical requirements for PWDs. Some roads do not have walkways for the blind, PWDs have to go down the roadway together with other vehicles. Many new roads in the central area have been designed and built for PWDs, but they are occupied as business places and parking spaces, making it more difficult for PWDs to travel. Most buses have short stopping times, narrow doors, high door steps, waiting houses with too high curbs, no ramps, making it difficult for PWDs to use wheelchairs⁶...

On August 5, 2020, the Prime Minister issued Decision No. 1190/QĐ-TTg approving the program to assist people with disabilities in the 2021-2030 period. The target in the period 2021-2025 is that 30% of PWDs who need to participate in traffic can use means of transport that meet the technical regulations on accessible traffic or equivalent assistance services; 100% of PWDs participating in traffic are exempted and reduced fare according to regulations, especially for inter-provincial roads 40%. Besides, 80% of new constructions and 30% of old ones that are the headquarters of state agencies, railway stations, bus stations, docks, medical examination and treatment establishments, educational and vocational institutions, cultural works, physical training and sports, newly built apartment buildings ensure access conditions for PWDs⁷. To achieve this goal, the program will deploy many activities such as helping PWDs to access construction sites, assisting in accessing and participating in traffic, supporting PWDs to live independently and integrate into the community...

It can be seen that building a modern and accessible transportation system for PWDs is an indispensable requirement. It is time for Vietnam to focus on implementing synchronously, effectively and thoroughly to solve outstanding problems in order to help PWDs have more access to the community, and remove the guilt and difficulties of a disadvantaged group in today's society.

The concept of people with disabilities and the right of people with disabilities to access and participate in traffic

People with disabilities

In the last century, people have witnessed a major revolution in disability issues, thereby changing the way they are addressed, viewed, interacted with and supported. From the "medical care" model of the 1950s, for a long time, the issue of PWDs was considered a social welfare issue, according to which the popular concept was that PWDs need support, care and they are unable and incapable of taking care of their own lives. In other words, PWDs are considered as social welfare beneficiaries, but not as rights holders as ordinary citizens. International legal documents relating to human rights were ratified by countries between the 1940s and 1960s (for example, the

⁶ <http://laodongxahoi.net/tham-van-xay-dung-bo-tieu-chi-Giao-thong-tiep-can-cho-nguoi-khuyet-tat-1314025.html> accessed October 18, 2022

⁷ <https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Quyet-dinh-1190-QĐ-TTg-2020-phe-duyet-Chuong-trinh-tro-giup-nguoi-khuyet-tat-period-2021-2030-449141.aspx> accessed on October 18, 2022

United Nations Universal Declaration of Human Rights 1948, the United Nations Convention on economic, cultural and social rights of 1966 and the United Nations Covenant on Civil and Political Rights of 1966...) do not refer directly to PWDs⁸. By 1970, coming from the United States - in various forms, PWDs and their associations proved that they are fully capable and have the right to live and work like ordinary people.

Their persistent efforts along with the change in awareness in society have led to drastic changes in US policy and law on PWDs. By the 1980s, progressive US conceptions of PWDs were widespread in many countries. The core idea of this new awareness is that disability issues are considered from a human rights perspective, based on the recognized right of everyone to live a full and dignified life in the Universal Declaration of Human Rights in 1948. However, the process of transforming the perception of PWDs as a social welfare issue into the perception that disability is a normal problem in society and attaches importance to the ability and capacity of PWDs has existed for a long time and the difference is not over.

In the world today, there are different conceptions of the concept of PWD. The concept of PWD is often approached from both medical and social perspectives. From a medical perspective, a person with a disability is defined as a person with a physical problem that requires treatment. This has pushed PWDs into the passive position of patients. The goal of this approach is to make the person with a disability feel back to normal, but it invisibly makes the person with a disability feel that they are not normal. Accordingly, the problem of disability is said to be limited to each individual. When they have a disability, these people need to change, not the society or the environment around them⁹. From a social perspective, PWDs are approached with a combination of disability and environmental factors in the relationship between rights of PWDs, the view of disability according to the social model is an important tool to solve the causes leading to discrimination and segregation of PWDs from the community¹⁰. To be consistent with the concept of PWD in the Convention on the Rights of People with Disabilities in 2006, the concept of “PWD” is officially introduced in the Law on Disabilities 2010. In Clause 1, Article 2 of this Law, a person with a disability is understood as “a person with one or more body parts or functional impairment is manifested in the form of disability causing difficulties in working, living and studying”¹¹. According to this understanding, Vietnam’s Law on Disability has introduced the concept of PWD based on the social model, but it is still generic compared to the concept in the Convention on the Rights of People with Disabilities.

