

Implementation Of Ilo Convention No. 159 Ensuring the Labor Rights and Employment of Persons with Disabilities in Sustainable Development in Vietnam

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Abstract

In 2019, Vietnam ratified and officially acceded to Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons) of the International Labour Organization (ILO). This Convention came into force in 2020. Although certain achievements have been made, the implementation of the Convention is still at its initial stage. In the context of both domestic and global socio-economic conditions, much remains to be done. This paper analyzes the current status of Vietnam's obligations as an ILO member state, highlights the strengths and limitations, and proposes solutions to promote the implementation of ILO Convention No. 159 and Recommendation No. 168. The aim is to ensure the labor rights and employment of persons with disabilities in sustainable development in Vietnam.

Keywords: Ensuring; Convention No. 159, Recommendation No. 168, Persons with Disabilities, Labor Rights, Employment, Sustainable Development, Implementation, Vietnam

INTRODUCTION

According to Article 1 of Convention No. 159 (International Labour Office, Geneva), a person with disabilities (PwD) is an individual whose prospects of securing, retaining, and advancing in suitable employment are substantially reduced due to a recognized physical or mental impairment. The objective of vocational rehabilitation, as set forth by the Convention, is to equip PwDs with the capability to find suitable employment, maintain long-term employment, and advance within that employment, thereby promoting the integration or reintegration of the individual into society. The Convention imposes an obligation on member states to implement its provisions through measures appropriate to the conditions of each country while respecting national customs. The provisions of the Convention apply to all types of disabilities without discrimination against any particular type.

The Convention stipulates that each member state, according to its conditions, customs, and capacities, must formulate, implement, and periodically review national policies in the field of vocational rehabilitation and employment for PwDs. Once the Convention is ratified, it is also identified as the obligation of each member state to periodically submit reports on the implementation of the Convention to the ILO. However, the issue at hand is not only how the Convention is implemented but also how it relates to Recommendation No. 168. Does the implementation of the Convention imply an association with the implementation of Recommendation No. 168? These are the questions this study seeks to answer.

Obligations of Member States of the Convention

Convention No. 159 (International Labour Office, Geneva) was adopted by the General Conference of the International Labour Organization (ILO) at its 69th session on June 20, 1983, comprising 17 articles, of which 10 articles pertain to substantive content (Articles 1–10) and 7 articles to procedural matters (Articles 11–17), structured into four parts.

Alongside Convention No. 159, at the same time, the ILO also adopted Recommendation No. 168. This Recommendation is identified as a supplementary document to Convention No. 159 in the effort to create an international legal foundation aimed at achieving the goal of vocational rehabilitation and employment for

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PwDs globally. The content of ILO Recommendation No. 168 consists of nine parts (International Labour Office, Geneva):

According to Articles 19 and 21 of the Constitution of the International Labour Organization (ILO, 2015), both types of documents were adopted by the International Labour Conference of the ILO by a two-thirds majority of the delegates present and voting. A convention, once ratified, directly establishes binding legal obligations for each member state.

Paragraph 5 of Article 19 of the Constitution outlines five specific obligations of member states concerning a ratified ILO convention. Additionally, Article 22 of the Constitution mandates the obligation to submit annual reports on ratified conventions.

Under subparagraph (b) of paragraph 1 of Article 19 of the Constitution, the International Labour Conference may choose to adopt international labor standards in the form of either conventions or recommendations. It is noted that "a recommendation is intended to address situations where a matter, or an aspect of a matter discussed, is not deemed suitable at that time for formulation as a convention" (ILO, 2015). However, in the case of Convention No. 159, the ILO simultaneously adopted both a convention and a supplementary recommendation. A recommendation of the ILO, although a guiding document, is non-binding and does not require submission to a competent authority for ratification, but it provides valuable guidance on policy, law, and practice (ILO Vietnam Office, 2012) for each member state. Nevertheless, alongside the obligation of member states regarding conventions, the Constitution also specifies four obligations of member states concerning recommendations in paragraph 6 of Article 19.

