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# Ensuring The Rights of People with Disabilities in Law-Making Process

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## Abstract:

One of the rights of persons with disabilities is access to justice by participating in legal activities, as well as issues that affect the law. This content has been recognized in the 2006 International Convention on the Rights of Persons with Disabilities and requires the ratifying country to internalize it. This article focuses on researching some theoretical issues on ensuring the People's rights with disabilities, assessing the current situation and proposing solutions to ensure the People's rights with disabilities in law-making activities in Vietnam.

*Keywords: people with disabilities, People's rights with disabilities, laws, ordinances, decrees, making proposals, drafting, legal regulations.*

## 1. Theoretical framework for the People's rights with disabilities in law-making

### 1.1. The concept of the People's rights with disabilities

The People's rights with disabilities are approached from the perspective of human rights along with ensuring life values. Internationally, the Office of the High Commissioner of the United Nations has defined it as "*Human rights are universal legal guarantees that protect individuals and groups against acts or neglect that compromises fundamental human dignity and freedoms*"<sup>3</sup>. In Vietnam, human rights are often perceived as natural and inherent human needs and interests that are recognized and protected in national laws and international legal agreements. Stemming from the concept of human rights, in the most general perspective, the People's rights with disabilities are understood as natural and inherent benefits of people with disabilities recognized and protected by international and national laws.

The People's rights with disabilities are first and foremost human rights, so they have all the characteristics of human rights such as inalienable, indivisible and interdependent or interrelated.

In addition to the common features, the People's rights with disabilities also have their own characteristics such as priority, limitation and specificity derived from the unique characteristics of people with disabilities. Base on defining a person with a disability as a person with long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others, so they become subjects with separate guarantees of rights compared to other subjects. Physical and mental impairments are manifested in different forms of disabilities such as hearing impairment, visual impairment, intellectual disability, speech and mobility disability, etc., with specific criteria to identify for each nation. Because of these defects, when interacting with the social environment, they often encounter barriers in all areas of life, including barriers in terms of awareness, facilities and policies, and legislation... Ensuring the People's rights with disabilities by removing barriers, creating equal opportunities to participate and enjoying the same rights as other members of society is the duty of each country through the legal system and public awareness.

Although national and international law always acknowledges that everyone is equal when it comes to social participation and activities, it still seems difficult for people with disabilities. Therefore, from its own characteristics, the People's rights with disabilities should be fully recognized with their own characteristics compared to other subjects. These characteristics can be easily identified such as (i) the priority of the People's rights with disabilities expressed in opportunities, the degree of enjoyment of rights in all areas of social life, (ii) the restriction of the People's rights with disabilities is reflected in the State's restriction or refusal to recognize a number of rights in order to protect people with disabilities and the national public interest such as restrictions on

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<sup>3</sup>United National, Human Right: questions and Answer, New York and Geneva. 2006, P.4

traffic participation, There must be a representative for the right to vote, and for people with intellectual disabilities to stand in elections or to participate in certain civil transactions. (iii) the specificity of the People's rights with disabilities (exclusive) is illustrated in a number of regulations on specific rights such as rights of persons with disabilities to access justice, the right to access social activities, private rights in health care and education... Not only the specific characteristics of the People's rights with disabilities, measures to ensure, protect or promote the People's rights with disabilities also have their distinctive characteristics compared to other subjects.

It should thoughtfully conceive that the specific characteristics that lead to the regulation on the exclusive rights for people with disabilities are not inclined to discriminate against them but to prioritize to ensure fairness because their origin in the benefit opportunity is lower than other subjects. However, the extent of priority and preferences has to be accounted for, otherwise, it will unintentionally trigger inequality for themselves.