Basically, the laws of Vietnam and most countries in the world define disability as an interaction between an individual’s health condition and individual factors with the environment (for example, negative attitudes, inability to access transportation, limited social support)¹². Forms of disability include mobility impairment; hearing and speaking disabilities; vision disability; neurological and mental disabilities; intellectual disability and other disability. Each type of disability has its own characteristics, generating different effects on PWDs when accessing public construction works and public transport¹³. For example, people with mobility disabilities face many

⁸See, guidance document: Towards equal employment opportunities for people with disabilities through the legal system, International Labor Organization (ILO), 2006, p.7

⁹Vietnam- People with Disabilities in Poverty Reduction Strategy, published with the support of German Technical Cooperation Organization (GTZ) and German Development Assistance Agency, 2007, p.40

¹⁰ UNDP, A review of International Best Practice in Accessible Public Transportation for Persons with Disabilities, June 2010, page 7, 19.

¹¹This definition inherits the provisions of Article 1 of the Ordinance on People with Disabilities of Vietnam issued in 1998.

¹²World Health Organization. (2020). Disability and health. <https://www.who.int/news-room/fact-sheets/detail/disability-and-health> accessed October 19, 2022; Jun Park & Subeh Chowdhury (2022), Investigating the needs of people with disabilities to ride public transport routes involving transfers, *Journal of Public Transportation*, Volume 24, 2022, 100010, <https://doi.org/10.1016/j.jpubtr.2022.100010> accessed October 19, 2022

¹³Transport Department. (2002). Transport needs and concerns for people with disabilities. Travel characteristics survey 2002 final report (pp. 38–39). Transport Department; N. Tyler, Capabilities and radicalism: engineering accessibility in the 21st century, *Transportation Planning and Technology*, 29 (5) (2006), pp. 331-358, <https://doi.org/10.1080/0308106060017629>;

difficulties in personal activities, playing, studying and working, so they need support in terms of means of transportation (wheelchairs, canes) and especially the necessary, convenient, and suitable space for moving. For PWDs with hearing and speech, because they can't hear sounds or have very poor hearing, they often can't be proactive with what is happening and what is about to happen, the danger from traffic vehicles operating on the road. Similarly, people with visual impairments (visually impaired) are also subject to many difficulties because they cannot see everything around them, so they cannot actively offer plans to ensure their own safety. They are also unable to see the way and identify whether there is anything obstructing, so it is necessary to create a safe moving space for the visually impaired... Therefore, it can be affirmed from the perspective of health and mental health, it is shown the diversity of disabilities and ensuring the rights of people with disabilities needs to take into account the unique factors of different types of disability.¹⁴

The right to access and participate in traffic of people with disabilities

The right to access and participate in social activities of PWDs is a fundamental right of PWDs. This is a prerequisite to ensure the realization of their human rights. Social activities are understood as all actions of organizations and individuals in society in order to guarantee legitimate rights and benefits for society in general and for people in particular, ensuring sustainable development of society. Social activities comprise activities in many different areas of social life, but can basically be defined as activities related to culture, sports, recreation, entertainment, tourism, participating in transportation, public works, and information and communication technology. These are also fundamental activities mentioned in the Law on Persons with Disabilities 2010 in defining the rights of people with disabilities, compatible with the scope of the CRPD 2006 of the United Nations.

Within the scope of the content of the right to access and participate in social activities of persons with disabilities, the social activities that PWDs access and participate in are activities aimed at ensuring and improving the quality of life for PWDs, ensuring the legitimate rights and benefits that people with disabilities enjoy. Accessing these social activities will help PWDs have more motivation in life and can contribute to society. Thus, the right to access and participate in social activities of PWDs can be understood as stipulating and ensuring that PWDs can participate in, implement, and use public works, transport means, information technology, tourism, and other services... in an appropriate way to integrate into the community.

With this understanding, the right to access and participate in traffic is one of the contents of the right to access and participate in social activities. In order for PWDs to improve their ability to live independently and participate in traffic, States should take appropriate measures to detect and remove obstacles and impediments to access to roads, traffic and works. Ensuring the freedom of personal movement, Article 20 of the CRPD provides that Member States take effective measures to ensure the maximum possible freedom of independent personal mobility for PWDs, including ways such as: enabling individuals with disabilities to move in a way and at a time of their choosing, at an affordable cost; facilitating access to mobility aids, equipment and technology for PWDs and other forms of on-site assistance or assistance, including by providing affordable amenities; providing appropriate training in personal mobility skills for PWDs and specialized staff working with PWDs; encouraging facilities to manufacture mobility aids and technology equipment that take into account all aspects of the mobility of PWDs.

On that basis, each country based on infrastructure and traffic conditions ensures the concretization of equal access for people with disabilities. This is both a requirement for ensuring equal rights and showing the civilization of each country. Access to transportation does not stop at public transport as a guarantee of equal enjoyment of social welfare like others, but also manifests itself in ensuring that private transport is operated including supporting means, supporting infrastructure, adjusting traffic laws by road, waterway, and air in line with the approach.

Current status of legal regulations on access and participation in traffic of people with disabilities in Vietnam

For PWDs, the need to travel and participate in traffic is extremely necessary, because it is one of the means to help them access information, employment, entertainment, and meet their social inclusion and rehabilitation.

