

The Rights of Disabled People to Access Loans and Credit Information in Vietnam Legal System

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Abstract: *This study examines the social responsibility of banks and other financial institutions towards disabled people with particular reference to Vietnam. In the developing country, disabilities play an increasingly important role in the social policies and national economic management. The sharp increase in the social security needed for the weaker section in recent years is found to be organically linked to the financial and banking sector. Numerous studies have suggested that inadequate credit is one of the principle obstacles facing most businesses related to disabilities in the developing countries. Small businesses throughout the world share common features and similar problems. Many of them found relationships with banks or formal credit institutions increasingly uncomfortable. This paper has attempted to discuss the "moral" responsibilities of commercial banks towards disabilities. The findings show that the main responsibility of the commercial banks is to balance the interests of their stakeholders while at the same time discharging their primary responsibilities. One of the important responsibilities for the commercial banks is to provide "adequate" financial services to the weaker section and financial institutions and commercial banks are in an ideal position to do so. More importantly, the authors clarify the legal basis on protecting the rights of disabilities in financial sectors. This does not only make clear the corporate social responsibility but also expresses the authorities and public organizations involving in the big picture of the policy. Accordingly, the role of State Bank of Vietnam, Vietnam Bank of Social Policy and related organizations are expressed. In Vietnam, there is no doubt that the organizations are main supporters for disability communities. Government authorities and public institutions must be the most pillar in the aid structure. The social organizations seem to be an essential part, but their role is quite fuzzy in practice.*

Keywords: Corporate social responsibility, financial institutions, financial system, bank, disability, disabled people

1. Introduction

There are nearly seven million disabilities (around 8% of total population) in Vietnam. Therein, more than 1.5 million of them have the ability to work. For years, Vietnam government has made great effort to create conditions for this weaker section to enjoy the benefits in order to remain the community equality. On the tradition sector of social services, there is no doubt that the policies have played great role in the dramatic development of disability. The priority spaces have been setting up in every public as well as private infrastructure. The government subsidies increase significantly. It is clear that, the great effort of authorities and community has been recorded. Nevertheless, disabilities always desire to be active in their life and work also. They need the opportunities to access capital resources in order to run business or invest in improving the living conditions. In the context, credit institutions are the key players. [1]

However, there is the fact that most of commercial banks and other credit institutions have been committed to run the policy but the practice is not really good. They face with the conflict of interests and are under the pressure of high competition. Then, in the structure of social responsibility, the government and social players seem to be more active for supporting the disabilities. [2]

2. The CSR in banking sector

Basic theory of social responsibility of credit institutions to disabilities

Basically, the government aims at the equality for every citizen. The mission of the state is keeping balance the social resources and redistributing the income. These can be done through taxes, subsidies and especially the regulations of social responsibility. Hence, everyone can enjoy the same

set of basic rights. However, the government does not do it alone, it is argued that business organizations including banking and finance firms be involved in the social works. What are financial institutions' social responsibilities in developing countries? On the one hand, these institutions share the generic responsibilities of all human organizations and business enterprises. However, their specific social responsibility is the performance of the social function of financial intermediaries, which, in the case of emerging countries, consists mainly of contributing to economic growth and solving the problem of weaker sections including disability. [3]

In addition, the financial institutions hold a special position in the economic management as well as scenario of business social responsibility. According to the Human rights experts, the banks and financial companies cause direct as well as indirect impacts to human being. Their business can affect to people in term of customers or employees straightforwardly. By contrast, the credit institutions may get mistake when providing capital to those who abuse general rights of disabilities. [4]

Business benefit conflicts and solutions

Giving capital to disabilities or business employing the weaker section should be a big problem to credit institutions because one of the most important grounds to secure the lending activities is repayment possibility. In case of disability, if banks consider the lending conditions alike with normal people, it is hard to prove how disabled people can return in time because their working ability is even zero.

In another word, financial firms have to think about their social responsibility and the income as well as the potential bad debts. To keep balance the public and business benefits, there is a need for regulations to ensure the access to loan of

disabilities and relative subjects. Additionally, banking and financial services are complicated on negotiation then procedures. This is the huge barrier to makes products and services accessible to people with disabilities. Understanding more broadly, the access of service information for disabilities is quite limited in financial sectors.