## 1.2. Concept Of the People's Rights with Disabilities

In terms of concept, internationally, the 2006 International Convention on the Rights of Persons with Disabilities has recorded an overview of the People's rights with disabilities in all areas of social life, and also paid special attention to the People's rights with disabilities who have dual vulnerability such as women with disabilities, children with disabilities, and girls with disabilities by stipulating a number of specific and preferential rights. The Convention provides for measures to promote, protect and ensure the full and equal enjoyment of People's rights with disabilities. Countries around the world also recognize the People's rights with disabilities in their national legislation. Many countries have enacted their own laws governing disability and disability rights such as the Americans with Disabilities Act of 1990 (amended in 2008) of the United States; The Law on Persons with Disabilities 1990 (amended in 2015) of China, the Basic Law on Persons with Disabilities 2004 of Japan.... and in Vietnam the People's rights with disabilities are realized in the Law on Persons with Disabilities 2010 and some related documents.

The fundamental rights of persons with disabilities as provided for in national and international law include (i) the equal and non-discriminatory right of persons with disabilities, which is a guaranteed fundamental right to exercise other rights; (ii) the right of access of people with disabilities, this is a prerequisite right as a basis for ensuring the enjoyment of rights in various fields; (iii) the right to education of people with disabilities, not only for the purpose of providing knowledge but also for the comprehensive development of people with disabilities, including *"full development of human capacity", "Development of the full potential of personality, talent, creativity, as well as physical and mental capacities of people with disabilities"*; (iv) health care People's rights with disabilities. Article 25 of the CRPD recognizes that *"persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability ... to access age-appropriate health services"*, the right to health care of people with disabilities really makes sense based on the health characteristics of the subjects and is concretized with many contents; (v) labor and employment rights of persons with disabilities ; (vi) the right to an adequate standard of living and welfare; (vii) the right to participate in social activities of people with disabilities.

Among the People's rights with disabilities recognized in international and national legal documents, the People's rights with disabilities in the field of law always have an independent position to show their role in legislative, executive and judicial activities, especially those directly related to people with disabilities. Basically, like other subjects, people with disabilities also have full rights in the field of law such as the right to consult, give opinions, and participate in the process of promulgating legal documents, the right to supervise inspection of law enforcement, complaints, denunciations.... However, given their own characteristics, international and national laws all recognize the People's rights with disabilities in the legislative, judicial or executive activities in the direction of more priority, concretization as well as deeper recognition to a certain extent in order to ensure their rights. These contents are displayed in the provisions on consultation, implementation as well as ensuring legal access for people with disabilities.

Particularly for law-making activities, the content of the People's rights with disabilities can be clearly found in the whole process with the complex sequence of activities of law enactment and enforcement. We realize that as citizens, people with disabilities have the right to participate in all stages, from proposing ideas, developing drafts, soliciting comments, appraising, reviewing.... But in terms of the content directly related to people with disabilities, it is obvious that their role is the one directly affected and influenced by these documents, so their participation is stipulated more particularly to ensure the appropriateness, efficiency and feasibility. Therefore, international law or national law has its own provisions to ensure the People's rights with disabilities in the field of law-making.

In Vietnam, the People's rights with disabilities in law-making process are specified in the Law on People with Disabilities 2010 and specialized law, such as Law on Promulgation of Legal Documents in 2015. Accordingly,

collecting opinions and creating conditions for stakeholders in law-making activities is one of the mandatory contents for legislative bodies in the process of drafting legal documents. Through this activity, stakeholders have the opportunity to contribute ideas to protect their legitimate rights and interests, in accordance with the actual situation, and facilitate the implementation of the policy after being passed. At the same time, this activity aims to improve the accountability of policy making agencies, and the sense of responsibility, capacity to participate, and capacity to criticize policies of individuals, organizations and enterprises. After collecting comments from the affected people (people with disabilities) and relevant agencies, organizations and individuals, the competent authority needs to study the comments and suggestions to complete the proposal of legal regulations. The report on explanation and collection of opinions must be posted together with other documents in the application for development of legal documents.

In addition, during the course of making proposals to develop legal documents to ensure the People's rights with disabilities, agencies and organizations that make proposals can mobilize the participation of research institutes, universities, associations, other related organizations, experts and scientists in the following activities: summarizing and evaluating the law enforcement situation; reviewing and evaluating current legal documents; survey and sociological investigation; assessing the status of social relations related to the policies in the proposal to develop legal documents; gathering, studying and comparing documents and international treaties related to the policies in the proposal for formulation of legal documents; assessing the impact of the policy in the proposal to develop legal documents.