¹⁴Nguyen Hien Phuong (2016), Law on traffic participation of people with disabilities – From regulations to practice, VNU Science Journal: Law School, Vol. 32, No. 1 (2016) 50-59, p. 51

Stemming from the importance of accessible transport for full and comprehensive participation in the social life of PWDs, this issue has long been recognized in the legal documents of Vietnam. The Constitutions of 1946, 1959, 1980, 1992, 2013 all affirmed that PWDs are citizens, members of society, have the rights and obligations of a citizen, and are supported by the State and society when they encounter problems (Article 14 of the 1946 Constitution, Article 74 of the 1980 Constitution, Article 59.67 of the 1992 Constitution, Article 59 of the 2013 Constitution). Previously, the issue of road use by PWDs was implemented under the Ordinance on Disabled Persons 1998. Thereafter, Article 9 CRPD required member states to *“take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications... in both urban and rural areas”* in order to remove all barriers and obstacles to accessibility for PWDs. This requirement of the CRPD has been transformed to different degrees by member countries, including Vietnam into its legal system.

In Vietnam, the policy on ensuring traffic access for PWDs has been stipulated in the Law on People with Disabilities 2010 - the original law for PWDs specifically. In particular, the Law on People with Disabilities 2010 encompasses specific provisions on ensuring minimum standards to ensure the accessibility of PWDs to traffic (Article 41, Article 42). On November 28, 2014 Vietnam ratified CRPD 2006 and issued a series of related documents such as: Law on Road Traffic 2008; Railway Law 2017; Civil Aviation Law 2014 as amended; Decree No. 28/2012/ND-CP detailing and guiding the implementation of a number of articles of the Law on People with Disabilities; Circular No. 62/2014/TT-BGTVT promulgating the National Standard on city passenger cars for PWDs to access and use; National technical regulation QCVN 10:2011/BGTVT and technical requirements on accessibility of wheelchairs; National technical regulation on construction of works to ensure PWDs have access to use QCVN 10: 2014/BXD, etc. The issue of access to traffic of PWDs in Vietnamese law has made progressive development with specific and complete regulations for each form and means of transport. Like other normal people, PWDs can participate in traffic in many forms and by different means, depending on their conditions, personal and social circumstances or the purpose of travel.

Ensuring the right of people with disabilities to access and participate in traffic through regulations on walking for people with disabilities

In order to ensure that the walking of PWDs is safer and more convenient, first of all, in terms of the design of the infrastructure, the built urban roads must have sidewalks, road sections, overpasses, tunnels and pedestrian traffic. Vietnamese law has promulgated a system of regulations and standards, for example: The Ministry of Construction promulgates Vietnam Construction Standards TCXDVN 265:2002 “Roads and pavements - Basic principles of constructing works to ensure the accessibility and use of disabled people”. Accordingly, types of roads must be ensured for people with disabilities to access and use include pedestrian paths, paths in parks, entrances to tourist resorts, squares, sidewalks at intersections, entrances and pedestrian crossings on motorways, roads for non-motorized vehicles, overpasses, and tunnels. For example, pedestrian routes need to limit obstacles on the road (manhole covers, old trees, etc.), limit hanging objects, sudden protruding objects and need to place paving sensory slabs to guide the visually impaired. In addition to installing traffic signals, signs, and signboards, there should be more audio signals or signals in Braille to guide blind people when crossing the road...

Next is the National Technical Regulation QCVN 10:2014/BXD on construction of works to ensure access to use by persons with disabilities, issued on December 29, 2014, effective from July 1, 2015. This is an extremely important source of law to ensure when designing and constructing infrastructure, public works, investors and direct construction units must comply with. For access roads to works, QCVN 10:2014/BXD stipulates:

In a campus, there must be at least one access road to work or work item that ensures accessibility for PWDs. When designing ramps, the following regulations must be followed: Slope is not greater than 1/12; The ramp width is not less than 1200 mm; The ramp length is not more than 9000 mm; when larger than 9000 mm, a landing must be arranged; At the start and end of the ramp, there must be a space of not less than 1400 mm x 1400 mm for the wheelchair to move; The surface of the ramp must be hard, not rough and not slippery. On both sides of the ramp, railings and handrails must be arranged continuously. If there is a gap on one side of the ramp, at the foot of the handrail, a safety ledge or a barrier must be arranged. The handrail must be installed at a height of 900 mm above the floor. If a two-story handrail is arranged, the lower handrail must be installed at a height of 700 mm above the floor. At the beginning and the end of the ramp, the handrail should be extended by 300 mm. The distance between

the handrail and the mounting wall is not less than 40 mm. For entrances, the law stipulates that when building a work or a work item, there must be at least one entrance to ensure access to use by PWDs. The entrance for PWDs must lead directly to the reception desk and the main spaces of the building.

For entrances with ramps, the slope, size and surface of the ramp must comply with the regulations on the slope of the road to the work. For entrances with steps, the step height is not more than 150 mm; The width of the step surface is not less than 300 mm; Do not use open stairs; do not do the nose step; In case there is a door on the entrance for PWDs, it is not allowed to make the threshold and the turnstile should not be used. At the entrance, signs must be installed, there is an audio notification system and paving slabs with signs indicating the direction of access to elevators and services for PWDs.