Thus, it can be affirmed that the ratification of an ILO convention implies not only that the member state is bound by the provisions within the convention but also bears responsibility for the accompanying recommendations. The implementation of Convention No. 159 involves not only directly implementing the requirements of the Convention but also fulfilling obligations related to Recommendation No. 168. This issue has not been officially addressed during the process of ratification and implementation of Convention No. 159, and it has not been explored in any research studies in Vietnam. Meanwhile, Recommendation No. 168 plays a crucial role; it supplements Convention No. 159, providing technical and practical guidance on implementing the Convention's provisions. The Convention only establishes principles and general issues, so the implementation of the Convention cannot overlook the guiding content within the Recommendation.

Implementation of Convention No. 159 and Recommendation No. 168 in Vietnam

On March 25, 2019, the President of Vietnam signed the decision to ratify Vietnam's accession to Convention No. 159. This marks the 23rd ILO convention that Vietnam has ratified, making Vietnam the 85th and most recent member of the Convention to date. Twelve months after Vietnam's ratification documents were submitted to the Director-General of the ILO, the Convention officially came into effect in Vietnam (Ministry of Foreign Affairs, 2019). This event has bound Vietnam to the responsibility of formulating, enacting, and practically implementing policies and laws to enforce the Convention. Prior to this, on January 23, 2019, Vietnam also ratified Convention No. 88 on Employment Service Organization, contributing to the establishment of an institutional foundation and uniform labor and employment standards to firmly ensure the labor rights and employment of all people in general, and of PwDs in particular, within the social community.

To implement Convention No. 159, from the preparatory phase for joining the Convention, Vietnam identified the need to undertake a series of activities, including amending, supplementing, and perfecting relevant policies and laws, particularly amending and supplementing the Labor Code to ensure the labor rights, employment, and benefits of PwDs; promoting and disseminating awareness to enhance societal understanding of the labor rights and employment of PwDs, as well as the content of Convention No. 159; establishing mechanisms for coordinating and monitoring the implementation of Convention No. 159; fulfilling the obligations of a member state by preparing and submitting periodic or ad hoc reports on the measures taken to give effect to the provisions of Convention No. 159 as prescribed by the ILO Constitution (Ministry of Labour, Invalids and Social Affairs, 2017).

Through the study of policy formulation, enactment, and implementation concerning the labor rights and employment of PwDs following the ratification of Convention No. 159, it can be observed that Vietnam has achieved some notable results. In reality, the implementation and domestic incorporation of the Convention are primarily a continuation of the ongoing process of reforming the policy and legal system in accordance with the spirit and principles of the 2013 Constitution and the incorporation of the United Nations Convention on the Rights of Persons with Disabilities. According to a report from the Ministry of Labour, Invalids and Social Affairs submitted to the Prime Minister, Convention No. 159 is a technical convention of the ILO. Essentially, the content of Convention No. 159 is not significantly different from the corresponding content of the United Nations Convention on the Rights of Persons with Disabilities, which was ratified by the National Assembly in October 2014. The provisions of Vietnamese law are fundamentally consistent with the provisions of the Convention (Ministry of Labour, Invalids and Social Affairs, 2021). From the perspective of a member state's responsibilities under the Convention, it can be noted that Vietnam has achieved positive and noteworthy outcomes in two main aspects:

First, the amendment, supplementation, and promulgation of new relevant policies and laws.