### 1.3. Role Of People with Disabilities in Law-Making

The participation of people with disabilities in the law-making process has several roles as follows:

**Firstly**, demonstrating the rights and ensuring the enjoyment of the People's rights with disabilities in legislative activities.

Article 5 of the Law on Promulgation of Legal Regulations 2015 stipulates that one of the principles of law-making is: *"Ensuring publicity and democracy in receiving and responding to opinions and recommendations of individuals and agencies, and organizations in the process of formulating and promulgating legal documents"*. Compared with Article 4 of the Law on People with Disabilities 2010 on the right of people with disabilities to participate equally in social activities, live independently and integrate into the community..., it reveals that with people with disability are also entitled to the right to participate on the basis of the principle of ensuring publicity and democracy, receiving opinions and responding to individuals' opinions during the process of elaborating and promulgating legal documents. This proves that albeit the law does not directly provide for the participation of people with disabilities, but with the above provisions, people with disabilities, as a citizen, are guaranteed their rights on an equal basis with other subjects when making comments, contributions, proposals and recommendations on the development of legal documents.

**Second**, assuring that people with disabilities have the right to consult and give opinions on legal policies related to them in order to effectively and efficiently implement legal documents.

In the process of formulating legal documents, agencies and organizations requesting policy formulation, presiding over drafting and relevant agencies and relevant organizations are responsible for creating favorable conditions for agencies, organizations and individuals to engage in commenting on the proposal to develop legal normative documents, in which, paying special attention to the subjects directly affected by legal normative documents.

Thus, for legal documents related to people with disabilities, the subjects directly affected are people with disabilities. More than anyone else, this vulnerable group understands what difficulties and challenges they are facing in life, what factors, impacts and barriers affect their awareness and interests, what support they need to integrate into community,...

In fact, the State has always focused and has been paying attention to the group of subjects directly affected in the policy making process, ensuring the spirit of the international principle "nothing about us, without us".

**Thirdly**, through the participation and contribution of opinions on the development of legal documents of people with disabilities, agencies proposing to develop and preside over the drafting can discover limitations, thereby, editing and supplementing to suit the actual situation.

When people with disabilities participate fully and comprehensively in policy development on an equal basis with other entities, competent agencies in proposing policy development and drafting legal documents have basis and ground to evaluate, review, adjust and supplement the proposal to be feasible, up-to-date and appropriate, ensuring the enforcement.

#### **1.4. The Process of Making Laws with The Protection of The People's Rights with Disabilities**

Law making is the whole process from researching, evaluating, selecting options, drafting, promulgating a new law or amending and supplementing legal documents. The law-making process goes through the following stages:

The stage of making a proposal for law-making is the first step to issue a legal normative document, which is carried out by most countries, including Vietnam, in the legislative process and is considered as the most important, requiring a lot of resources to implement and must be explained, absorbed and protected before many agencies. This process encompasses many activities, which are taken in a certain sequence: (1) Developing policy content, assessing policy impacts; (2) Collecting opinions on the proposal to develop legal documents; (3) Appraisal of the request for development of legal documents; (4) Approving the proposal to develop legal normative documents. The essence of the policy-making process is to answer the question: Why is it necessary to amend, supplement or abolish existing policies or to issue new policies to ensure the rights of persons with disabilities? How will that policy be amended and supplemented, repealed or promulgated? Which agency has the authority to issue policies?...

For documents such as the Law on Persons with Disabilities 2010 as well as guiding documents, it is shown that the role of people with disabilities in participating in making proposals is extremely important, as the subject of voice and aspirations. Accordingly, people with disabilities and their representatives are an entity exercising the right to propose through a series of activities in the process from content development, impact assessment, collection of suggestions, comments, appraise the proposal, and approve the proposal...