At the intersection between the footpath and the road for vehicles, the crosswalk for pedestrians or at the entrance to the work, if there is a height difference of more than 150 mm, ramps and intersection warning panels must be arranged. The slope of the ramp is not more than 1/12.¹⁵

Street facilities such as bus stops, lounge chairs, power poles, street lights, posts, signs, public telephone stations, mailboxes, automatic teller machines, flower beds, trees, public trash cans etc. must not obstruct PWDs and be warned by embossed tiles or marked with contrasting colors so that PWDs can see them.

Vietnamese law also stipulates the responsibilities of other people when participating in traffic with PWDs. Everyone is responsible for helping PWDs when crossing the street¹⁶. At places with pedestrian crossings, vehicle drivers must observe, slow down and give way to pedestrians and wheelchairs of PWDs crossing the street. Where there are no road markings, vehicle drivers must observe, if they see pedestrians or wheelchairs of PWDs crossing the street, they must slow down and give way to pedestrians or wheelchairs of PWDs to pass the road safely.¹⁷

Ensure the right to access and participate in traffic of people with disabilities through regulations on the use of personal vehicles.

Clause 1, Article 41 of the Law on Persons with Disabilities in 2010 stipulates that personal transport vehicles used by PWDs must meet national technical regulations and fit with the health conditions of the users. Motorized road vehicles must satisfy the general requirements specified in QCVN 14:2015/BGTVT National technical regulation on quality, technical safety and environmental protection for motorcycles and mopeds. Vehicles for the disabled are required to conform not only the general technical requirements, but also the specific requirements for the engine, wheels, length, width, and height; Vehicles must have vehicle markings for PWDs in an appropriate and easy-to-identify position. For example, if the vehicle's engine is a heat engine, the working capacity should not be more than 125 cm³. If the driving motor is an electric motor, the maximum power is not more than 4 kW. The wheels must be symmetrical about the longitudinal median plane of the vehicle. The maximum size of the vehicle must not exceed the following limits: 2.5 m length; 1.2 m width; 1.4 m high. The vehicle's maximum climbing ability is not less than 12%. The operation control mechanism of the vehicle and the brake system control mechanism must accommodate the control ability of the PWD operating that vehicle.

For vehicles that require a driver's license, PWDs can learn and obtain a driver's license for their vehicle¹⁸. PWDs will be granted a vehicle driver's license when they are 18 years old or older and have sufficient health as prescribed by law¹⁹. Law on Road Traffic 2008 (amended and supplemented in 2019), especially Circular No. 12/2017/TT-BGTVT detailing the regime of training, testing, and granting of motor vehicle licenses to citizens,

¹⁵ Bui Thi Hoang Lan, Ensuring fairness for people with disabilities in using railway vehicles in Vietnam, Sociological Journal No. 01/2012, pp. 95-102

¹⁶Article 33 of the Law on Road Traffic 2008

¹⁷Article 11 Law on Road Traffic 2008

¹⁸ Clause 1, Article 41 of the Law on People with Disabilities 2010

¹⁹ Appendix 1 Table of health standards for drivers issued together with Joint Circular No. 24/2015/TTLT-BYT-BGTVT stipulating health standards for drivers, periodical medical examination for drivers with car drivers and regulations on medical facilities for drivers

including PWDs. This creates a necessary and effective legal basis to affirm the equal opportunities of PWDs and at the same time assures the legitimate rights and interests of PWDs in participating in traffic, helping to gradually limit the situation that the majority of PWDs participate in traffic by personal motor vehicle without a driver's license and using substandard vehicles.

Article 16 of Circular 12/2017/TT-BGTVT classifies two types of driving licenses for PWDs, specifically: Class A1 is granted to PWDs who operate tricycles used for PWDs. Class B1 automatic transmission is granted to non-business drivers to operate cars for PWDs; automatic transmission cars with up to 9 seats, including the driver's seat; trucks, including special-use trucks with automatic transmissions with a designed tonnage of less than 3,500 kg. Thus, when PWDs are unable to operate regular motorbikes and cars, they use three-wheeled motorcycles and cars for PWDs to practice driving and take tests. If they are eligible and are granted a driving license A1 or B1 class, they still have the right to use other normal vehicles when participating in traffic. If a person with a disability learns to drive and takes a test with a vehicle for a person with a disability and then uses another vehicle after being granted a license, it will be very dangerous for society and for the PWD themselves. Therefore, the state should have clear regulations on the driver's license of PWDs when taking the test with tricycles and cars for PWDs.

In case a person with a disability is not eligible to operate a class B1 automatic driving practice vehicle of a training institution and testing center, a person with a disability may use a car of the person with a disability to practice driving and take the test. Cars of people with disabilities are often renovated to suit the needs of each type of disability (leg disability or hand disability...). However, up to now, there is no document regulating the conditions for vehicles of PWDs to be used to learn to drive and take exams. Decree No. 65/2016/ND-CP stipulating conditions for business of car driver training services and driving test services has specified conditions for practice cars at Points dd, e, i. and k Clause 2 Article 6 but Article 2 of Decree No. 138/2018/ND-CP amending and supplementing Decree No. 65/2016/ND-CP has abolished these conditions. In addition, Circular No. 85/2014/TT-BGTVT on renovating road motor vehicles (automobiles) does not have specific and detailed regulations on motor vehicle renovation for drivers who are PWDs. This omission has caused confusion for driving training and testing institutions when they have to decide whether PWD's vehicles are safe enough to be used as practice and testing vehicles.