Basically, the problem of information access can be solved easily by installing the assisting devices or constructions. In Europe, according to report of Irish Bank Federation, large print statement, hearing aid induction loop systems or wheelchair access had been applied for enhancing accessibility of customers with disabilities widely in the commercial bank system. [5]

Secondly, the government sets up a evaluation systems in which the ethical indexes including social care of elderly and disabled. This is because banking is a sector traditionally assessed on financial indicators. But in the current crisis context, ethical banking and corporate social responsibility applied to financial institutions arise as a new business model that seeks to value the commitment of financial institutions to the social, environmental and economic sustainability. Ethical banking and corporate social responsibility have become a means of creating value, investors' confidence and business excellence. Thirdly, there is a controversy over controlling the banking businesses. Some experts claim that the authorities should regulate minimum lending amounts applying for credit institutions in case of disability. By contrast, the second school of thought argues that the minimum lending level can affect the security of banks. In addition, businesses may cheat in creating the evidence involved disability. Hence, the compulsory lending is very risky. [6]

Vietnam legal framework of banking CSR

The rules related disabilities are regulated synchronously in Vietnam legal system. In the Constitution of Vietnam (2013), it is stated that: "The State creates equal opportunities for citizens to enjoy social welfare, develop social security systems, adopt policies to support the elderly, the disabled, the poor and other disadvantaged people" and "The State prioritizes the development of education in mountainous regions, islands, ethnic minority regions and areas meeting with exceptional socio-economic difficulties; To prioritize the use and development of talents; Facilitate people with disabilities and the poor to learn culture and vocational training".

It is clear that from the highest legal source, the priority in all social aspects is spent the disabled section. The main idea defines the key role and duty of the State in order to remain the equality. [7]

In 2012, a new Disability Act is issued with the main content, especially in regulating the lending relationships. Firstly, it aims to strengthen the researchers and manufactures related to rehabilitation facilities and living aid devices via priority credits. Secondly, disabled people or firms employing them would receive preferential interest rate in case of investments. Especially, the project related to social media and information appliance to improve the

information access rights. [8] Additionally, the Decree no 28/2012/ND-CP details the stated rules by adding the special subject that plays the role of Vietnam Bank for social policies. However, the other commercial entities is not taken in account of proving social services. Likely, in the Credit institution law, there is no mention of social responsibility. [9]

To explain for the situation, the historical characteristics of Vietnam Banking system. It had been created in the single level credit system. That means the all banks were run under the distribution via administrative controlling from the government. Since 1986, the banks have begun play the role of doing business. However, the professional stratification is located following the tradition of old banking market.

3. The Role of Public Sector and Social Organizations

The Vietnam Bank of Social Policy

In recent years, the government has deployed many measures to protect of the rights to work and self-employment of employees who are disabled and paid special attention on vocational training. Vocational training for people with disabilities has been socialized, mobilizing the participation of the masses of people, enterprises and organizations of people with disabilities. Besides, one of the most important social policy is preferential loans from the National fund and other sources for disabled employments. [10]

For 15 years, VBSP has concentrated its resources for accelerating the implementation of over 20 major credit programs. They have been contributing to support people with disabilities and related businesses as parts of the poverty reduction programme and improving social security as well as building new rural. [11]

So far, outstanding loans for people with disabilities and enterprises employing people with disabilities are VND 118 billion for 5,838 disabled customers. In particular, outstanding loans from the National Fund is VND 113 billion of 5,794 specified customers. Besides, outstanding loans from the Nippon project to people with disabilities, enterprises employing disabilities is 4.5 billion for 24 customers. The overdue debt has been accounted for only 0.37% of total outstanding loans of policy credit. [12]

According to Deputy Minister of Labor - Invalids and Social Affairs, Mr. Le Tan Dung, it is important to provide opportunities for people with disabilities to develop their education and gain their stable income. In addition, people with disabilities also need capital support to participate in production, business, income generation and improvement of economic life. However, there is limitation of funding that is available for the weakness group. Although VBSP has concentrated resources, stepped up the implementation of policy credit programs, contributed to provide loans for people with disabilities and related businesses, the proportion of beneficiaries has been small part of the growing community of disabled people. [13]

State Bank of Vietnam (SBV)

In finance and banking sector, the State Bank of Vietnam plays the central role for all commercial activities as well as related social policy. Specifically in term of disability policy, SBV provides many supports and regulations.