For the collection of opinions on the proposal to develop a document, the policy-proposing agency needs to collect the opinions of the subjects directly affected by the policy in the proposal. For policies related to people with disabilities, the object of direct impact is a group of people with different types of disabilities in order to ensure their rights. Then, synthesize, research, and explain and receive comments. This consultation has also been done very well in Vietnam through organizations representing people with disabilities as demonstrated in the promulgation of the Law on Persons with Disabilities 2010.

After collecting opinions from stakeholders, including people with disabilities and relevant agencies, organizations and individuals, the policy-proposing agency needs to study the comments to complete the proposal. The report on explanation and collection of opinions must be posted together with other documents in the application for legal document development on the Government portal, the portal of the province or city directly under the Government, and the portal or website of the requesting agency.

Responsibility for appraising law-making requests rests on the Ministry of Justice as prescribed in Article 13 of Decree 34/2016/ND-CP. In case of necessity, organize an appraisal consultation meeting or set up a special appraisal advisory council. For policies directly related to people with disabilities, the appraisal advisory council requires the involvement of an organization concerned with persons with disabilities. Workshops and seminars on the Government's proposal for law-making by the National Assembly are organized and people with disabilities have the right to participate through representatives and constituents. For content related to people with disabilities, their participation and comments are considered a mandatory requirement, their opinions are collected through a large-scale consultation with certain conditions.

After appraising the request for law formulation, the agency that makes the request for formulation of legal documents shall be responsible for editing and completing the dossier of request for formulation of legal normative documents to submit to the Government. The responsibility for receiving and checking the application for law formulation belongs to the Government Office.

At the drafting stage, ministers and heads of ministerial-level agencies will establish a Drafting Board. The Drafting Board will operate according to the principles of collective discussion, ensuring transparency, objectivity and scientificness, and upholding the personal responsibility of the Head and members of the Drafting Board. With regard to laws, in order to secure the quality, progress of drafting and deadlines for submission of documents, the Ministry of Justice is responsible for monitoring, urging and inspecting the drafting of documents detailing the implementation. In the process of drafting, appraising, verifying, considering and giving opinions on draft laws, ordinances and decrees, if a new policy is proposed, the agency, organization or individual that proposes the policy must prepare report on the impact of the new policy.

Mobilize the participation of the people, including people with disabilities, in the process of developing laws, ordinances and decrees based on the legal basis specified in the 2013 Constitution. Accordingly, in Article 28 of the 2013 Constitution stipulates that Citizens have the right to participate in state and social management, to

participate in discussions and proposals with state agencies on local, grassroots and national issues” and “The State creates favorable conditions for citizens to participate in the management of the state and society, is open and transparent in receiving and responding to citizens’ opinions and recommendations. At the same time, Article 6 of the Law on Promulgation of Legal Documents in 2015 stipulates that “... *individuals have the right to be facilitated to comment on proposals for formulation of legal documents. In the process of developing legal documents, agencies and organizations in charge of drafting and relevant agencies and organizations are responsible for creating conditions for individuals to contribute opinions*”.

Especially for people with disabilities, because of their unique physical and mental characteristics, this regulation is extremely meaningful and serves as an important legal basis for their participation in formulation of legal documents. In the steps of the law-making process, people with disabilities are mainly involved in the stage of making proposals and collecting comments on policies and draft laws. The participation of people with disabilities at these stages is significant because their voices influence the agency in charge of proposal formulation and drafting. Based on the opinions of people with disabilities, the lead agency can absorb and mainstream it into regulations in the draft law.

## **2. The Status of Ensuring the People’s Rights with Disabilities in Law-Making**

### **2.1. Achievements On Ensuring the People’s Rights with Disabilities in Law-Making.**

- Basically, people with disabilities and related agencies, organizations and individuals have been able to participate, contribute ideas, elaborate and critique the contents of the proposal for law formulation. In that capacity, people with disabilities can directly or indirectly, through their representative organizations, propose opinions. As for legal documents related to people with disabilities, right in the stage of making a proposal for law-making, people with disabilities have been consulted to ensure the People’s rights with disabilities. The activity of collecting opinions from the people with disabilities who are directly affected by the policy are a critical requirement. The reason is that this is the object within the scope of the proposed documents, ensuring the practical feasibility after promulgation.