Ensuring the right of people with disabilities to access and participate in traffic through regulations on the use of public transport

Regarding priority policy, ticket price exemption and reduction for PWDs. PWDs are given priority to buy tickets, help and arrange convenient seats. Persons with special severe and severe disabilities are exempted and reduced from bus service fares. Particularly severe and severe persons with disabilities are entitled to a reduced ticket price of at least 15% for airplanes, 25% for trains, trams, ships, passenger cars on fixed routes. According to the provisions of Clause 3, Article 18, Decree 14/2015/ND-CP detailing and guiding the implementation of a number of articles of the Law on Railways, the reduction in train fares for people with extremely severe and severe disabilities and some other policy objects will be at 30%.

Regarding standards and regulations of accessibility to traffic for PWDs. People with disabilities can travel by public transport such as buses, fixed-route passenger cars, passenger aircraft, passenger trains (including urban railways), passenger ships, passenger ferry²⁰. In order to make public transport accessible to PWDs, the state has issued national technical standards on city passenger cars and railway vehicles²¹. As for other means of transport (taxi, inter-provincial passenger cars, ships, ferries...), there is no document regulating national technical standards,

²⁰ Clause 1, Article 2 of Circular No. 39/2012/TT-BGTVT guiding the implementation of national technical regulations on traffic infrastructure, assistive tools and priority policies for people with disabilities to join public transport

²¹ Circular No. 26/2019/TT-BGTVT promulgating the National Technical Regulation on city passenger cars for people with disabilities to access and use (QCVN 91:2019/BGTVT); Circular No. 30/2018/TT-BGTVT promulgating 2 national technical regulations on railway vehicles including National Technical Regulations on technical safety and environmental protection requirements for vehicles railway traffic during periodic inspection (QCVN 15:2018/BGTVT) and National Technical Regulation on inspection and acceptance of rolling stock when manufacturing, assembling and importing (QCVN 18:2018/BGTVT)

therefore, organizations and individuals doing business and managing public transport have no legal basis to improve means of access to PWDs.

In terms of design, public transport means for people with disabilities to access and use must meet the national technical regulations on accessible traffic. The number of accessible means of transport on each passenger transport route must comply with the route and rate prescribed by the Government²². For each type of public transport, there are separate national technical regulations on accessible traffic.

For trains, the 2017 Railway Law stipulates: d) Passenger stations must have constructions and equipment to indicate access for PWDs²³. “1. Railway means of transport must satisfy the following requirements: ...b. Having necessary equipment and facilities to serve customers, safety equipment and tools for escape; fire-fighting equipment, tools and materials; first aid kits and equipment for PWDs to access and use.²⁴ General requirements for urban railways are to ensure convenience for passengers and ensure access and use for PWDs in accordance with the provisions of law²⁵.

For cars (passenger cars, buses), Circular No. 62/2014/TT-BGTVT promulgating QCVN 82:2014/BGTVT National technical regulation on city passenger cars for PWDs to access and use. Accordingly, city passenger cars with 17 seats or more must meet the technical requirements specified in this regulation and must be inspected and tested according to regulations on quality inspection, technical safety and environmental protection. Buses serving PWDs, in addition to the general technical requirements, must also meet the specific technical requirements specified in part 2 of Sector Standard 22 TCN 302-06 of the Ministry of Transport, issued on March 2, 2006 with the number of buses meeting the technical regulations on accessible traffic from time to time to 2015, 2020 and 2025 according to the regulations of the provincial People’s Committee (Point a, Clause 1, Article 14 of Decree No. 28/ 2012/ND-CP).

For aircraft, passengers with disabilities must be taken care of by the airline during the transportation process²⁶. Operators must develop a method of transporting passengers with limited mobility such as airlines having to fulfill the obligations of transporting passengers with disabilities as for ordinary passengers, arrange care staff, support; At the same time, it is responsible for organizing and implementing various types of support services during the transportation process. PWDs are entitled to free transportation of supporting tools; type of support service required for each special passenger,...

Thus, it can be seen that Vietnam’s legal system on accessible traffic is increasingly complete in the direction of approaching international standards, especially the international convention on the rights of people with disabilities. Those technical regulations are developed with reference to international experience, meeting the essential needs of PWDs. The Government of Vietnam has set out a roadmap to gradually improve the public transport system to ensure access for PWDs. However, the regulations in this regard still have certain shortcomings that make them difficult to apply in real life. These inadequacies need to be studied and overcome in order to ensure the legitimate rights and interests of PWDs.