Compared to the 2012 Labor Code, the 2019 Labor Code has been amended and supplemented to better support PwDs and employers who employ PwDs. The new Code, for the first time, defines discrimination in labor as any distinction, exclusion, or preference based on... (various reasons), including disability, that impairs equality of opportunity in employment or occupation (Clause 8, Article 3). Regarding the responsibilities of employers of PwDs: While Clause 1, Article 177 of the 2012 Labor Code stipulated that employers must ensure working conditions, tools, labor safety, and hygiene appropriate for PwDs and regularly care for their health, Clause 1, Article 159 of the new Code requires employers to ensure working conditions, tools, safety, labor hygiene, and organize regular health check-ups appropriate for PwDs. Article 160 of the new Code amends Article 178 of the 2012 Labor Code to expand employment opportunities and respect the opinions of PwDs. While Clause 1, Article 178 of the 2012 Labor Code prohibited the employment of PwDs with a work capacity reduction of 51% or more in overtime or night work, Clause 1, Article 160 of the new Code prohibits the employment of PwDs with a mild disability, work capacity reduction of 51% or more, severe disability, or particularly severe disability in overtime or night work, except in cases where the PwD consents. Clause 2, Article 160 of the new Code also amends Clause 2, Article 178 of the old Code to respect the opinions of PwDs. While Clause 2, Article 178 of the old Code prohibited the employment of PwDs in heavy, hazardous, or dangerous jobs or those involving exposure to hazardous substances according to a list issued by the Ministry of Labour, Invalids and Social Affairs in coordination with the Ministry of Health, Clause 2, Article 160 of the new Code stipulates that the employment of PwDs in heavy, hazardous, or dangerous jobs is prohibited according to a list issued by the Minister of Labour, Invalids and Social Affairs without the consent of the PwD after the employer has provided full information about the job. As one study has affirmed, the new provision in Article 160 of the new Code not only does not diminish the employment opportunities of PwDs, ensuring equality in job access for PwDs, but also ensures compliance with the United Nations Convention on the Rights of Persons with Disabilities and Convention No. 159 (Bùi Hữu Toàn & Đỗ Mạnh Hùng, 2023).

Regarding the field of employment, the current Employment Law (2013) only broadly stipulates support for employers employing a large number of PwDs; entities eligible for low-interest loans from the National Employment Fund include small and medium-sized enterprises, cooperatives, cooperative groups, and households that employ a large number of PwDs, as well as PwDs themselves. The Draft Employment Law aims to address the shortcomings of the current Law. Accordingly, policies supporting PwDs are placed within the broader context of sustainable employment policies that adapt to the aging population, digital transformation, green jobs, and just energy transition. The employment policy system that Vietnam is building and implementing aims to develop a flexible, modern, efficient, sustainable, and integrated labor market, where unemployment insurance becomes a labor market management tool, supporting both employers and employees in general, and PwDs in particular, to maintain decent and sustainable employment, in line with the perspectives of the ILO and the United Nations. The Draft Law has clearly identified discrimination and emphasized disability as one of the prohibited grounds for discrimination in employment and occupation relationships. The Draft also expands the purposes of loan support to include job creation, maintenance, and expansion, rather

than merely general loans from the Employment Support Fund. Additionally, PwDs are identified as an independent group (point d, Clause 2, Article 13) among those eligible for loans from this Fund to create, maintain, and expand employment.

Regarding Vocational Education: Although the vocational education policy was enacted before Vietnam ratified Convention No. 159 (2014), it has been designed to support the employment and careers of persons with disabilities (PwDs) in accordance with the spirit of the United Nations Convention on the Rights of Persons with Disabilities.

Regarding Support Policies for PwDs: Following the ratification and official enforcement of Convention No. 159 in Vietnam, the Prime Minister issued Decision No. 1190/2020/QĐ-TTg on August 5, 2020, approving the Support Program for PwDs for the 2021-2030 period. The program sets specific targets: by 2025, 200,000 PwDs with needs and qualifications will receive vocational training and employment support, and investments will be made in facilities and equipment for six specialized vocational education centers for PwDs across six regions in the country. Additionally, 90% of PwDs with needs and qualifications will be eligible for preferential loans as stipulated. For the 2026-2030 period, the program aims to support 300,000 PwDs with similar needs and qualifications, with 100% of them receiving preferential loans as stipulated.

Overall, the implementation of international labor and employment conventions in Vietnam, including Convention No. 159, demonstrates Vietnam's serious commitment to integrating international labor standards into its national legal system (Bùi Huyền, 2020).

Second, the practical organization and implementation of policies and laws concerning the labor rights and employment of PwDs have shown positive changes.

Immediately after Convention No. 159 came into effect, the outbreak of the COVID-19 pandemic negatively impacted the economy, making employment issues more challenging, especially for PwDs. However, the State promptly issued numerous policies to support PwDs who lost their jobs or faced job reductions and unstable incomes, including a social protection package worth VND 62 trillion (approximately USD 2.6 million) with direct cash support for PwDs (with support of VND 1 million per month, equivalent to USD 46 per month). Additionally, the Government implemented 11 policies to support workers and employers facing difficulties due to the pandemic (Phạm Phương Mai, 2024).