Looking back at the birth history of the Law on Persons with Disabilities in 2010, we explicitly see the role of people with disabilities. Deriving from the awareness of the People’s rights with disabilities, a series of conferences and seminars have been held to consult people with disabilities and representative organizations of people with disabilities in Vietnam in the process of building disability law. It is impossible not to mention the outstanding role of Association organizations such as Vietnam Association of People with Disabilities, Hanoi Association of People with Disabilities, ACDC <sup>4</sup> or VNAH <sup>5</sup>, DRD <sup>6</sup>.... which make crucial contributions to proposing ideas on law promulgation, giving comments on draft and promulgation of laws and related documents. A series of seminars and discussions to collect opinions at different levels with the support of organizations and individuals have taken place in many provinces and cities across the country.

Basically, people with disabilities and agencies and organizations representing people with disabilities have participated, contributed ideas, elaborated and criticized the contents of the proposal for law-making. Therefore, the laws have met the requirements in terms of content, form and ensured the People’s rights with disabilities in practice. For example, Article 4 of the Law on People with Disabilities 2010 stipulates on the People’s rights with disabilities to participate equally in social activities, live independently and integrate into the community, etc. Thus, in comparison with Article 5 Law on Promulgation of Legal Normative Documents in 2015, people with disabilities are also one of the beneficiaries of the right to give opinions and comments on the basis of the principle of ensuring publicity and democracy in the process of drafting legal documents. This demonstrates that, despite the law does not directly provide for the participation of people with disabilities, but with the above provisions, people with disabilities are still guaranteed their rights in terms of equality with other subjects in law-making process.

Furthermore, Article 9 of the Law on People with Disabilities 2010 identifies the right to consult of organizations representing people with disabilities and organizations for people with disabilities. Or in some areas directly related to people with disabilities, for example, Clause 2, Article 177 of the Labor Code 2012 or Clause 2, Article 159 of the Labor Code 2019 (effective from January 1, 2019). 2021 has a regulation:

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<sup>4</sup> Community Development Research Institute - ACDC, based in Thanh Xuan district, Hanoi.

<sup>5</sup> Vietnam Assistance for the Handicapped – VNAH, based in the US, representative office in Nguyen Khuyen, Hanoi.

<sup>6</sup>Center for Disability and Development – Disability Research and Capacity Development – DRD, located in District 2, Ho Chi Minh City.

*“Employers must consult employees with disabilities when deciding on issues related to their rights and interests”.*

- During the process of drafting the law, the drafting agency has properly and fully implemented the process of the Law on Promulgation of Legal Documents 2015, the Law on Promulgation of Legal Regulations Amending and Supplementing 2020 and Decree No. 34 /2016/ND-CP dated May 14, 2016 of the Government detailing a number of articles and measures to implement the Law on Promulgation of Legal Documents. Even though there are no specific provisions for people with disabilities in the drafting of legal documents, the general provisions on citizen’s comments are the ground for the implementation of their rights. The main problem is that, due to the specific characteristics, the method of accessing and expressing opinions has some impediments to their rights.

In terms of success, it is easy to realize that recently, the position of people with disabilities in legal access and participation in the development of legal documents has been much improved with the support of specialized agencies and associations, organizations for people with disabilities at home and abroad. This participation spans various fields such as health, transport, housing, labor and learning .

The participation of people with disabilities in the law-making process has led to certain successes in ensuring the People’s rights with disabilities in many areas. Medical care is an outstanding field when the results show that, after more than 9 years of implementation, the country now has nearly 50,000 medical examination and treatment establishments (including 248 private hospitals and 21,048 private clinics). with more than 80,000 working doctors, the fraction is 8.2 doctors per 10,000 people, higher than some countries in the region; the number of hospital beds per ten thousand people reached 26.5; 100% of communes have health stations<sup>7</sup>. Moreover, the Law on Medical Examination and Treatment also makes an important contribution to upgrading the quality of medical examination and treatment service, creating a legal corridor for Vietnamese medicine to have access to new technologies, new methods, advanced and leading modern medical techniques in the world, devoting to ensure the advancement of the rights of patients in general and people with disabilities in particular. These achievements can be partly attributed to that during the law-making process, the drafting agencies consulted with those directly affected, including people with disabilities.