Practical implementation of the law on access to and participation in traffic of people with disabilities in Vietnam

With a fairly complete legal framework on the right of PWDs to access traffic, the practical implementation of these regulations has achieved a number of significant results, contributing to creating a favorable environment for PWDs to access and participate in traffic and integrate into life. However, it is deniable that ensuring the implementation of this right for PWDs is still too limited. Although the current legal regulations state the responsibilities of the subjects with the obligation to ensure the right of PWDs to access traffic, the monitoring

²² Clause 3, Article 42 of the Law on Persons with Disabilities 2010

²³Point d, Clause 2, Article 16 of the Law on Railways 2017

²⁴Point b, Clause 1, Article 33 of the Railway Law 2017

²⁵Clause 5, Article 70 of the Railway Law 2017

²⁶ Hanoi Law University, Disability Law Textbook, Publishing House, Hanoi, 2011, p. 15

and evaluation mechanism for compliance has not been clarified yet. In addition, the relevant legal documents currently do not prescribe sanctions for handling in case the obligated entities fail to ensure the right of access for PWDs.²⁷

So far, although the Government of Vietnam has set out a roadmap to improve public transport, specialized agencies such as the Ministry of Construction, the Ministry of Transport and local authorities have not assessed and made statistic of the overall situation in order to develop a specific plan in implementing the roadmap set out by the Government in the amended and supplemented Decree No. 28/2012/ND-CP.

On the other hand, Vietnamese law does not have an effective mechanism for PWDs and organizations representing their interests to claim and protect their right to access public transport.

The limitations mentioned above in the legal regulations make the transport systems in Vietnam still difficult to access for PWDs.

In Vietnam, the assessment of accessibility is considered by three main factors: Access to transport infrastructure; Access to means of transport; Access to transportation services, including passenger transport services, which shows:

In the field of road traffic, although the National Technical Regulation 10:2014/BXD on construction of works to ensure access to use by PWDs has been issued on December 29, 2014, but so far only a few traffic roads and sidewalks are built according to standards. The quality of sidewalks in general does not meet the requirements of accessible traffic and is not suitable for the mobility of people with disabilities. In big cities like Hanoi, Ho Chi Minh City... most of the roads in the inner city are small, most sidewalks do not have guide ways, paving slabs, pavement quality is still bad and bumpy, even being used as a parking place for motorbikes or shops. For newly opened roads, with better conditions in terms of space and infrastructure, more attention is paid to ensuring access for PWDs such as pedestrian overpasses, sidewalks, and roads in new urban areas. Compared to other localities across the country, big cities are places where public transport such as buses, trains, planes... has a lot of circulation, so the right to participate in public transport of PWDs is most clearly expressed²⁸. At other intersections, elevations such as crosswalks and sidewalks have not yet made ramps and slopes. Street amenities such as bus stops, lounge chairs, power poles, street lights, poles, signs... are arranged in unreasonable positions, causing obstacles to PWDs' travel.

About approaching stops, bus shelters. Bus is one of the popular means of public transportation, but there are still many barriers for PWDs when using this mode of transport. Bus stations and bus stops have not been designed synchronously according to the standards and requirements of approaching traffic, but almost take advantage of the actual terrain of each location to design and build stops and waiting houses. Most of the shelters have too high curbs and no ramps, making it difficult for PWDs to use wheelchairs²⁹. At points with elevation changes (sidewalks, embankments on bus waiting areas), most of the ramps or paving slabs are not arranged, making it difficult for people with disabilities to use wheelchairs and visually impaired people. Buses have audio announcements at stops, but at bus stops there is no speaker to announce the number of buses coming so that PWDs can actively get on the bus.³⁰

About access to bus station and parking. In the whole country, only 30% of the total 457 bus stations ensure access for PWDs³¹. Most of the bus stations do not have a parking space for PWDs or have, but the parking space between

²⁷Nguyen Thi Que Anh and authors (2019), The rights of people with disabilities, National Political Publishing House, p. 386

²⁸Nguyen Hien Phuong (2016), Law on traffic participation of people with disabilities- From regulations to practice, Science Journal of Vietnam National University, Hanoi, Law, Vol. 32, No. 1 (2016) 50-59, p.55

²⁹ <http://laodongxahoi.net/tham-van-xay-dung-bo-tieu-chi-Giao-thong-tiep-can-cho-nguoi-khuyet-tat-1314025.html>, accessed October 18, 2022

³⁰ <https://hoanhap.vn/chi-tiet/cong-trinh-cong-cong-nguoi-khuyet-tat-van-kho-tiep-can1618879742.html> accessed on October 18, 2022

³¹ Le Xuan Trong (2019), *Report on the implementation of the Law on People with Disabilities in the field of public transport in Vietnam*, Institute of Transport Strategy and Development, Hanoi, p.11

vehicles is not wide enough for wheelchairs. In Hanoi alone, there are 584 buses with wheelchair-accessible location, 243 vehicles with wheelchair lifts for PWDs, 159 buses with in-car stop notification system with LED lights connected to the stop notification system by sound and the surveillance camera on the vehicle³². Particularly for people with hearing and speaking disabilities, they also face some difficulties in using public transport due to the lack of sign language at stations and airports, and the lack of staff to assist in buying tickets or getting on and off vehicle.³³

