

# Right to Access Social Housing in the Perspective of International Human Rights Law and Vietnam's Regulations

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## Abstract

Housing is one of the basic needs of each individual, family and society. This right has also been widely recognized in international human rights instruments at the global, regional and national levels. The general comments of the United Nations convention committees also point out that the right to housing is not simply the right to have a place to reside but also refers to many different aspects of maintaining residence and the surrounding living conditions. The explanations also mentioned the responsibility of countries to ensure access to housing for particular groups in society and consider it as a part of social security policy. Although it is a developing country with many difficulties and challenges in economic development, from a very early age, Vietnam has paid special attention to fundamental human rights, particularly the right to housing. Although specific outcomes have been achieved, there are perspectives that the quantity and total area of social housing constructed still need to satisfy the objectives established in the National Housing Development Strategy 2020 and vision for 2030. In addition, implementing related regulations remains plagued with challenges and concerns. From the situation, the article will focus on (i) clarifying the legal and practical issues of ensuring access to social housing at international and national levels and (ii) pointing out the challenges and legal gaps in this field in Vietnam. From there, (iii) providing suggestions for Vietnam to implement effectively this right of Vietnamese citizens in the coming time.

**Keywords:** *Right to Housing, the Human Right to Adequate Housing, Social Housing, Human Rights, Individual's Rights*

## I. INTRODUCTION

*"Housing is the basis of stability and security for an individual or family. The centre of our social, emotional and sometimes economic lives, a home should be a sanctuary—a place to live in peace, security and dignity" (OHCHR).<sup>1</sup>*

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1 OHCHR, "The human right to adequate housing: Special Rapporteur on the right to adequate housing", online: *OHCHR* <<https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing>>.

The right to housing has been recognized in core international human rights instruments of the United Nations called *the human right to adequate housing*. International human rights law states that the right to adequate housing includes secure tenure, meaning people don't have to fear being evicted or having their property taken. That entails residing in an area that complements their culture and accessing the appropriate facilities, employment, and educational opportunities.<sup>2</sup> This right is recognized as part of the right to an adequate standard of living in Article 25 of the 1948 Universal Declaration of Human Rights (UDHR) and Article 11.1 of the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR).<sup>3</sup> In addition, this right is also mentioned in other United Nations human rights documents in different ways. Some are generally applicable while others address the human rights of specific groups, such as women, children, indigenous peoples, migrant workers and members of their families or People with disabilities.<sup>4</sup> Accordingly,

“everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in the circumstances beyond his control” (Article 25(1) UDHR)<sup>5</sup>; and “the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent” (Article 11(1) ICESCR).<sup>6</sup>

To clarify the meaning of the term “adequate housing”, the Committee on Economic, Social and Cultural Rights has adopted General Comments related to the right to adequate housing. Therefore, the Committee has explained that the right to appropriate housing should be understood as a right to a place of safety, tranquillity, and respect.<sup>7</sup> According to General Comment No. 4 (1991), “while adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain

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<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.* Vu Cong Giao, “Quyền có chỗ ở thích đáng theo luật nhân quyền quốc tế và những yêu cầu đặt ra với pháp luật Việt Nam/Right to Adequate Housing under the International Human Rights Law and Questions set forth for Legal System of Vietnam” (2023) 08 Tạp chí Nghiên cứu Lập pháp/Journal of legislation studies p3-13.

<sup>4</sup> OHCHR, “The Right to Adequate Housing - Fact Sheet No. 21/Rev.1”, online: *OHCHR* <[https://www.ohchr.org/sites/default/files/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf)>.

<sup>5</sup> *Universal Declaration of Human Rights*, 1948.

<sup>6</sup> *International Covenant on Economic, Social and Cultural Rights*, 1966.

<sup>7</sup> ICESCR Committee, “General comment No. 4: The right to adequate housing”, (1991), online: *OHCHR* <<https://www.refworld.org/legal/general/cescr/1991/en/53157>> at para 7.

aspects of the right that must be taken into account for this purpose in any particular context. such as legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; cultural adequacy.<sup>8</sup> The right to adequate housing includes benefits such as Security of ownership rights; the right to compensation for housing, land, and assets; Equal and non-discriminatory access to adequate housing; And the right to participate in decision-making related to housing at national and community levels.<sup>9</sup>

Access to adequate housing can be a prerequisite for enjoying certain human rights, including the right to work, health, social security, voting, privacy or education. The ability to earn a living can be severely impaired when a person is displaced after being forced to relocate to a place with no employment opportunities. Without proof of residency, homeless people may not be able to vote, receive social services, or receive health care.<sup>10</sup> Therefore, with the exception of "exceptional cases" where the implementation is consistent with the principles of international human rights law, forced eviction against the will of the occupants is regarded as a flagrant violation of human rights, particularly the right to adequate housing.<sup>11</sup>

The United Nations' international human rights instruments also determine that countries, regardless of their level of development, need to take appropriate measures to exercise the right to adequate housing. In cases where this exceeds its maximum resources, the State may request cooperation from the international community by articles 11(1), 22 and 23 of the ICESCR.<sup>12</sup> In addition, the Committee adopted General Comment No. 4, which recommended that Member States give due priority to social groups living in unfavourable conditions by giving them special attention.<sup>13</sup> Although the most appropriate measures to fully realise the right to adequate housing will vary significantly between States Parties, the Convention requires that each State Party take all necessary steps to that end.<sup>14</sup>

According to the Vietnam Housing Law, social housing is housing that receives State assistance for beneficiaries of housing support policies.<sup>15</sup> Over the years, the Vietnamese government has always prioritized developing and implementing housing development policies for a variety of subjects, particularly social housing development policies for low-income urban residents and workers and laborers in industrial zones, with the goal of ensuring social security and political and economic

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8 *Ibid* at para 8.

9 OHCHR, *supra* note 1.

10 OHCHR, *supra* note 4 at para C.

11 OHCHR, "Fact Sheet No. 25 (Rev. 1): Forced Evictions and Human Rights", (2014), online: *OHCHR* <<https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-25-rev-1-forced-evictions-and-human-rights>>; ICESCR Committee, *supra* note 7 at para 18; Vu Cong Giao, *supra* note 3.

12 ICESCR Committee, *supra* note 7 at para 10; Vu Cong Giao, *supra* note 3.

13 ICESCR Committee, *supra* note 7 at para 11.

14 *Ibid* at para 12.