Or Article 160 of the Labor Code provides for prohibited acts when employing disabled people :

“1. Employing employees with mild disabilities with a working capacity decreased of 51% or more, severe or particularly severe disabilities, to work overtime or work at night, unless the employees agree.  
2. Employing employees with disabilities to do heavy, hazardous and dangerous jobs according to the list promulgated by the Minister of Labor, War Invalids and Social Affairs without the consent of the workers with disabilities after the employer has provided full information about that job”.

Thanks to the opinions of people with disabilities during the making process, the Labor Code has embraced the above prohibited acts, contributing to ensuring the legal People’s rights with disabilities.

Thanks to the opinions of people with disabilities, the law no longer prohibits the use of disabled workers in night and hazardous work. Workers with disabilities can still do these jobs with full information and consent.

## **2.2. Limitations On Ensuring the People’s Rights with Disabilities in The Formulation of Laws, Ordinances and Decrees**

In spite of the remarkable achievements, it is admitted that practical implementation is still ineffective in certain aspects. The most noticeable limitation is the formalization of the right to consult of people with disabilities, the opinions of people with disabilities have not been fully absorbed, and the subjectivity in the will of the agency in charge of the formulation of the law is obvious without a scientific, comprehensive and objective analysis, calculation, and forecast of possible impacts, especially for people with disabilities. .

The information for policies and draft laws is not really accessible for people with disabilities. For example, for the blind, it is very rare that draft laws are converted into braille so that the blind can easily access and comment. Most drafts are posted on the website of the drafting agency, but only in the common language.

Many conferences and seminars are held to collect opinions, but the consulting agency has not paid due attention to the arrangement of seating positions or suitable equipment for people with disabilities...

- The Law on Promulgation of Legal Regulations 2015 precisely stipulates that after collecting opinions on a request for law/ordinance formulation, agencies, organizations, and National Assembly deputies that make

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<sup>7</sup>Report of the Ministry of Health at the preliminary verification meeting held by the Social Affairs Committee of the National Assembly on March 16, 2020, the Office of the National Assembly.

proposals have the responsibility: “To *sum up, research, explain and receive suggestions; publish reports explaining and receiving on the portal*”. However, in reality, not many agencies publish the report explaining the comments on the portal. This may have proved the formalization of the right to consultation of people with disabilities and related agencies, organizations and individuals, and at the same time, limited their right to access information, despite their will to contribute to develop the content of the draft law.

Furthermore, when making a proposal for law-making, it is necessary to ensure the feasibility of the law-making program. However, regulations “healthy” to work and study is a general rule and often cause discrimination against people with disabilities. Practically in the field of labor, most enterprises require candidates to have a medical examination, based on which, the employer will conclude that the employee is healthy enough to work or not. People with disabilities can do the jobs, but they still do not qualify for the reason of not being healthy enough. Similarly, many people with disabilities are not allowed to go to higher education levels such as universities and colleges just because they are judged to be unfit. Therefore, when developing a law with content related to people with disabilities, it is necessary to ensure the feasibility factor, suitable to their characteristics and degree of disability.

- Although the drafting of laws related to people with disabilities is being executed in an increasingly transparent, objective, scientific and serious manner by the Drafting Board, many legal provisions have not taken account the legitimate rights and interests of people with disabilities.

For example, Vietnam's 2010 Law on Persons with Disabilities does not yet comprise provisions to promote the right to an adequate standard of living and welfare for people with disabilities. If in the CRPD Convention (International Convention on the Rights of Persons with Disabilities 2006), the People's rights with disabilities are specified, including the right to an adequate standard of living and welfare, then the Law on Persons with Disabilities 2010 only refers to the People's rights with disabilities have been mentioned in general, especially the right to an adequate standard of living and welfare are recognized in regulations on social protection for people with disabilities.