According to an assessment at the Mid-Term Review Workshop on Promoting Sustainable Employment Cooperation held on July 17, 2019, in Hanoi, the framework for Vietnam-ILO national cooperation on promoting sustainable employment for the 2017-2021 period achieved significant results, laying the groundwork for implementing the National Decent Work Program in Vietnam for the 2021-2026 period, including decent work for PwDs. A representative of the Department of Social Protection of the Ministry of Labour, Invalids and Social Affairs, at the workshop "Current Situation and Solutions for Creating Employment for PwDs in Vietnam" organized by the National Committee for PwDs in collaboration with the World Bank in March 2023 in Hanoi, stated that the State has supported investments in facilities and equipment for six specialized vocational education centers for PwDs across six regions and vocational education centers for PwDs. 100% of PwDs with needs and qualifications have access to preferential loans as stipulated. To achieve the vocational training and employment targets, from 2012 to 2023, the Government allocated nearly VND 10 billion annually to provide vocational training and create jobs for about 19,000 PwDs. The State's support for vocational training has also been adjusted upward (up to VND 6 million per person per course). On average, employment service centers have supported approximately 20,000 PwDs per year in vocational training and employment, with a success rate of over 50%. Many PwDs have received preferential loans for employment, poverty reduction, vocational training, and capacity-building for business and production.

Challenges and Limitations

Despite these achievements, considering the spirit of Convention No. 159, Recommendation No. 168, and the ILO Constitution, as well as the responsibilities of an ILO member state in the current socio-economic context, several challenges and limitations remain in the vocational rehabilitation and employment of PwDs in Vietnam:

First, regarding policies and laws.

The 2019 Labor Code only provides a general principle that the State protects the labor rights and self-employment of PwDs; it also stipulates appropriate incentives and support policies for employers in creating jobs and hiring PwDs according to the law on PwDs (Article 158). The Labor Code needs to include more specific principles on the employment of PwDs, with provisions to expand opportunities to ensure their labor rights and employment, so that the Law on PwDs can set specific percentages for employing PwDs eligible for State support and incentives. While the Labor Code includes gender equality policies and prohibits discrimination between male and female workers in general, it still lacks provisions on equal opportunities and prohibits discrimination between male and female PwDs in labor and employment. The law on PwDs, including the 2010 Law on PwDs, reveals several shortcomings in ensuring the labor rights and employment of PwDs:

+ Article 34 of the 2010 Law on PwDs stipulates that businesses employing 30% or more of their total workforce as PwDs are eligible for support to improve working conditions and environments suitable for PwDs; exempt from corporate income tax; eligible for preferential loans for business development projects; prioritized in land, premises, and water surface leasing; and exempt from or reduced land, premises, and water surface rent based on the proportion of PwDs in the workforce, the degree of disability, and the size of the business. While this provision aims to encourage employers to hire more PwDs, setting such a high and rigid percentage for PwD employment inadvertently excludes many businesses with lower PwD employment rates from receiving support. This also reduces the opportunities for many capable PwDs to participate in the workforce. However, some argue that even businesses employing up to 30% of their total workforce as PwDs still find it difficult to receive tax incentives. The Law on PwDs does not mandate preferential employment for PwDs as a requirement for businesses; instead, it only encourages such practices, which is insufficient to compel businesses to consider hiring PwDs. Despite numerous incentive policies, businesses remain reluctant to employ PwDs (Trần Thế Hệ, 2022).

+ Similarly, Article 10 of Decree No. 28/2012/ND-CP, detailing and guiding the implementation of certain provisions of the 2010 Law on Persons with Disabilities, stipulates that administrative agencies, public service units, and enterprises employing 10 or more persons with disabilities (PwDs) in stable employment are entitled to preferential policies as prescribed. However, if an agency, unit, or enterprise employs fewer than 10 PwDs in stable employment, they are not eligible for state incentives. This is a current shortcoming as it does not strongly encourage the creation of employment opportunities for a larger number of PwDs.