15 Law No. 27/2023/QH15 dated December 27, 2023 on Housing, 2023 art 2.

stability.<sup>16</sup> The Ministry of Construction reports that by the end of 2021, the country had completed 266 social housing projects, including low-income and worker housing, with a construction size of over 142,000 units and a total area of over 7.1 million m<sup>2</sup>. In 2021, the country completed 17 projects, totaling around 27,800 apartments and 1,390,000 m<sup>2</sup>. From 2021 to 2023, the country has 499 social housing projects with a total of 411,250 units. The government has planned 1,316 land parcels totaling 8,611 hectares for social housing, an increase of 5,252 hectares from 2020.<sup>17</sup>

Although specific results have been achieved, there are opinions that the quantity and total area of social housing built have not yet met the targets set in the National Housing Development Strategy for 2020 and vision for 2030 according to Prime Minister's Decision No. 2127/QĐ-TTg dated November 30, 2011.<sup>18</sup> According to a survey by the MoC, the demand for social housing for low-income workers in industrial zones is about 2.4 million units for 2021-2030. The total existing stock and future supply are equivalent to half of the total demand, and the market is still short by more than one million units.<sup>19</sup> According to a report by the Vietnam General Confederation of Labor, up to now, there were 126 construction projects have been completed, with a construction scale of about 62,700 apartments, with a total area of 3,135,000 m<sup>2</sup>, meeting nearly 30% of the needs of workers.<sup>20</sup> There are now 127 ongoing projects totalling 8,045,000 m<sup>2</sup> with a building scale of roughly 160,900 apartments.<sup>21</sup> In addition, although the 15th National Assembly passed the new Housing Law and Real Estate Business Law at the 6th Session, which include many preferential policies for investors in social housing construction investment projects as well as simplified procedures and conditions for purchasing, renting, and leasing social housing. However, the implementation process is still fraught with difficulties and problems, which has discouraged many investors from investing in the development of social housing, such as the subjects of participation, beneficiaries, investment and construction procedures, purchase and sale management, the length of time to complete investment procedures, and so on.<sup>22</sup> In addition, no restrictions

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16 Nam Khanh, "Nhà ở xã hội: Để cung 'đuổi kịp' cầu/Social housing: To keep up with demand" *Báo điện tử Đảng cộng sản/ Communist Party Electronic Newspaper* (6 April 2024), online: <<https://dangcongsan.vn/cung-ban-luan/nha-o-xa-hoi-de-cung-duoi-kip-cau-662623.html>>.

17 *Ibid.*

18 Nguyen Thi Kim Nha & Nguyen Minh Phong, "Thực trạng nhà ở xã hội hiện nay và một số giải pháp để phát triển/Current status of social housing and some solutions for development" *Tạp chí Ngân hàng/Banking Magazine* (25 July 2023), online: <<https://tapchinganhang.gov.vn/thuc-trang-nha-o-xa-hoi-hien-nay-va-mot-so-giai-phap-de-phat-trien.htm>>.

19 "Investors wanted for social housing efforts", (31 May 2023), online: *Vietnam Investment Review - VIR* <<https://vir.com.vn/investors-wanted-for-social-housing-efforts-102236.html>>.

20 "TỔNG KẾT THỰC HIỆN CHÍNH SÁCH PHÁT TRIỂN NHÀ Ở XÃ HỘI VÀ ĐỊNH HƯỚNG DỰ THẢO NGHỊ QUYẾT CỦA QUỐC HỘI THÍ ĐIỂM MỘT SỐ CHÍNH SÁCH NHẪM ĐẨY MẠNH PHÁT TRIỂN NHÀ Ở XÃ HỘI VÀ NHÀ LƯU TRÚ CÔNG NHÂN KHU CÔNG NGHIỆP/Summary of the implementation of social housing development policies and orientation of the draft resolution of the National Assembly to pilot a number of policies to promote the development of social housing and workers' accommodation in industrial parks", (11 April 2023), online: *Hỗ trợ pháp lý dành cho doanh nghiệp/Legal support for businesses* <<https://htpldn.moj.gov.vn/Pages/chi-tiet-tin.aspx?ItemID=1920&l=Nghiencuutraodoi>>.

21 *Ibid.*

22 *Ibid.*

allow businesses and cooperatives to buy, rent, or hire-purchase social housing, although these companies must rent to their employees.<sup>23</sup>

How can the effectiveness of implementing the regulations on citizens' right to access social housing be improved? What are the main challenges/barriers to the legal and practical enjoyment of this right in Vietnam? What are the leading solutions to solve this problem? To gradually answer these problems, in Vietnam, up to now, there have been some research initiatives closely related to this topic, such as: the article of Hoang Thi Loan titled "Draft Housing Law (amended) - New Regulations on Land Fund for social housing development" published in *Vietnam Human Rights Journal* (2023); Nguyen Minh Oanh with "Commentary on the 2014 Housing Law" published by labour Publishing House (2018); Nguyen Tran Tuan with "Land Tenure and Land Acquisition Enforcement in Vietnam" *SAGE Open* (2023), Pham Minh Do with "Beneficiaries of social housing policy in Vietnam: Comparison with some countries in the world" on *Vietnam Lawyer Journal* (2024); Ta Quynh Hoa Hoa & Pham Dinh Tuyen, "Social Housing for Workers in Industrial Zones in Vietnam - Concepts and Practical Solutions towards Sustainable Development. The Case Studies of Hanoi City" (2021) 12:1 *International Journal of Sustainable Construction Engineering and Technology*. etc. The findings of these studies mainly address the issue of land ownership or social housing ownership from a Civil law and Land law perspective. Very few papers look at access to social housing under human rights law. However, it is indisputable that these studies have helped to establish a core theoretical foundation and are a significant reference source for the further development of studies on the same topic, including this article.

From perspective, in this article, we will not go into detail on land ownership rights, but rather focus on the legal and practical measures relating to low-income people's legal and valuable access to social housing in Vietnam. Based on this goal, using synthesis methodologies to collect and assess relevant documents and data based on a comparative approach between international and national standards, the following article will focus on (i) clarifying the legal and practical issues of ensuring access to social housing in international and national level; (ii) pointing out the challenges and "lack" of legal in this field in Vietnam; From there, (iii) providing suggestions for Vietnam to implement effectively this right of Vietnamese citizen in the coming time.

## II. ACCESSING TO SOCIAL HOUSING AS A CONTENT OF THE RIGHT TO ADEQUATE HOUSING IN VIETNAM'S POLICIES AND LAWS

Recognizing the significance and humane purpose of building and developing social housing for low-income people in society, in recent times, the Party and State of Vietnam have always paid special attention and considered the solution of housing for people a social security issue, an essential task in the country's socioeconomic development through each period, as evidenced by the documents and Resolutions

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23 Nam Khanh, *supra* note 16.

of the National Party Congresses.<sup>24</sup> In general, regulations on social housing in Vietnam have been issued relatively fully up to this point, with many groundbreaking innovations to promote the development of social housing, particularly preferential policy mechanisms to support the development of social housing to address the urgent housing needs of social policy beneficiaries, including low-income urban residents.<sup>25</sup>

As a member of the international community, in recent years, Vietnam has always upheld the spirit and responsibility of ensuring fundamental human rights in general and the right to access housing in particular. Although it is a developing country with many challenges in economic development resources, the Government of Vietnam always pay attention to and prioritize ensuring the people's fundamental rights, including access to social housing and special subjects.

