

## USING THE CASE METHOD IN TEACHING THE SOCIAL SECURITY LAW MODULE IN VIETNAM

### *USANDO O MÉTODO DE CASO NO ENSINO DO MÓDULO DE DIREITO DE SEGURANÇA SOCIAL*

### *UTILIZAR EL MÉTODO DE CASO EN LA ENSEÑANZA DEL MÓDULO DE DERECHO DE SEGURIDAD SOCIAL*

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**ABSTRACT:** In recent years, a relatively comprehensive reform process happened in higher education in Vietnam. One of the directions chosen by law training institutions in Vietnam is to apply the "case" method and use the case method in their curricula. The case method, with a practical context, on the one hand conveys the foundation knowledge of the module in a vivid and intuitive way. On the other hand, it equips learners with the method of applying the law, initially provides learners with a number of law practice skills, and at the same time develops learners' thinking and creativity. The article analyzes the meanings and roles of using case law in teaching the social security law module for law bachelors. From there, some suggestions are proposed in the application of the case method in teaching the social security law module at the Law University, Hue University.

**KEYWORDS:** Teaching. Social security. Case book.

**RESUMO:** Nos últimos anos, um processo de reforma relativamente abrangente ocorreu no ensino superior no Vietnã. Uma das direções escolhidas pelas instituições de formação em direito no Vietnã é aplicar o método de "caso" e usar o método de caso em seus currículos. O método do caso, com um contexto prático, por um lado, transmite o conhecimento básico do módulo de uma forma vívida e intuitiva. Por outro lado, ele prepara os alunos com o método de aplicação da lei, inicialmente fornece aos alunos uma série de habilidades na prática jurídica e, ao mesmo tempo, desenvolve o pensamento e a criatividade dos alunos. O artigo analisa os significados e os papéis do uso da jurisprudência no ensino do módulo de direito previdenciário para bacharéis em Direito. A partir daí, são propostas algumas sugestões na

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*aplicação do método do caso no ensino do módulo de direito previdenciário na Faculdade de Direito da Universidade de Hue.*

**PALAVRAS-CHAVE:** *Ensino. Seguridad social. Livro de caso.*

**RESUMEN:** *En los últimos años, se ha producido un proceso de reforma relativamente completo en la educación superior en Vietnam. Una de las direcciones elegidas por las instituciones de formación jurídica en Vietnam es aplicar el método del "caso" y utilizar el método del caso en sus planes de estudio. El método del caso, con un contexto práctico, por un lado transmite el conocimiento básico del módulo de una manera vívida e intuitiva. Por otro lado, equipa a los alumnos con el método de aplicar la ley, inicialmente les proporciona una serie de habilidades para la práctica de la abogacía y, al mismo tiempo, desarrolla el pensamiento y la creatividad de los estudiantes. El artículo analiza los significados y roles del uso de la jurisprudencia en la enseñanza del módulo de derecho de la seguridad social para licenciados en derecho. A partir de ahí, se proponen algunas sugerencias en la aplicación del método del caso en la enseñanza del módulo de derecho de la seguridad social en la Universidad de Derecho, Universidad de Hue.*

**PALABRAS CLAVE:** *Docencia. Seguridad social. Libro de casos.*

## Introduction

In the field of law science, at present, there has been no research works on typical cases of the social security law module and using the case method in teaching the social security law module. From the perspective of using case studies in teaching Law majors there have been a number of related topics such as:

*Building and using legal cases in teaching law science* by Dr. Nguyen Van Tuyen – Hanoi Law University; This work evaluates the content related to identifying cases and how to use cases in teaching law, requirements in using cases in teaching law;

*Legal cases and using case method in teaching law* by Dr. To Van Hoa - Hanoi Law University; This work also has a similar approach to that of Dr. Nguyen Van Tuyen in identifying cases and applying cases in teaching law.