The 2013 Employment Law is no longer aligned with the spirit of Convention No. 159 and needs to be replaced by a new law. Although the draft Employment Law has been designed with new provisions, it still lacks regulations on mechanisms for monitoring, compliance, violations, and sanctions for breaches in the field of employment and occupations in general, not just in unemployment insurance.

The current Vocational Education Law still lacks specific provisions tailored to different levels of disability and the assessment of PwDs' functional abilities to form the basis for developing appropriate vocational education content and methods.

In line with the Party and State's policy of expanding the social security network to all social groups, leaving no one behind in the development process, the current social security policy still lacks specific regulations to ensure social security tailored to PwDs as a distinct group of workers. The system for reporting, monitoring, supervising, and holding accountable agencies, organizations, units, production facilities, businesses, and service providers for implementing support measures for PwDs in general, and in labor, employment, and occupation in particular, has not been given sufficient attention.

Second, regarding the organization of the implementation of Convention No. 159, there are still limitations and shortcomings in ensuring the labor rights and employment of workers in general, and PwDs in particular, especially in light of new goals and requirements for sustainable development, the adverse effects of the post-COVID-19 economic downturn, climate change, population aging, and the current disruptions in the global employment supply chain due to armed conflicts in some countries and regions worldwide. The establishment and implementation of mechanisms for coordinating and supervising the implementation of the Convention is undoubtedly the weakest link in the process of enforcing Convention No. 159 in Vietnam today. Unlike United Nations conventions, ILO conventions generally do not have a national committee, making the implementation and supervision of ILO labor standards, including Convention No. 159, particularly challenging. In practice, there has been no specific mechanism dedicated to this field that has been established or implemented in recent times. Furthermore, related documents concerning the ratification or implementation of Convention No. 159 do not reflect any official stance on the implementation of the accompanying Recommendation No. 168.

Information from the "Current Situation and Solutions for Creating Employment for PwDs in Vietnam" workshop in March 2023, organized by the National Committee on PwDs in collaboration with the World Bank in Hanoi, highlighted that Vietnam has approximately 7.06 million PwDs, accounting for 7.06% of the population aged 2 years and older. Of these, 87.27% live in rural areas, where the poverty and near-poverty rate for PwDs is often three times higher than the national average. PwDs of working age constitute 61%, of which 40% are still capable of working. The education level of PwDs is low, with 41.01% of PwDs aged 6 years and older being illiterate, and only 19.5% having an education level of secondary school graduate or higher. Regarding technical qualifications, 93.4% of PwDs aged 16 years and older have no technical qualifications, and only 6.5% have a certificate or higher qualification. According to statistics, among the more than 7 million PwDs, only 31.7% of those with moderate disabilities and 7.8% of those with severe disabilities (who have lost part of their function but are still able to work) have employment.

Although recent years have seen increased attention to vocational training and creating employment opportunities for PwDs to help them integrate into society, PwDs still lack equal and full access to education and employment opportunities. Specifically, 93.4% of PwDs aged 16 years and older lack technical qualifications, with only 6.5% holding a vocational certificate or higher. Additionally, businesses have not genuinely focused on providing equal employment opportunities for PwDs. This reality requires the attention of the entire society to remove barriers to the integration of PwDs into the community. Many PwDs possess exceptional abilities and capacities to undertake regular job positions. Alongside technological advancements, training human resource management teams and leadership skills to eliminate discrimination, businesses need to not only create opportunities for PwDs to access training, education, and recruitment programs on an equal footing with non-disabled individuals but also consider their special needs in the workplace, such as accessible pathways and restroom facilities, to enable PwDs to develop in their careers.

Globally, according to an ILO report, the COVID-19 pandemic has exacerbated the employment situation for workers and the conditions of employers, with a worsening trend predicted for employment creation in the coming period. If the employment growth rate in 2023 in lower-middle-income countries is 4.2%, it is projected to be only 1.2% in 2024 (International Labour Organization, 2024). Vietnam is currently a lower-middle-income country, and the situation regarding employment creation in general, and for PwDs in particular, remains challenging and fraught with difficulties. Meanwhile, the target set by the Support Program for PwDs for the 2026-2030 period to support vocational training and job creation by 2030 represents a significant challenge in the practical implementation of vocational rehabilitation and ensuring the labor rights and employment of PwDs in Vietnam in the current global and domestic context.