Article 59(3) of the 2013 Vietnam Constitution further states that "The State shall adopt housing development policies and create the conditions for everyone to have his or her own home", "right to own housing"(art.32(1), and "right to have a lawful place to live"(art.22) are all guaranteed to citizens. Implementing the 2013 Constitutional regulations has resulted in the issuance of numerous legal documents on social housing development to ensure residents' right to access social housing efficiently. Generally, the legal framework for social housing development has been established relatively fully, and it includes numerous ground-breaking innovations to encourage the creation of social housing, particularly the primary mechanisms to assist in the construction of social housing to meet the beneficiaries of social policies' urgent housing needs, which include low-income urban residents.<sup>26</sup>

### 1. The Right to Access Social Housing in Vietnamese Legal System

The 2013 Constitution - the fundamental law currently in effect, there are also moral regulations on ensuring the right to access housing in general and social housing in particular. Accordingly, Article 22(1) of the 2013 Constitution recognized that "*citizens have the right to have a legal place of residence*" and Article 59(3) also recognized that the policy on housing development in general, in society in particular through the recognition that "*the State has a housing development policy, creating conditions for everyone to have a place to live*". Although these regulations do not directly recognize people's right to access social housing, this is the basis for competent agencies to concretize regulations on social housing in general and the right to access social housing for people in particular.

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24 "Tổng kết thi hành chính sách phát triển nhà ở xã hội và định hướng dự thảo nghị quyết của quốc hội thí điểm một số chính sách nhằm đẩy mạnh phát triển nhà ở xã hội và nhà lưu trú công nhân khu công nghiệp/Summary of the implementation of social housing development policies and orientation of the draft resolution of the National Assembly to pilot a number of policies to promote the development of social housing and workers' accommodation in industrial parks", (11 April 2023), online: *Hỗ trợ pháp lý dành cho doanh nghiệp/Legal support for businesses* <<https://htpldn.moj.gov.vn/Pages/chi-tiet-tin.aspx?ItemID=1920&l=Nghiencuutraodoi>>.

25 *Ibid.*

26 *Ibid.*

Housing Law No. 65/2023/QH15 was passed by the 15th National Assembly, 6th Session on November 27, 2023, with 13 Chapters and 198 articles, of which 1 Chapter (Chapter 6) is dedicated to regulating social housing policies.<sup>27</sup> One could argue that this new chapter of the law is crucial to institutionalising the Party's plans to create a market economy in social housing that is orientated towards socialism. On July 26, 2024, the government issued Decree No. 100/2024/ND-CP to implement social housing programs from the 2023 Housing Law. In general, the 2023 Housing Law, Decree No. 100/2024/ND-CP, has stipulated many contents related to social housing issues, such as: (1) specifically regulating 12 groups of subjects, primarily those with housing difficulties who are entitled to housing support policies, such as people who have rendered meritorious services to the revolution, workers, and low-income urban residents; (2) Specify preferential mechanisms for investors in social housing construction, such as exemption of land use fees and land rent for the entire land area of the project; investors do not have to carry out procedures for determining land prices, calculating land use fees and exempted land rent and do not have to carry out procedures to request exemption of land use fees and land rent, enjoy preferential value added tax and corporate income tax according to the provisions of the law on tax, enjoy a maximum profit of 10% of the total construction investment cost for the area of social housing construction, preferential loans, and support for infrastructure construction costs<sup>28</sup>; (3) Regulations on land funds for social housing development for commercial housing development projects, urban development investment projects, and industrial parks<sup>29</sup>; (4) types of houses, standards of social housing area<sup>30</sup>; (5) procedures for selecting investors<sup>31</sup>; (6) capital mobilization<sup>32</sup> etc.

Furthermore, the Government's Resolutions on perfecting policy mechanisms and allocating capital sources for social housing development include Resolution No. 02/NQ-CP dated January 7, 2013, which proposes several solutions to remove production and business difficulties, support the market, and resolve bad debts; Resolution No. 41/NQ-CP dated April 9, 2020; Resolution No. 84/NQ-CP dated May 29, 2020; and Resolution No. 58/NQ-CP dated June 8, 2021. The Prime Minister has also made numerous Decisions and Directives to execute policies promoting the construction of social housing, among other things. The provisions of the Housing Law, as well as the documents guiding its implementation, have established a relatively complete and specific legal corridor for regulating the majority of the activities of organizations, individuals, and related entities involved in the development and management of social housing.<sup>33</sup>

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Law No. 27/2023/QH15 dated December 27, 2023 on Housing, supra* note 15 art 85.

<sup>29</sup> *Ibid* art 83.

<sup>30</sup> *Ibid* art 82.

<sup>31</sup> *Ibid* art 84.

<sup>32</sup> *Ibid* art 114.

<sup>33</sup> *Supra* note 20.

a. Diversity of Beneficiaries of Social Housing Support Policies

Previously, the 2014 Housing Law and the Government's Decree No. 100/2015/ND-CP dated October 20, 2015, altered beneficiaries of social housing support measures. There are ten groups of people with housing difficulties are listed in Article 49 of the 2014 Housing Law as eligible for housing support policies, such as those who contributed to the revolution; low-income individuals; poor and near-poor families in urban areas, and households in rural areas that are frequently affected by natural disasters and climate change; workers in agencies and units of the People's police and People's army; employees of businesses both inside and outside the industrial park; officers, professional non-commissioned officers, technical non-commissioned officers, professional soldiers; the subjects have returned the official housing by the provisions of Clause 5, Article 81 of the Housing Law; etc.

Currently, according to the provisions of Article 76 of the 2023 Housing Law, there are up to 12 groups of subjects entitled to social housing support policies, including,

“1. People with meritorious services to the revolution, relatives of martyrs who are eligible for housing improvement support according to the provisions of the Ordinance on Preferential Treatment for People with Meritorious Services to the Revolution; 2. Poor and near-poor households in rural areas; 3. Poor and near-poor households in rural areas in areas frequently affected by natural disasters and climate change; 4. Poor and near-poor households in urban areas; 5. Low-income people in urban areas; 6. Workers and laborers working at enterprises, cooperatives and cooperative unions inside and outside industrial zones; 7. Officers, professional soldiers, non-commissioned officers of the people's armed forces, police workers, civil servants, defense workers and public employees currently serving in the army; people working in secretarial work, people working in other secretarial organizations receiving salaries from the state budget currently working; 8. Cadres, civil servants, and public employees as prescribed by law on cadres, civil servants, and public employees; 9. Subjects who have returned official housing as prescribed in Clause 4, Article 125 of this Law, except for cases of official housing being revoked due to violations of the provisions of this Law; 10. Households and individuals whose land is revoked and whose houses must be cleared or demolished as prescribed by law but have not yet received compensation from the State in the form of housing or residential land; 11. Students of universities, academies, colleges, vocational schools, and specialized schools as prescribed by law; students of public boarding schools for ethnic minorities; 12. Enterprises, cooperatives, and cooperative unions in industrial parks”.