Currently, the whole country has 61/63 provinces and centrally-run cities that have bus transportation, of which 7 provinces and cities (Hanoi, Ho Chi Minh City, Hai Phong, Tien Giang, Lao Cai, Hoa Binh, Binh Duong) has issued specific regulations on the proportion of passenger transport vehicles that meet the travel needs of PWDs. There are only 478 public buses (accounting for about 4.8% of public transport) to ensure accessibility for PWDs, mainly low-rise buses.³⁴

In the field of rail traffic: Although there are 310 locomotives and 5,903 wagons (1043 passenger cars) operating in the railway industry, there is only 1 wagon to assist PWDs to access located at Hai Phong station, however, it is currently not in use. Passenger cars do not have a position or priority car for PWDs, the doors are narrow (only 72cm wide), and the steps are high (30-45cm) so wheelchair users cannot access. Most of the passenger cars do not have an electronic information board but only an audio information system, therefore, people with hearing and speaking disabilities have difficulty in recognizing their destination.³⁵

The station is also not built to ensure accessibility for PWDs such as: No ramps for PWDs to enter the main hall; there is no waiting area, a reception place exclusively for PWDs; there are no paths for PWDs to see, no diagrams to guide information boards for PWDs to access; There is no equipment to support PWDs to board the train, but mainly support from station staff and train staff.³⁶

In the field of inland waterways: In general, at present, passenger transport services by inland waterways are increasingly developed, serving travel from the shore to the island or serving tourism. Most of the ports and inland waterway passenger terminals are located in a stable and hydrologically favorable terrain. Ports and passenger terminals are usually built solidly of stone and concrete with ramps up and down, so passengers can get on and off. However, these works only ensure access for ordinary people, for PWDs, they have not been interested in investing in infrastructure to facilitate PWD's access. The entrance to the train is still difficult to access for people with mobility impairments, vehicles do not have priority seats for PWDs, and do not have instruction boards and loudspeakers.

In the field of aviation: The whole country has 22 civil airports in operation, in which there are 10 international airports and 12 domestic airports³⁷. Currently, only 10/22 airports have wheelchair lifts,³⁸ mainly major airports such as Noi Bai, Da Nang, Nha Trang, Ho Chi Minh, Phu Quoc, and Can Tho. Some airports do not have special service equipment, so passengers must sign a disclaimer agreement, in which they cannot complain, cannot claim compensation if the risk occurs. In addition, there are still airlines that require passengers to sign a disclaimer

³² Vietnam National Committee on People with Disabilities (2019), *Report on Working Results on People with Disabilities 2019*, Hanoi

³³ Interview with Mr. Phan Ngoc Viet, People with hearing and speaking disabilities, Deputy Head of the Campaign Committee to establish the Vietnam Deaf Association on September 18, 2019

³⁴ <http://m.laodongxahoi.net/khac-phuc-kho-khan-de-nang-cau-chat-luong-tro-giup-nguoi-khuyet-tat-trong-linh-vuc-Giao-thong-van-tai-1322007.html> accessed October 18, 2022

³⁵ Transport Strategy Research Institute - Ministry of Transport (2018), *Research Report on the Status of Railway Access for People with Disabilities*, Hanoi, p. 54-55

³⁶ Vietnam Federation of People with Disabilities (2020), *Independent Report on the Implementation of the United Nations Convention on the Rights of Persons with Disabilities in Vietnam*, Hanoi, p.21.

³⁷ Ta Lu - Anh Tu, *Vietnam's airport network*, at: <https://vnexpress.net/mang-luoi-san-bay-cua-viet-nam-4013424.html> accessed October 18, 2022

³⁸ Ministry of Labor, War Invalids and Social Affairs (2020), *Report on the results of implementation of the Project on assisting people with disabilities for the period 2012 - 2020*, pp.17.

agreement even though passengers move from airports with special support services. Regarding the infrastructure in airport ports, currently all airport ports do not have embossed paving slabs for PWDs to see and contrast colored markings to guide people with low vision³⁹...

In the above situation, PWDs still face difficulties in accessing public transport due to limited infrastructure, equipment and support staff. This has also led to another limitation that although Vietnam has policies to exempt and reduce fares for people with severe and especially severe disabilities, it has not yet stimulated PWDs to join traffic nationwide.

Some recommendations to improve the law and improve the efficiency of law enforcement to ensure the right to access and participate in traffic of people with disabilities in Vietnam

From the above analysis, in order to ensure traffic access for PWDs, the regulations related to traffic participants and means of transport in Vietnam's law need to be revised and supplemented as follows:

First of all, the State needs to supplement regulations on monitoring, appraisal and evaluation mechanisms for compliance, ensuring enforcement of the access rights of PWDs, and sanctioning those who are responsible but do not implement or improperly implement the standards and regulations to ensure the right of access of PWDs, i.e. administrative procedures related to actual activities in the transportation industry.

Second, the State also needs to supplement regulations and tools to assist PWDs and their representing organizations to protect the right to access and require responsible entities to ensure these rights.