The dissemination and education activities related to Convention No. 159 and Recommendation No. 168 have not received adequate attention in recent times. After the ratification of the Convention, aside from the ceremony announcing Vietnam's accession, there have been no significant information dissemination efforts or publications regarding the labor rights and employment of persons with disabilities (PwDs). Additionally, there has been no widespread publication aimed at raising societal awareness about the content, significance of the Convention, and the implementation of the commitments under the Convention in Vietnam. This lack of

attention is a significant shortfall that must be addressed and remedied in the future. In 2021, the Ministry of Labour, Invalids and Social Affairs (MOLISA) and the International Labour Organization (ILO) signed a Memorandum of Understanding on cooperation to promote international labor standards in Vietnam during the 2021-2030 period (MOLISA & ILO, 2021). A key element of this cooperation is to enhance the capacity of relevant Vietnamese agencies and organizations in fulfilling their reporting obligations concerning the implementation of ILO conventions that Vietnam has acceded to. Specifically, the two sides will cooperate to effectively implement the obligations of periodic and ad hoc reporting on the implementation of ILO conventions, improving the quality of these reports in both legal and practical terms. However, regarding the reporting plan for the implementation of Convention No. 159, according to Appendix 01 of the Memorandum, throughout this period, only two national reports, the initial 2021 report and the 2022 periodic report (MOLISA & ILO, 2021), are scheduled to be prepared and submitted by Vietnam to the ILO. This is despite the fact that under Article 22 of the ILO Constitution, each member state is required to submit such reports annually. Thus, it can be observed that, despite existing efforts, Vietnam has only just begun to promote the implementation of Convention No. 159 and the review, evaluation, and reporting on its implementation within the broader context of enforcing the international labor standards of the ILO to which Vietnam has acceded. There has been no in-depth activity specifically focused on the vocational rehabilitation and employment of PwDs, and these efforts have only been considered within the broader framework of Vietnam's international labor and social integration program.

Solutions to Promote the Implementation of Convention No. 159 and Recommendation No. 168

Firstly, it is necessary to develop a roadmap with specific and appropriate steps to continue refining policies and laws in accordance with the spirit of Convention No. 159 and ILO Recommendation No. 168. The Law on Persons with Disabilities, labor laws, employment laws, vocational education, social insurance, tax, elder care, gender equality, and other related laws need to be refined in alignment with the spirit of Convention No. 159 and ILO Recommendation No. 168 to create the best conditions to support the vocational rehabilitation and employment opportunities of PwDs, adapting to the current socio-economic context and the sustainable development requirements of the country. To contribute to the goal of fully incorporating all international labor and social commitments into domestic law by 2030, there needs to be a closely coordinated and effective program between various agencies, sectors, and localities in formulating and enacting regulations that ensure the full, secure labor rights and employment of PwDs in a non-discriminatory manner. Specifically, it is necessary to:

- Complete legal provisions to gradually and substantively ensure equality of opportunity and treatment between PwDs and non-disabled persons, and between male and female PwDs in labor.
- Finalize and practically implement preferential regulations for staff, teachers, and those involved in services related to vocational rehabilitation, vocational training, and job placement for PwDs.
- Refine legal provisions to introduce feasible preferential policies that genuinely encourage agencies, organizations, and enterprises to employ PwDs. We agree with a recently published study's proposal to supplement preferential policies corresponding to the proportion of PwDs employed, the level of disability, and the fact that the more PwDs an enterprise employs, the higher the preferential benefits they should receive (Đinh Thị Thanh Thủy, 2024). Additionally, it is essential to strengthen deterrent legal sanctions and strictly punish violations of the law, such as discrimination against PwDs in recruitment and employment.