Thus, compared to the provisions of the 2014 Housing Law, there are 02 new groups of subjects added in Clauses 11 and 12, Article 76 of the 2023 Housing Law



to the list of groups of subjects entitled to social housing policies. Vietnamese regulations have regulated more diverse subjects who can enjoy social housing. These are all subjects who are in great need of receiving support from the State on housing.<sup>34</sup>

This regulation shows that the groups of beneficiaries of social housing policies in Vietnam are very diverse. However, the difficult circumstances of these subjects are different. Some people require assistance renting a home, while others lack the land or money to build one. Etc. Therefore, the forms of implementing support policies for these subjects are diverse, ensuring compatibility with each subject's conditions and circumstances and savings while using supporting capital sources. However, to enjoy social housing support policies, these subjects must meet certain conditions as prescribed by law.<sup>35</sup> For example, subjects from clauses 1, 4, 5, 6, 7, 8, 9, and 10 of Article 76 of the Housing Law 2023 who are eligible for social housing incentives in the form of acquiring or hiring social housing must meet the following conditions<sup>36</sup>:

- **Housing conditions:** Subjects specified in Clauses 1, 4, 5, 6, 7, 8, 9 and 10, Article 76 of this Law, in order to be eligible to purchase or hire-purchase social housing, must not yet own a house in the province or centrally run city where the social housing construction investment project is located, must not have purchased or hired-purchased a social house, must not have enjoyed housing support policies in any form in the province or centrally run city where the social housing construction investment project is located, or must have a house owned in the province or centrally run city where the social housing project is located but the average housing area per capita is lower than the minimum housing area; in the case of subjects specified in Points b, c, d, dd, e and g, Clause 1, Article 45 of this Law, they must not be living in official housing;
- **Income conditions:** To be eligible to purchase or hire-purchase social housing, subjects specified in Clauses 5, 6, 7, and 8 of Article 76 of this Law must meet the government's income conditions; subjects specified in Clause 4 of Article 76 of this Law must be poor or near-poor households according to government regulations.

In addition, beneficiaries of social housing policies must have records and documents proving that they are beneficiaries of social housing and are eligible to enjoy social housing policies according to specific regulations in Articles 29 and 30 of Decree No. 100/2024/ND-CP dated July 26, 2024 of the Government detailing a

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34 Pham Minh Do, “Đối tượng được hưởng chính sách nhà ở xã hội tại Việt Nam: So sánh với một số quốc gia trên thế giới/ Beneficiaries of social housing policy in Vietnam: Comparison with some countries in the world” *Tạp chí Luật sư Việt Nam/Vietnam Lawyer Journal* (8 March 2024), online: <<https://lsvn.vn/doi-tuong-duoc-huong-chinh-sach-nha-o-xa-hoi-tai-viet-nam-so-sanh-voi-mot-so-quoc-gia-tren-the-gioi-1709826652-a141606.html>>.

35 *Ibid.*

36 *Law No. 27/2023/QH15 dated December 27, 2023 on Housing, supra* note 15 art 78(1).

number of articles of the Housing Law on development and management of social housing.

#### b. Diverse Forms of Implementing Social Housing Support Policies

Although social housing is housing supported by the State for citizen entitled to housing support policies according to the provisions of the Housing Law<sup>37</sup>, each subject faces different difficulties in establishing housing. If only one form of social housing support is applied, it can lead to a situation where many people still cannot access social housing, or it can lead to a waste of State and society resources. Therefore, the housing law stipulates many forms of implementing social housing support policies to save social resources, ensure that all subjects can access social housing, and solve difficulties in creating accommodation.

According to the provisions of Article 50 of the 2014 Housing Law, lawmakers have recognized eight forms of implementing housing policies as follows: First, selling social housing; Second, social housing rental; Third, rent-purchase social housing; Fourth, support for new housing construction; Fifth, support for house renovation and repair; Sixth, the residential land allocation has exemption or reduction of land use fees according to the provisions of land law; Seventh, donating housing; Eighth, support for preferential loans from the State through the Bank for Social Policies and credit institutions designated by the State to build new or renovate and repair residential houses.

However, it should be remembered that in Vietnam, land ownership belongs to the entire population, and because the State is the representative entity exercising that power, land users do not have ownership rights to it. The State plays a unique function as both a representation of the owner and a unified land management agency across the country. Land ownership in Vietnam consists of three core rights: the right to own, the right to use, and the right to dispose of land. When the state grants land to individuals or groups of people, it simply gives them the right to own and utilize it. The State alone has the right to determine the purpose of land use. That also means that, if required, the State can seize the designated land to carry out economic growth as planned.<sup>38</sup> Similarly, the sale, lease, or delivery of social housing to beneficiaries does not imply that the individual possesses ownership rights to the corresponding land.

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<sup>37</sup> *Ibid* art 3(7).

<sup>38</sup> Nguyen Tran Tuan, "Land Tenure and Land Acquisition Enforcement in Vietnam - Nguyen Tran Tuan, 2023" (2023) 13(1) SAGE Open, online: <<https://journals.sagepub.com/doi/10.1177/21582440231163102>>.

Under article 77 of Housing Law 2023, in each form of implementing this social housing policy, lawmakers determine the beneficiaries and accompanying conditions, specifically:

*(i) Support Through Leasing, Lease-Purchase, and Sale of Social Housing is only Applied to Subjects Prescribed by Law:* Subjects who meet the following qualifications are eligible for social housing support programs through acquiring or hiring social housing:

*First*, housing conditions: these subjects must not own a house in the province or centrally run city where the social housing construction investment project is located, have not purchased or leased social housing, have not benefited from any form of housing support policies in the province or centrally run city where the social housing construction investment project is located, or have a house in the province or centrally run city where the social housing project is located.

*Second*, income conditions: to be eligible to buy or rent social housing, one must meet the income conditions as prescribed by the Government. Specifically: For the subjects indicated in Clauses 5, 6, and 8, Article 76 of the Housing Law, the following income standards must be met: (a) If the applicant is single, the real monthly income shall not exceed 15 million VND, calculated using the Wage and Salary Table confirmed by the agency, unit, or enterprise where the applicant works. If the applicant is married under the provisions of the law, the applicant and his/her spouse must have a total actual monthly income received that does not exceed 30 million VND, calculated according to the Wage and Salary Table confirmed by the agency, unit, or enterprise where the applicant works; (b) Time to determine income conditions within one year of submitting a valid application to the investor to register to buy or lease-purchase social housing.

For subjects specified in Clause 5, Article 76 of the Housing Law without a Labor Contract, if single, the actual monthly income received shall not exceed 15 million VND; if married according to the provisions of the law, the applicant and his or her spouse shall have a total actual monthly income received of not more than 30 million VND. Within 07 days of receiving the confirmation request, the People's Committee at the commune level shall confirm the income condition for 01 consecutive years from the date the subject specified in this Clause submits a valid application to the investor to register to buy or rent-purchase social housing.

*(ii) Assistance in building new homes, remodelling existing ones, repairing them, or supporting the distribution of residential land with a decrease in land use fees in accordance with the law is provided under the target housing programme for eligible subjects.* The following categories would receive land or housing donations are applicable: Poor and almost poor households in rural areas; people with meritorious services to the revolution by the provisions of the law on preferential treatment for people with reasonable services to the revolution. To receive this form of support, relevant subjects must meet the conditions prescribed in the decision approving the corresponding target housing program of the competent state agency.