Besides, the reports on the impact assessment of the policy have not fully met the requirements set forth with poor quality and form. The contents of the reports are mainly subjective judgments of the agency in charge of making the proposal for the development of documents to convince the promulgation of policies without analysis, calculation and forecasting scientifically and objectively the possible impacts of the policies.

For example, the right to access facilities and convenient transportation is still the “dream” of people with disabilities. Not only roads, airways and railways, waterways also face difficulties and barriers in access for people with disabilities. Recently, the entire Yet Kieu (Hanoi) route has been invested a huge amount of money to build a road for the blind, but cars occupy that road as parking spaces and no disabled person can move over here. Thus, the question is whether when implementing the policy impact assessment report, the lead agencies have fully and comprehensively anticipated the obstacles affecting people with disabilities? Perhaps people with disabilities need to be facilitated more in the process of the lead agency assessing the impact of policies in law-making process.

***Considering the causes of the limitations***, apart from the objective and subjective reasons for ensuring the right to participate of people with disabilities in law-making activities, the most typical cause still comes from the perception of the community and the competent law-making agency as well as the disabled people themselves, such as:

*Firstly*, the state's support for people with disabilities is still limited and not enough; activities of consulting and collecting opinions of people with disabilities and related agencies, organizations and individuals are still formal, not substantive; The capacity of officials to make proposals and drafts is still weak and has not met the requirements.

*Secondly*, the inspection and appraisal of the law are not really strict and close, leading to the lack of attention to ensuring access to all aspects of life for people with disabilities.

*Third*, the awareness of the community, family and people with disabilities themselves is inadequate and incomplete. Propaganda and education on human rights, citizenship, and disability in Vietnam are still modest, affecting the activeness of the community, social groups, as well as individuals. A part of people with disabilities is not confident to overcome their fate and have not received timely support to integrate into the community and have not tried to participate in legal outreach activities to enjoy their rights.

### **3. Solutions to Ensure the People's Rights with Disabilities in Law-Making**

*Firstly, to ensure the People's rights with disabilities in law-making, there should be an assessment of mechanisms to ensure this right, such as provisions on the right to access information that is convenient and appropriate to the characteristics of people with disabilities. For example, a draft law/policy must be made available in an accessible format for different types of disabilities such as Braille to assist the blind to read text; large print allows visually impaired people to read text; sign language for the deaf...; or the agency in charge of organizing the conference to collect opinions in law-making should pay attention to the special position of people with disabilities in the consultation conference room etc...; regulations on representativeness in consultation (representing different types and levels of disability, representing the most vulnerable groups such as ethnic minorities with disabilities, children, and women with disabilities).*

- There should be specific regulations on counseling activities for people with disabilities. It is necessary to ensure fairness in access by having priority and supportive policies suitable to the characteristics of people with disabilities. For example, many countries have designed portals that prioritized people with disabilities to comment, or sent social workers/legal assistants to assist people with disabilities in accessing law-making activities, making it easier for them to participate in consultation process and giving opinions on their own problems. It is necessary to have a supportive policy for insiders to speak up about their issues, and the competent authority to receive to secure the feasibility of the legal document when it is published.

- It is necessary to supplement regulations on controlling and responding to the opinions of people with disabilities in law-making activities. Sanctions should also be revised to ensure that the contributions of people with disabilities and their representative organizations become meaningful after consultation. In order to respect and promote the right of people with disabilities to consult, a number of measures should be considered, such as: suspending the consultation process, delaying a decision until appropriate consultations take place; partial or complete cancellation of the decision due to non-compliance with the principle of consultation...

#### **Second, The Solution to The Organization of The Apparatus and People**

- It is necessary to improve the responsibilities of agencies, ministries and branches in the process of making proposals and drafting laws, ordinances and decrees on people with disabilities. In addition, to improve the quality of human resources involved in law-making, in addition to professional qualifications, legal qualifications and awareness of people with disabilities and discrimination need to be focused.