Secondly, enhancing the effectiveness of coordination and supervision in the implementation of Convention No. 159 and ILO Recommendation No. 168 is crucial. The implementation of the Convention requires an effective coordination and supervision mechanism for both the legal system and the practical enforcement of laws. Building on the Inter-sectoral Working Group established by the Ministry of Labour, Invalids and Social Affairs in 2016, it is necessary to consolidate and establish an official national institution responsible for supervising the implementation of ILO conventions, including Convention No. 159. It is also imperative to strictly fulfill the obligations of a Convention and ILO member state concerning reporting on the implementation of the Convention as stipulated in the ILO Constitution. Vietnam should clearly express its official stance on the

implementation of Recommendation No. 168 as a supplementary document to Convention No. 159, advocating for its acceptance and domestic incorporation. In organizing the implementation, it is important to leverage the collective resources of the entire society, with the State playing a core, pioneering role and promoting the effectiveness of international cooperation programs. The preparation of implementation reports must adhere to the reporting obligations for conventions and recommendations as outlined in Article 22 of the ILO Constitution, rather than following the three-year cycle for core and governance conventions and the six-year cycle for other conventions (MOLISA, 2021). Moreover, there should be a specific process and guidelines on how to prepare national reports on the implementation of international conventions in general, which can be applied to the preparation of reports on the implementation of international labor standards conventions in general and Convention No. 159 in particular. Vietnam also needs to invest adequately in enhancing the capacity of experts and establishing a unified, centralized database system to facilitate the collection and processing of information for the preparation of these national reports.

Thirdly, it is essential to intensify the dissemination and specialized education regarding Convention No. 159 and Recommendation No. 168, thereby raising societal awareness about vocational rehabilitation and ensuring the labor rights and employment of persons with disabilities (PwDs). First and foremost, there should be widespread dissemination of information about Convention No. 159 and Recommendation No. 168, as well as training programs to develop skills for formulating and implementing policies related to vocational rehabilitation and employment for PwDs among officials, civil servants, public employees, and employers in both the public and private sectors. Diverse and effective methods of dissemination and education should be employed to enhance the general public's awareness, particularly that of PwDs, about their labor rights and employment, the ILO standards, and the relevant policies and laws that have internalized Vietnam's commitments within the ILO framework. Information on the national reports regarding the implementation of Convention No. 159 and Recommendation No. 168 should also be made public so that all citizens, especially PwDs, can access, understand, and monitor the responsibilities of various agencies, organizations, units, and localities during the implementation process.

CONCLUSION

The implementation of the contents of Convention No. 159, as well as Vietnam's labor and employment policies and laws, has shown positive and fundamental progress. The recently amended Labor Code has created equal opportunities without discrimination against PwDs, ensuring their vocational rehabilitation and employment. The support program for PwDs in the new phase has been issued and implemented, with clearly defined and feasible goals and measures to assist PwDs in the fields of labor and employment. These achievements are not only due to Vietnam's concretization of the spirit of the 2013 Constitution and the internalization of Convention No. 159's provisions, but they also represent a continuation of the process of internalizing the United Nations Convention on the Rights of Persons with Disabilities, which was ratified in 2014.

However, alongside these initial positive developments, the implementation of the Convention still faces many challenges and limitations. Specifically, there are many provisions in the Law on Persons with Disabilities that are no longer appropriate. The Law on Persons with Disabilities was enacted in 2010, before Vietnam's accession to the Convention on the Rights of Persons with Disabilities. Several specific policies and regulations encouraging the employment of PwDs are impractical and lack alignment with the spirit of the Convention and the current realities of the labor market. In addition to the limitations in internalizing the Convention as mentioned, the process of organizing and implementing the practical measures has faced even more challenges and limitations. The primary cause of these challenges is that Vietnam lacks an effective coordination and supervision mechanism for implementation. This issue, combined with the adverse effects of the COVID-19 pandemic, the subsequent economic downturn, armed conflicts, the potential for widespread war, and security instability in some regions of the world, has exacerbated the difficulties in ensuring labor rights and employment for everyone in general, and particularly for PwDs.