Firstly, the central bank of Vietnam participates in the drafting process and approving the laws relating to disability policy. For example, in drafting Legal Assistance Law (2017), Legislation Department of SBV has worked with Ministry of Justice to introduce the important draft. Therein, it points out the need to amend the old law because of the main reasons: [14]

- 1) The subject of legal aid has not been updated following the newer legislation of credit institutions and disabled people (2010).
- 2) The practical quality is not good
- 3) Official procedures are complicated and make the audiences confusing.
- 4) Limited financial resources in comparison with the developing demand.

The principle update contributing by SBV is additional funding for the social services. The Law on Legal Aid specifies the sources of fund for legal aid, including state budget, financial support from domestic and foreign organizations, individuals and other legal sources. The State shall allocate funds in the annual budget based on estimating of the agencies' performance. That is according to the provisions of the law on the state budget. At province level, if the administrative units are unable to balance their own budget, the Law stipulates the priority allocation of state budget from supplementary sources to support the complicated and typical case of legal aid. This is an important new point, affirming the State's responsibility to ensure that legal aid beneficiaries receive the best supports in term of funding allocation. [15]

Additionally, SBV introduced the administrative documents to resolve the current problems banking sectors. In 2016, mass media reported that Vietcombank's branches refused to give birth to deaf and dumb clients in Hanoi because they did not have the capacity for civil acts and according to the regulations of the SBV. The SBV affirmed that this is not a regulation of the State Bank. The opinion came from individual Vietcombank staff in the process. According to Circular 19/2016/TT-NHNN dated 30 June 2016 on banking card and Civil Code 2005, people with disabilities (deaf and dumb) are not lost or Limited capacity for civil acts, so they remain subject to review for issuance and use of the card. Hence, SBV required Vietcombank to re-examine the information and implemented in accordance with the State Bank's regulations on banking card operations and other relevant laws. [16]

Moreover, SBV also play the role of coordination in social development programmes. Featurely, through associations, non profit organizations, public banks and business, SBV has gained the fund for communities including disabled people. For instance, the employment loan programme mainly loaded by VBSP under the regulation of SBV has created nearly three million employments. Therein, social

associations including Disabled People Association and Trade Union do not only play the role of networking but also monitor and evaluate the effectiveness of funding distributions. [17]

Social organizations: The third pillar for sustainable funding for disabilities.

Corporations are indispensable for sustainable development. Social organizations (CSOs) have been recognized as important partners - one of the three pillars of the state and the private sector to promote the implementation of sustainable development goals (SDGs).

However, it has been misused the term of "partnership development" that does not reflect the nature of a fair, equitable, accountable partnership. Vietnam's social institutions still face many challenges in achieving a "power" balance and recognition from other partners. This is a long way for the social workers to overcome and really get to their position.

Meanwhile, social workers can play a variety of roles, such as participation in the planning process of implementing goals, direct service delivery, community mobilization and the achievement of sustainable development goals. They can also provide a monitoring and evaluation of the implementation and contribution of the national budget. "In particular, social associations guarantee the rights of marginalized groups including disability community. Hence, one of the three key principles of SDGs is "No one is left behind". [18]

However, social organizations are also facing challenges in the implementation of SDGs programs, mainly in terms of funding, related support policies, information access on SDGs from state departments or in the development of partnerships with businesses. Therefore, the social organizations would like to have substantial support on government policies to create a favorable environment for the active connects and supporting the relationship of SDGs with government and enterprises. [19]

4. Recommendations

Firstly, In Vietnam banking market, the share capital owned by the government is high. Hence, the government can use the management right to increase the credit limitation for disabilities.

Secondly, there is the fact that, the assisting devices are not installed synchronously in the banking systems. So, it is needed to setup the large print statement, hearing aid induction loop systems or wheelchair access and so on in every financial institution.

Finally, as the unbalance in the three pillars structure, the government should strengthen the role of social organizations in term of protecting disabilities' rights in backing and finance sector.

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