*(iii) Support for preferential lending from the State through the Bank for Social Policies and credit institutions designated by the State to build new or renovate and repair residential houses is only applicable to the following subjects as follows: People with meritorious services to the revolution according to the law on preferential treatment for people with meritorious services to the revolution; Low-income people, poor and near-poor households in urban areas; Workers working at enterprises inside and outside the industrial park; Officers, professional non-commissioned officers, technical non-commissioned officers, professional soldiers, workers in agencies and units of the people's police and people's army; Cadres, civil servants and public employees according to the provisions of law on cadres, civil servants and public employees. Similar to other forms, subjects eligible for social housing incentives under this group of forms must also meet the following conditions:*

Firstly, people who have land but do not have a house or have a house but the house is damaged or dilapidated. This condition is understood to mean that people who are eligible for social housing support policies have land allocated by the state, have received land use rights transfer from another entity, have inherited land use rights, and have been granted a land use right certificate for that land. However, due to difficult economic circumstances, they are not financially able to pay the costs of building a house on that land. Alternatively, there may be people who have legally owned land and have built a house on that land, but the house is damaged and dilapidated to the point that it cannot be used normally. They are facing financial difficulties and cannot pay the costs of repairing and renovating the damaged and dilapidated house. Setting this criterion is quite reasonable, because only people who are in financial difficulty to the point of being unable to pay for new construction expenses or costs of restoring and repairing dwellings require state assistance through social housing laws. To demonstrate this condition, beneficiaries of social housing policies must have records and documentation indicating that they are social housing beneficiaries and are eligible to receive social housing policies under the terms of the legislation. Beneficiaries of social housing programs can demonstrate this situation by requesting proof from the agency or unit where they work regarding their monthly income, which must be low in accordance with the legislation. The income level used as a limit to determine low income when determining the conditions for enjoying preferential policies on social housing will be determined in each case. However, determining the income level considered low income for this group of subjects is also limited to 01 consecutive years, calculated from when the subject specified in this clause submits a valid application to the investor to register to buy or rent-purchase social housing.<sup>39</sup>

Secondly, have permanent residence registration in the locality where there is residential land or housing that needs to be newly built or renovated or repaired. This condition ensures strict control over whether those who register to buy social housing and other social housing policies are eligible for preferential social housing policies. Furthermore, determining which low-income level is also linked to each locality's living conditions and circumstances. Avoid the situation where “poor people”,

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<sup>39</sup> Decree No. 100/2024/ND-CP dated July 26, 2024 of the Government detailing a number of articles of the *Housing Law on the development and management of social housing*, 2024 art 30.

according to the standards in this locality, register to enjoy preferential social housing policies in another locality while their income level compared to the locality with social housing may be in the “rich” group. Each set of individuals who satisfy the legal requirements will therefore be eligible for a distinct social housing support programme. All forms of social housing policy implementation described above are entitled to individuals who have participated in the revolution. This rule demonstrates the State's reciprocity policy, respect, and thankfulness.<sup>40</sup> Conversely, students attending public ethnic boarding schools and those attending academies, universities, colleges, and vocational schools are the only ones who stand to gain from a single favoured policy regarding social housing. Only social housing is available to this group of persons, and only while they are enrolled in classes. The remaining subjects benefit from two or more preferential policies in the meantime.

The regulation of diverse forms of social housing support mentioned above is an essential factor that positively affects people's access to social housing under challenging circumstances. At the same time, specifying eligibility conditions and principles for implementing social housing support policies also creates transparency in applying the law<sup>41</sup>, and avoid a situation where rich people or people with high incomes enjoy social housing policies while poor people and people in difficult circumstances cannot access them. This problem has occurred in Vietnam's large cities, most notably Ho Chi Minh City and several sections of the Mekong Delta. An investigation into the resettlement rate of people in a slum in Vietnam to the resettlement area of a project found that the resettlement rate was surprisingly low because people in the slum could not meet the financial requirements to move to new social housing apartments, while a large number of people outside the slum area settled in these resettlement apartments.<sup>42</sup>

### c. Incentives for Businesses Implementing Social Housing Construction Projects

To ensure the implementation of social housing support policies, there must be active participation from real estate businesses. However, social housing is not only low-profit but also very tightly managed. In the end, real estate businesses only have a small part of their social responsibility to contribute to the Government and relevant ministries and localities with high levels of urbanization to build social housing.<sup>43</sup> To ensure active participation from real estate businesses, lawmakers have introduced preferential regulations for investors of social housing construction projects, such as Exemption from land use fees and taxes. Land lease; Tax exemption and reduction; Receive preferential loans from the Bank for Social Policies and credit institutions

40 Nguyen Minh Oanh, *Commentary on the 2014 Housing Law* (Hanoi: Labor Publishing House, 2018) at 139.

41 *Law No. 27/2023/QH15 dated December 27, 2023 on Housing*, *supra* note 15 art 52.

42 Ducksu Seo, Youseung Shin & Youngsang Kwon, “Property ownership and resettlement options in Vietnam: the case of District 8, Ho Chi Minh City” (2022) 26:1 *International Journal of Urban Sciences* 129-147.

43 Thanh Huong, “Nhà ở xã hội: Vì sao khó tiếp cận?/Social housing: Why is it difficult to access?”, (31 May 2023), online: <<https://vov.vn/xa-hoi/nha-o-xa-hoi-vi-sao-kho-tiep-can-post1023507.vov>>.

operating in Vietnam; Receive full or partial support from the Provincial People's Committee for investment in building technical infrastructure systems within the scope of social housing construction projects;etc. These preferential policies are essential in promoting strong participation from real estate businesses in implementing social housing construction projects. It creates opportunities for relevant subjects to access social housing policies easily.

#### d. Regulations on Rental Prices, Rental Purchase Prices, and Selling Prices of Social Housing

A contract is fundamentally an agreement between the parties to define terms that acknowledge each party's rights and responsibilities. However, persons in challenging situations will not be able to obtain social housing if real estate corporations are allowed to freely establish the rental prices of social housing, as well as sale prices. Thus, politicians have recognised legislation to restrict rental costs and the prices at which social housing is sold to guarantee these subjects' right to access social housing. In particular:

In the case of social housing invested by the State, the determination of rent and rent-purchase price of social housing is carried out as follows: When a house is rented, the monthly rent includes both the cost of house upkeep and the cost of recouping investment capital for the construction of new housing within a minimum of 20 years after the lease is signed. The cost of recovering investment capital in housing development is not included in the rental housing fees for students; only operating management and maintenance costs are. In the event of a lease purchase of housing, the lease purchase price is determined to be at least five years from the date of the lease purchase contract's signature, and it must cover the entire cost of recovering investment capital in housing development. At the same time, land use fees and land rent are not included in the land area for social housing construction. In particular, the rent and rent-purchase price of social housing will be regulated by the Ministry of Construction, the Ministry of National Defense, the Ministry of Public Security or the Provincial People's Committee.