To overcome these limitations and challenges and to achieve the goal of fully internalizing all international labor commitments by 2030, Vietnam needs to continue refining its policy and legal system, particularly the Law on Persons with Disabilities, as well as related laws in the fields of labor, employment, social insurance, taxation, elder care, and gender equality. These refinements should aim to more firmly ensure the labor rights and employment of PwDs. It is especially necessary to enhance the capacity of experts and establish a process for developing national reports on the implementation of Convention No. 159, with a focus on the substantial participation of representatives from the PwD community. The State's official stance on the internalization of Recommendation No. 168 should be clearly articulated, emphasizing the role of dissemination and education in raising awareness among public officials, civil servants, and employees in both the public and private sectors, as well as among society at large, including PwDs themselves, in ensuring vocational rehabilitation and employment for PwDs.

To broaden the scope and strengthen this research, a new and necessary direction for further study would be to examine the practices of ratifying and implementing Convention No. 159 and Recommendation No. 168 in other member countries of the Convention, and to draw lessons for Vietnam./.

REFERENCES

- Ministry of Labour, Invalids and Social Affairs & International Labour Organization, 2021, Memorandum of Understanding on Cooperation to Promote International Labor Standards in Vietnam for the Period 2021-2030, [online] Available at: <https://www.ilo.org/vi/publications/ban-ghi-nho-giua-bo-lao-dong-thuong-binh-va-xa-hoi-va-chuc-lao-dong-quoc-te> [Accessed on 5/6/2024].
- Ministry of Labour, Invalids and Social Affairs, 2021, Report No. 142/BC-BLĐTBXH, dated October 5, 2021, on the Implementation of the Prime Minister's Decision No. 2528/QĐ-TTg.
- Ministry of Labour, Invalids and Social Affairs, 2017, Proposal to the Prime Minister on Vietnam's Accession to ILO Convention No. 159 on Vocational Rehabilitation and Employment of Persons with Disabilities.
- Ministry of Foreign Affairs, 2019, Notice No. 38/2019/TB-LPQT dated September 11, 2019, on the Effectiveness of International Treaties.
- Trần Thế Hệ, 2022, Ensuring the Right to Work for PwDs, Vietnam Lawyers Electronic Journal, [online] Available at: <https://lsvn.vn/bao-dam-quyen-lam-viec-cho-lao-dong-la-nguoi-khuyet-tat1653324099.html>, [Accessed on 8/5/2024].
- Bùi Huyền, 2020, Implementation of International Labor Standards of the International Labour Organization in Vietnam, Vietnam Lawyers Electronic Journal, [online] Available at: <https://lsvn.vn/thuc-thi-cac-tieu-chuan-lao-dong-quoc-te-cua-to-chuc-lao-dong-quoc-te-o-viet-nam.html>, [Accessed on 8/5/2024].
- ILO, Constitution of the International Labour Organization (Vietnamese version), 2015, [online] Available at: https://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_818970.pdf, [Accessed on 5/5/2024].
- Phạm Phương Mai, 2024, Ensuring the Right to Work and Employment for PwDs, State Management Journal, [online] Available at: <https://www.quanlynhanuoc.vn/2024/04/09/bao-dam-quyen-duoc-lao-dong-va-viec-lam-cua-nguoi-khuyet-tat/> [Accessed on 13/5/2024].
- Đinh Thị Thanh Thủy, 2024, Ensuring Labor Rights for PwDs According to the International Convention on the Rights of PwDs in Vietnam, Journal of Prosecutorial Science, Issue 2/2024.
- Bùi Hữu Toàn & Đỗ Mạnh Hùng, 2023, Law on the Labor Rights and Employment of PwDs and Its Practical Implementation, Legislative Research Journal, Issue 10 (482), [online] Available at: <http://lapphap.vn/Pages/tintuc/tinchitiet.aspx?tintucid=211829>, [Accessed on 13/5/2024].
- International Labour Organization, World Employment and Social Outlook, Trends 2024, ILO's flagship report, [online] Available at: <https://webapps.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo->, [Accessed on 15/5/2024].
- International Labour Office Geneva, Convention (No. 159) and Recommendation (No. 168) on Vocational Rehabilitation and Employment (PwDs), [online] Available at: https://webapps.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/normativeinstrument/wcms_118314.pdf, [Accessed on 3/5/2024].