Third, expand the rights of PWDs when participating in traffic by adding regulations that allow PWDs to participate in traffic with personal cars designed to suit their disability. This is a legitimate need of PWDs and is regulated in international conventions, but has not been codified in the national law without any specific guiding documents for driving licenses and circulation of personal cars for PWDs.

Fourth, it can be seen that the policy on ensuring traffic access for PWDs in the current Law on People with Disabilities in 2010 is not really compatible with the provisions of Article 9 of the International Convention on the Rights of People with Disabilities in 2006. Specifically, the current Law on People with Disabilities only applies the principle of narrow traffic access. Article 42 of this Law only regulates issues related to public transport to ensure accessibility for PWDs. Regulations on issues related to ensuring technical requirements and traffic safety of traffic infrastructure and ensuring conditions for PWDs to access and use, especially for road traffic infrastructure such as sidewalks, roads, overpasses, tunnels... are still lacking.

Meanwhile, a study of the legal regulations of a number of countries in Southeast Asia shows that many countries have developed separate legal regulations on traffic access to ensure accessibility for PWDs with a wide range and compatibility with CRPD. Such as:

In Malaysia, Clause 1, Article 27 of the Law on Persons with Disabilities 2008 states: "PWDs have the right to participate in and use public transport, amenities and services that are open or available to the public on an equal basis with people without disabilities". At the same time, Clause 2, Article 27 of this Law also stipulates: "For the purposes of paragraph 1, the Government and the supplier of public transport facilities, amenities and services shall give due consideration and take necessary measures to ensure that such facilities, facilities and services are in line with a universal design to facilitate access and use by persons with disabilities".

In Indonesia, the Indonesian Ministry of Transport issued Decree 71 in 1999 on the accessibility of PWDs to vehicles and infrastructure, which detailed the issue of accessibility through master design and general construction system.

This indicates that the above countries have specific regulations on the right to participate and use public transport of PWDs on a broader scale than Vietnam, which are mandatory regulations, including means of transport,

³⁹ Vietnam Federation of People with Disabilities (2020), *tldd* . , p.21.

equipment and facilities accessible for PWDs. These are regulations that Vietnam can refer to in order to improve policies and laws in this area. Therefore, Vietnamese legislators need to consider adding a new article or adding to Article 42 of the Law on People with Disabilities 2010 the policy content on “*Ensure technical requirements and traffic safety, infrastructure transportation for people with disabilities*” to be compatible with the provisions of CRPD as well as with the current legal regulations of Vietnam. For example may consider “*legislating*” activities on assistance in accessing and participating in traffic mentioned in Clause 6, Section II, Article 1 of Decision No. 1190/QĐ-TTg 2020 on approving the Program to assist people with disabilities in the 2021-2030 period, including regulations *on the* development and promulgation of a set of traffic criteria for universal access to the transport system, with special attention to ensuring safety ensure access to transport infrastructure and means of transport for PWDs.

Some recommendations to improve the efficiency of law enforcement to ensure the right to access and participate in traffic of people with disabilities in Vietnam

Firstly, for the roadmap set out by the Government of Vietnam in Decree No. 28/2012/ND-CP amending and supplementing, responsible agencies such as the Ministry of Transport should conduct an overall assessment to evaluate to what extent has the progress of improving the transport infrastructure system been achieved in order to set the direction and next implementation measures. Local authorities need to conduct a detailed review, statistics, and inspection of transport infrastructure and means of transport participating in passenger services to have solutions to improve.

Secondly, further promote propaganda and dissemination of policies and laws on the rights of PWDs, educate and raise awareness for the community about the needs and rights of PWDs to safely participate in traffic, especially the perception of PWDs themselves about access to transport, i.e. public transport.

Second, ensure financial resources to speed up the process of renovating transport infrastructure and means of transport according to the route specified in the Law on People with Disabilities, encouraging creative solutions to meet the traffic access needs of PWDs. There are specific tax and budget incentives and encouragements for individuals and legal entities when renovating works and public transport to ensure access for PWDs.

Third, improve socialization, mobilize the support of organizations, individuals and the whole community in helping PWDs join traffic so that this activity can be more effective and meaningful. In addition, it is necessary to strengthen the role of organizations of PWDs, for PWDs, to expand the form of counseling for PWDs.

Conclusion

Ensuring the right of PWDs to access transportation helps create a humane, progressive society, ensuring equal and fair rights in accessing social facilities, learning opportunities, and jobs for PWDs, thereby helping PWDs to be more independent in life, creating value for themselves and for the community. It can be said that Vietnam’s law on ensuring the right of PWDs to access traffic is relatively fully regulated, in line with the 2006 CRPD of the United Nations. However, the implementation of this field in practice still has many limitations. To achieve the goal of ensuring equal and fair rights in traffic access for PWDs, it is urgent to have specific policies right in the Law on People with Disabilities, there should be overall solutions to eliminate access barriers for PWDs. Thereby, creating a basis to ensure and promote opportunities for PWDs to join traffic more conveniently, helping PWDs to go out, work, go to school, have a job and have a stable income./.

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