For social housing that is not invested in and built by the State, the rental price, rental purchase price, and housing selling price are determined as follows: (i) The investor determines social housing rental price based on fully calculating housing maintenance costs, Cost of recovering investment capital for housing construction, loan interest (if any), profit norms according to Government regulations and excluding State incentives; (ii) The rent-purchase price of social housing is determined as the social housing rental price, minus housing maintenance costs paid by the tenant according to regulations; (iii) The project investor determines the selling price of social housing based on calculating all costs to recover investment capital in housing construction, loan interest (if any), and profit norms according to regulations of the Government and does not include State incentives for investors. Determining the rental price and purchase price of social housing must be done through the price appraisal process, and the investor constructing social housing reports to the Provincial People's Committee where the social housing is located.

It is evident from the legislation governing the rental price, selling price, and rental price of social housing that enterprises that develop social housing for people are not eligible for tax breaks, building land incentives, or other incentives.<sup>44</sup> This can be considered an important regulation to ensure access to social housing for people with low income or difficulties in establishing housing.

#### e. Regulations on Sale, Lease, and Lease Purchase of Social Housing

To ensure that people can exercise their right of access to social housing, in addition to the regulations mentioned in the above content, lawmakers also introduced many regulations to control selling and buying activities. rent, rent-buy social housing. As follows:

*(i) For leasing or lease-purchase of social housing:* The minimum term of the social housing lease contract is 05 years, and the minimum payment term for social housing lease purchase is 05 years from the date of signing the housing lease purchase contract. The lessee or rent-purchaser of social housing is not allowed to sell, sublease, or lend the house during the rental or lease-purchase period; If the lessee or rent-purchaser no longer needs to rent or lease-purchase the house, the contract will be terminated and the house must be returned.

*(ii) For cases of renting or buying social housing:* When selling social housing, the investor can receive advances from social housing buyers as agreed in the contract but must be at most 70% of the value of the purchased housing before handing over the housing. The buyer must be at most 95% of the value of the purchased house before the buyer is granted a Certificate for that house. The lessee purchase, the new buyer can resell the house in accordance with market mechanisms after five years from the date of full payment of rent and house purchase, and after receiving a Certificate of Payment of land use fees in accordance with Government regulations and income tax in accordance with the provisions of tax law. If, after paying the full price for the house within five years, the buyer or lessee decides they would like to sell it, they can only do so to the social housing management unit or to another organisation that is qualified to purchase social housing, provided the unit is not purchased at a price higher than that of similar social housing that is being sold at the same location and at the same time of year and does not incur personal income tax.

Enforcing the principles of implementing social housing regulations is the goal of controlling the rental, lease purchase, and sale transactions of social housing between investors and residents and between residents. These laws make it clear that "The leasing, leasing, and selling of social housing must comply with the provisions of law". Furthermore, these regulations aim to prevent taking advantage of loopholes in the law to profit from policies, enjoy unjustified benefits, and not be by the law.<sup>45</sup> Preventing this violation ensures effective law enforcement and people's right to access social housing.

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<sup>44</sup> Report No. 11/TTr-BXD dated January 30, 2023 on the Housing Law Project (amended), by Ministry of Construction (2023) at 26-27.

<sup>45</sup> *Ibid* at 18.

#### f. Implementing Several Social Housing Development Policies Will Create Conditions for People to Access Social Housing

(i) The social housing development policies in the Housing Law and its guiding documents have helped millions of households in urban areas who cannot afford housing under the market mechanism have the opportunity to create, build and improve housing. According to data compiled by the Ministry of Construction, across the country, 301 social housing projects in urban areas and industrial park worker housing have been completed, with a construction scale of more than 155,800 units, with a total area of more than 7,790,000 m<sup>2</sup>. maintaining the deployment of 401 projects totaling 22,718,000 m<sup>2</sup>, with a construction scale of roughly 454,360 units. Of these, 245 projects ranking 300,000 apartments are undergoing investment procedures, and 156 tasks with a scale of 156,700 apartments are currently being built.<sup>46</sup>

(ii) The policy of building about 1 million social housing apartments is important in ensuring people's right to access social housing. On April 3, 2023, the Prime Minister signed Decision 338/QĐ-TTg approving the Project "Investment in building at least 1 million social housing units for low-income people and industrial park workers in the phase 2021 - 2030". The project aims to build social housing at suitable costs for urban middle-class and low-class households as well as labourers and workers in industrial zones. There will be 1,062,200 completed units in the communities by 2030. Of them, roughly 428,000 units will be finished in 2021-2025, and approximately 634,200 units will be finished in 2025-2030. The Party and State are paying timely attention, and our nation's social housing initiatives are moving forward. According to information from the Ministry of Construction, in the first quarter of 2023, the country had 418 social housing projects (including projects under construction and projects with approved investment policies) being implemented, with a construction scale of about 432,400 units. Currently, non-state commercial banks are also being encouraged to participate, lending credit packages to investors and social housing buyers from time to time. To address the enormous demand for housing among the populace, the government in each locality facilitates the development of social housing and actively supports the programme.<sup>47</sup> Preferential housing policies will be available if the Project "Investing to build at least 1 million social housing units for low-income people and industrial park workers in 2021 - 2030" is completed. As society's population grows, so will the realisation of every individual's entitlement to social housing for those who truly need it.

<sup>46</sup> Thanh Huong, *supra* note 43.

<sup>47</sup> Le Tham, "Để người lao động tăng cơ hội tiếp cận nhà ở xã hội: Cần rút ngắn thủ tục đầu tư/For workers to increase opportunities to access social housing: Need to shorten investment procedures", *Báo Lao động thủ đô/Capital Labor Newspaper* (16 May 2023), online: <<https://laodongthudo.vn/de-nguoi-lao-dong-tang-co-hoi-tiep-can-nha-o-xa-hoi-can-rut-ngan-thu-tuc-dau-tu-155889.html>>.



(iii) The preferential policy on loan interest rates for low-income workers to access social housing is an important policy that contributes to realizing people's right to access social housing. The State has numerous regulations and policies to encourage the building of social housing in order to establish the circumstances necessary for low-income workers to have greater access to social housing. The Prime Minister approved Decision 486/QĐ-TTg, which provides favourable loan interest rates of 4.8% per year for the purchase, rental, purchase of social housing, construction of new homes, and renovation and repair of existing residential properties on May 10, 2023. This Decision takes effect from May 10, 2023 to December 31, 2024. Previously, the Government also announced a credit package of VND 120,000 billion for social housing loans. Four state-owned commercial banks are lending: Agribank, BIDV, Vietcombank, and VietinBank. Loan subjects belong to social housing projects, worker housing, renovation projects, and reconstruction of old apartments; Borrowers are investors and home buyers of projects. According to this credit package, the interest rate for investors will be 8.7%/year, and the interest rate for individuals will be 8.2%. 1.5-2% lower than normal lending interest rates of four state-owned commercial banks. The preferential loan period is 3 years for investors and 5 years for home buyers.<sup>48</sup> It can be seen that preferential policies for investors and low-income workers are the most important factor in ensuring people's right to access social housing.