- There should be regulations to ensure the quantity and quality of officers and employees working in relation to people with disabilities. For example, in the health sector, it is necessary to raise awareness about the People's rights with disabilities for health professionals through training and propagating medical ethics for public and private healthcare facilities; training and fostering a contingent of cadres and professional staff in exercise and rehabilitation services. In the field of education for people with disabilities, it should raise awareness of people with disabilities and use augmented or alternative communication methods, media and forms, technology and educational facilities to support people with disabilities,...

- Having a policy on labor mobilization, without discriminating against employees with disabilities working in the system of law-enforcement agencies. This is also a problem that not only Vietnam but also many other countries encounter in relation to the provisions of the International Convention on the Rights of Persons with Disabilities 2006 in terms of the right to legal access <sup>8</sup>.

#### **Third, The Solution of Material Conditions**

People with disabilities have physical defects that prevent them from exercising their rights in the same way as people without disabilities. For people with hearing disabilities, they do not hear with ears, but with eyes; people with vision disabilities, they do not see with eyes, but with senses; people with speech disabilities, they do not speak with mouths but with hands; people with mobility impairments, they do not walk on foot, but in wheelchairs... That means that people with disabilities can exercise the most basic human rights such as hearing, speaking, seeing, walking... if they are supported with tools and means to replace the lost or the reduced-function body parts. The infrastructure must meet the National Technical Regulation on construction of works to ensure access to users (QCVN 10:2014/BXD) issued by the Ministry of Construction in 2014. By dint of the standards in this Regulation, when participating in law-making, people with disabilities can raise their voice to transform

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<sup>8</sup> The first country report on the implementation of the United Nations convention on the rights of people with disabilities, Ministry of Labour, Invalids and Social Affairs, 2019



the standards in the Code so that law-making agencies can transform them into regulations in the law, ensuring consistency.

#### **Fourth, Solutions for The Coordination of Relevant Agencies**

In the process of making proposals and drafting laws on people with disabilities, the Government, the Ministry of Labour, Invalids and Social Affairs need to coordinate with ministries and branches as well as organizations, individuals, experts, scientists such as: Institute for Community Development Research (ACDC), Vietnam Association for the Support of People with Disabilities, etc. to summarize and evaluate the situation of law enforcement; review and evaluate current legal documents; survey, sociological investigation; collect, research, compare relevant documents and international treaties or evaluate the impact of policies in the proposal for law-making.

Given the characteristics of the most vulnerable group in the community, the coordination between relevant agencies and organizations is not restricted to the competent agencies in the law building, but needs to take into account the relationship with relevant agencies with specific characteristics of people with disabilities such as the Ministry of Health, the Ministry of Education, Vocational Training, and the Ministry of Transport.... Besides, the relationship with research organizations for people with disabilities and people with disabilities should also be paid attention in parallel to ensure the quality of consultation activities for people with disabilities in law development and implementation.

#### **Fifth, Solutions for Awareness-Raising Communication**

In order to ensure the People's rights with disabilities in formulating and drafting legal normative documents, it is necessary to promote propaganda and education dissemination to people with disabilities, policy makers, document drafting and drafting staff of legal normative documents, leaders at all levels and all mass organizations and the community in general on the right to participate in legislative activities of people with disabilities. Regarding the propaganda content, it is necessary to ensure the practicality and easy to understand. For people with disabilities themselves, it is necessary to help them be aware of their own value in this life, remove guilt and inferiority and know how to rise up in life. For families of people with disabilities, it should help them realize that legitimate rights and interests of people with disabilities are recognized by the State and encourage them to take people with disabilities for disability assessment. For leaders at all levels, it is recommended to conduct propagation in the direction of raising the sense of responsibility in directing and supervising preparation and drafting activities. For staff who prepare and draft documents, it is necessary to disseminate their responsibilities for making content that is appropriate and feasible for people with disabilities.

Regarding the form, the State and social organizations need to carry out propaganda and mobilization activities widely in the media, press, seminars, through activities of associations of people with disabilities. .. to match each type of disability. Propaganda content can be provisions on the People's rights with disabilities that are recognized in international, regional and national legal documents; or typical example for people with disabilities to study well and do well in business./.

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