### III. CHALLENGES VIETNAM FACES IN PUTTING THE RIGHT TO SOCIAL HOUSING INTO PRACTICE

*First, the land fund for social housing development is limited:* The Housing Law set aside 20% of the land fund for commercial housing construction for social housing development causes many localities to allocate land funds only for social housing construction in commercial housing projects without independent land fund locations for social housing development.<sup>49</sup> This regulation required all commercial housing investment projects to reserve land funds for social housing development without relying on local housing development programs and plans; planning and land use plans; urban planning; Geographical economic conditions of each locality. In addition, the development of social housing investment projects might encounter numerous challenges when commercial developers abandon unfavourable land into the social housing fund without providing compensation or obtaining site clearance.<sup>50</sup> Furthermore, increasing social housing prices is a significant barrier to exercising people's right to access social housing.<sup>51</sup>

*Second, procedures related to accessing social housing are still cumbersome and complicated:* Although there are regulations on subjects and conditions to buy social housing in Articles 76 and 78 of the Housing Law 2023 and Articles 29 and 30 of Decree No. 100/2024/ND-CP dated July 26, 2024 of the Government detailing a

<sup>48</sup> *Ibid.*

<sup>49</sup> Law No. 27/2023/QH15 dated December 27, 2023 on Housing, *supra* note 15 art 54(3).

<sup>50</sup> Van Thuong Le, Tuan Tran, & Truc Truong, *Towards eco-social housing in Vietnam: challenges and opportunities* (MATEC Web of Conferences, 2018).

<sup>51</sup> Ministry of Construction, *supra* note 44 at 23-24.

number of articles of the Housing Law on development and management of social housing (formerly Housing Law 2014, and Decree No. 100/2015/ND-CP and Decree No. 49/2021/ND-CP amending several articles of Decree No. 100/2015/ND-CP on social housing development and management), in reality, the majority of people who have a real need to buy social housing find it difficult to meet the right subjects and conditions. Subjects who can buy, rent, or lease-purchase social housing must meet all two conditions: accommodation, residence, and income. This limits low-income people's right to buy a house when they must ensure complete documents (confirmation of not having a house, proof of residence, confirmation of income, bank loan, etc.). It is the leading factor that discourages both investors and social housing buyers.<sup>52</sup> This inadequacy makes many people eligible for preferential social housing policies unable to access social housing.

*Third, housing prices in general and social housing in particular are still too high compared to people's income level:* Vietnam's average income per capita is still low compared to the region and the world, averaging about 6.7 million VND/month in 2022.<sup>53</sup> However, real estate prices in general, purchase prices, rental prices, and social housing rental prices in particular are still higher than this income level. In fact, with an income of about 6-9 million VND/month, workers will be able to buy housing. Therefore, up to 80 - 90% of workers have to rent accommodation in residential areas. According to survey results in 16 provinces and cities, up to 41% of business workers want suitable, cheap housing close to the workplace and guaranteed to live.<sup>54</sup>

*Fourth, investment capital for social housing is still low:* Credit capital to cover interest rates for project investors and those eligible for preferential loans to buy or rent-purchase social housing (including industrial park workers) still needs to be improved compared to needs. According to data reported by the State Bank, this Bank has proposed to arrange the medium-term public investment plan for capital needs to support social housing in the 2016-2020 period of VND 18,977.5 billion (in Capital allocated to the Bank for Social Policies is 9,000 billion VND; capital assigned to cover interest rates for 04 commercial banks supporting social housing loans is 9,977.5 billion VND).<sup>55</sup> However, the Bank for Social Policies has only been allocated VND 2,163 billion (only 24% of the need for the 2016-2020 period). For credit institutions designated by the State, the capital still needs to be allocated to

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<sup>52</sup> Thanh Huong, *supra* note 43.

<sup>53</sup> Tran Nhu Trung, "Tiếp cận nhà ở xã hội từ góc nhìn thị trường/Approaching social housing from a market perspective", *Báo Nhân Dân điện tử/People's Electronic Newspaper* (5 May 2023), online: <<https://nhandan.vn/post-751190.html>>.

<sup>54</sup> "Xây dựng 1 triệu căn hộ nhà ở xã hội: Vấn đề là tổ chức thực thi/Building 1 million social housing apartments: The problem is implementation", *Báo Chính Phủ điện tử/Electronic Government Newspaper* (2 May 2023), online: <<https://xaydungchinh sach.chinhphu.vn/nha-o-xa-hoi-mo-khoa-cho-rat-nhieu-van-de-nan-giai-119230502042048258.htm>>.

<sup>55</sup> *Supra* note 20.

compensate interest rates for social housing loans. Therefore, in 2016-2020, no social housing project investor had access to preferential loans.<sup>56</sup>

*Fifth, the number of social housing is still small, not enough to meet people's needs:* As analyzed in Introduction part, the country has completed 301 social housing projects in urban areas and industrial park worker housing, with a construction scale of about 155,800 units. Continuing to deploy 401 projects, with a construction scale of about 454,360 units; Of which, 245 projects with a scale of 300,000 apartments are carrying out investment procedures and 156 projects with a scale of 156,700 apartments are under construction. Although investment in developing social housing and worker housing has achieved some important results.<sup>57</sup> However, with the completion of 7,790,000 m<sup>2</sup> of social housing floors, only about 65% of the target set for 2020 has been achieved, while the needs of low-income people in urban areas, including public personnel and armed forces are very large.<sup>58</sup> The Ministry of Construction released information showing that, between 2015 and 2022, 3,823 housing projects were approved nationally. Of them, more than 2,500 were commercial housing projects (66.6%), 483 were social housing projects (12.6%), and 350 were resettlement projects (9.15%). Approximately 440,000 apartments of social housing are needed nationally between 2011 and 2030. However, hardly more than 30% of the plan has been implemented.<sup>59</sup>

*Sixth, the regulations on income levels for enjoying social housing policies are not suitable:* According to Article 78 of the 2023 Housing Law, one condition that many groups of subjects wishing to enjoy preferential policies on social housing must meet is the income condition as prescribed by the Government. Accordingly, the Government has issued Decree No. 100/2024/ND-CP dated July 26, 2024, detailing several articles of the Housing Law on the development and management of social housing. According to Article 30 of this Decree, the income level required to qualify for preferential social housing policies for single people is no more than 15 million VND per month, calculated using the Wage and Salary Table confirmed by the agency, unit, or enterprise where the subject works. If the applicant is legally married, the applicant and his or her spouse must have a total monthly income of no more than 30 million VND, computed using the Salary and Wage Table validated by the agency, unit, or organization where the applicant works. This means that a single person with a monthly salary greater than 15 million VND is ineligible for preferential social housing programs, regardless of whether that income is sufficient to cover living expenses. This regulation is unreasonable when the subjects who must meet this condition are those living in urban areas or cadres, civil servants, and public

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<sup>56</sup> *Ibid.*

<sup>57</sup> Bao Yen & Nghia Duc, “Tiêu chí, điều kiện hưởng chính sách hỗ trợ nhà ở xã hội: bảo đảm bao trùm đối tượng cần và phù hợp với thực tiễn/Criteria and conditions for social housing support policies: ensuring coverage of those in need and consistent with reality”, (24 April 2023), online: *Cổng thông tin điện tử Quốc hội/National Assembly Electronic Portal* <<https://quochoi.vn/tintuc/Pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=75186>>.

<sup>58</sup> *Ibid.*

<sup>59</sup> Nguyen Quang, “Chính sách về nhà ở xã hội: Thách thức và giải pháp”, (7 May 2023), online: *Báo Kinh tế đô thị/Urban Economics Newspaper* <<https://kinhhtedothe.vn/chinh-sach-ve-nha-o-xa-hoi-thach-thuc-va-giai-phap.html>>.

employees who mostly live in urban areas. Meanwhile, the living and living expenses in big cities like Hanoi and Ho Chi Minh City are costly, so an income of 15 million can only cover one person.

#### IV. RECOMMENDATIONS TO ENSURE CITIZENS' RIGHT TO ACCESS SOCIAL HOUSING IN VIETNAM

*Firstly, continue to improve policies and laws on social housing to ensure people's right to access housing.* According to the study of Ta Quynh Hoa & Pham Dinh Tuyen (2021), housing is the most important factor in developing human resources and contributing to social progress. If guaranteed, this factor will help poor people in general have good physical and mental health, and regenerate labor power, thereby providing a qualified workforce for society. There needs to be significant changes in the awareness and principles of social housing development for people in general and workers in particular: The approach to social housing development needs to be "people-oriented" instead of "towards the project".<sup>60</sup> From that perception, the authors will immediately see the problem is to overcome the shortage of land funds for social housing development, determining the land funds should not be the responsibility of housing investors, it should be stipulated that is the duty of the Provincial People's Committee. Regulations in this direction will demonstrate the state's leading role in implementing social housing policy.<sup>61</sup> At the same time, regulations in this direction will increase responsibility and initiative for local authorities. Thereby ensuring enough land funds for social housing development to meet people's needs.<sup>62</sup>

*Second,* it is better if lawmakers omit or simplify procedures related to people's access to social housing to simplify procedures related to access to social housing. It is necessary to remove the condition "must have permanent residence registration in the province or centrally run city where social housing is located." Article 117 of the 2015 Civil Code stipulates that the place of residence of the parties does not affect whether a civil transaction is completed and meets legal requirements. Because the nature of a social housing lease contract is to transfer the right to use social housing for a certain period without giving rise to ownership of this social housing for the lessee, removing this condition in case of renting social housing will create favourable conditions for ordering and implementing social housing policies for social housing tenants.<sup>63</sup>

*Third, for the price of social housing.* It is necessary to give different solutions to get a favourable cost to social housing. Investors are not interested in social housing projects because these projects often bring low profits. Therefore, to overcome the

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60 Ta Quynh Hoa & Pham Dinh Tuyen, "Social Housing for Workers in Industrial Zones in Vietnam - Concepts and Practical Solutions towards Sustainable Development. The Case Studies of Hanoi City" (2021) 12:1 International Journal of Sustainable Construction Engineering and Technology 240-258.

61 Hoang Thi Loan, "Draft Housing Law (amended) - New regulations on land fund for social housing development" (2023) 2 Vietnam Human Rights Journal at 30.

62 Ministry of Construction, *supra* note 44.

63 Nguyen Van Hoi, "Perfecting social housing policy" (2023) 2 Vietnam Human Rights Journal at 28.

barrier between prices that are too high and incomes that are too low, it is necessary to adjust regulations related to loan support policies for relevant subjects to increase loan limits and repayment periods and reduce loan interest rates. Some financial solutions should be applied, such as the State Bank providing deferred payment loans from monthly salaries, encouraging and supporting the "hire purchase" model, giving workers mortgage loans with low interest rates, and developing the market for construction materials and services related to housing for workers. In particular, it is necessary to establish a Local Housing Fund (LHF) that specializes in supporting workers in renting and buying houses.<sup>64</sup> Furthermore, extending the payment period and allocating funds into numerous instalments to acquire social housing is imperative. Social housing support can be applied flexibly to overcome this restriction. When several alternatives are coupled, the concern of excessive social housing costs won't be a significant obstacle to people's access to social housing.

*Fourth*, capital from the state budget to develop social housing in the recent period has been mainly used to develop social housing and to implement targeted housing programs such as housing for people with meritorious services to the revolution, housing for poor households in rural areas, housing for poor households to prevent storms and floods.<sup>65</sup> Meanwhile, the state budget is limited. This is the factor that makes investment capital for social housing still low. To ensure the principle of "there is a combination between the State, communities, families and beneficiaries of support in implementing social housing policies", it is necessary to increase the use of idle capital in the residential community through mobilizing this capital source for social housing development. Furthermore, it is important to delineate the obligations of localities with regard to augmenting the utilisation of cash allocated for local development investments, encompassing the formerly local housing development fund. People's access to social housing will only be improved and the issue of investment capital for social housing development will be resolved when the State, businesses, and people work together.

*Fifth*, overcoming the situation of limited social housing requires a comprehensive combination of many different solutions, as shown above, including solutions to increase land funds for housing development. In society, solutions related to raising investment capital for social housing development, solutions related to encouraging different economic sectors to participate in social housing development, etc.

*Sixth*, amending regulations that are not practical is another issue that must be addressed in order to effectively execute preferred social housing plans. The preceding research demonstrates that some regulations, particularly those governing the income requirements of recipients of preferential social housing policies, remain unsuitable for implementation. The authors think that it is necessary to amend the regulations on income levels to enjoy social housing incentives in Article 30 of Decree No. 100/2024/ND-CP dated July 26, 2024 of the Government detailing several articles of the Housing Law on the development and management of social housing in the direction that: instead of regulating the monthly income level of no more than

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64 Ta Quynh Hoa Hoa & Pham Dinh Tuyen, *supra* note 60.

65 *Supra* note 20.

15 million for single people, no more than 30 million for married people, it is necessary to regulate the remaining income level after deducting living expenses, living expenses of income earners and those they have to support and provide for. It means that it is necessary to determine the remaining monthly income after deducting the living expenses of the individual and family to determine eligibility for preferential social housing policies. Only then will low-income people have the opportunity to access preferential social housing policies, ensuring that the preferential social housing policies of the State are realized and that the best support for the subjects is provided according to regulations.

## V. CONCLUSION

Making and implementing good social housing policies is one approach to protecting citizens' fundamental rights while demonstrating humanism and a united perspective that places people at the centre, the subject and the goal of national development. Although there are still particular challenges in both legal and practical aspects, such as limitations in the number of social housing projects that have been invested, the process of accessing social housing is still complicated, land funds for social housing have not been deployed synchronously and appropriately, regulations on income levels for enjoying social housing policies are not suitable, it is undeniable that the Vietnamese government has made numerous efforts to develop and implement social housing policies to ensure citizens' access to legal and safe housing in a country that is still facing unique challenges in economic and social development, as well as responding to environmental issues and climate change. To improve and ensure citizens' more effective enjoyment of this right in the future, in addition to perfecting related policies and laws, Vietnam needs to consider perfecting the investigation and assessment stages for social housing needs and expanding the beneficiaries so that everyone can access social housing more quickly. Furthermore, to guarantee increased efficiency in social housing development in the future, appropriate social housing planning, reform, simplification, and expediting of administrative processes, as well as a combination of measures to maintain social housing prices at a fair level.<sup>66</sup>

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