*Developing a set of typical cases and applying experimental teaching of the Social Security Law module at Law University, Hue University* by the MSc research team. Do Thi Quynh Trang, Dr. Dao Mong Diep; MSc.- Post Graduate Mai Dang Luu. This work aims to build a set of typical cases and for experiment teaching of the Social Security Law module at Law University, Hue University in accordance with the detailed outline and the output standards of Law science, economic law. In particular, the work focuses on building a practical basis for the Social Security Law module, a set of typical cases in the field of social

security in order to practice the method of the law application for students in solving legal relations arising in the aforesaid field. At the same time, it reviews the detailed outline, output standards and skills required by the module and builds cases and puts questions to solve the requirements related to knowledge and skills to research, reason and solve actual cases (LUONG, 2021).

The case study is considered a superior method and has been applied quite early in developed countries around the world, but it is also a new method in Vietnam. With the objective of: “Law training requires a combination of theory and practice to ensure the output standards of the training program in terms of knowledge, skills, and attitudes for learners”, Law University, Hue University is a law training institution that is actively promoting to make a case set and experimentally teach in most modules of the law bachelor training program on the basis of implementing grassroots science projects and publishing learning materials, including “social security law” which is a compulsory module in the training program of Law University, Hue University.

Generally, the above studies have mentioned some basic issues of building case method in teaching law in general and social security law in particular. The article inherits those research contents, and at the same time clarifies and specifically studies the unsolved issues about the development and use of the case method in teaching the social security law module.

## **Methodology**

Qualitative research method is considered as the basic method to approach and solve research objectives in jurisprudence, which are: inductive - deductive method; analysis – synthesis method, comparative method. The methods are used in combination based on research and analysis of secondary materials from such sources as: books, dissertations, yearbooks, reports, articles published in scientific research journals, seminars and judgments of the Supreme People's Court to clarify the application of cases in teaching the social security law module. The purpose of the overview research is to evaluate the problems that have been solved, the "unsolved" contents that have not been studied and the issues that need to be inherited and developed.

## Results and Discussion

### **The necessity of applying the case method in teaching the social security law module for law bachelor training in Law University, Hue University**

So far, studies have recognized the United States as the country where the term of social security was born. About the time of its appearance, the term was probably first officially used in the US Social Security Act 1935; whereby Social Security referred to the federal old-age, survivors, and disability insurance system (ILO, 2021). For the term of social security of the World Health Organization (ILO) as officially used in Convention No. 102, social security is construed as the protection of society to its members through a series of public measures to combat economic and social distress, resulting in the cessation or substantial reduction of income due to illness, maternity, occupational accidents, unemployment, disability, old age or death; health care services and support regulations for large families. Based on this concept, Convention No. 102 stipulated the social security regimes including health care, sickness, unemployment, old age, occupational accident, family allowance, maternity allowance, disablement and death (HÀi; HUÔNG, 2011).

In Vietnam, social security is a system of policies and measures widely applied to help members of society overcome difficulties when they face risks of reducing or losing their income and provide health care services (CHI, 2012). Therefore, Vietnam's Social Security System consists of the following main branches:

- Social insurance is the mainstay of the social security system, providing material assistance to employees - the most important force in society in cases where they face risks, resulting in decrease or loss of income sources due to illness, maternity, occupational accidents, occupational diseases, pension, and death. Social insurance is built in two types, compulsory and voluntary (CUONG, 2018). The compulsory social insurance fund is formed on the basis of contributions from the employees, employers and the State; The management and use of this fund is undertaken by the State. Benefits covered in the current social insurance system include sickness benefits, maternity benefits, occupational accident benefits, occupational diseases, unemployment insurance, pension benefits, and death benefits.

- Health insurance is a non-profit form of insurance applied in the field of health care for those who participate in insurance, organized by the State and those who are responsible for participating in it according to the provisions of the Law on Health Insurance. It should be noted that although Vietnam Health Insurance implements the principle of "contribution and

benefit" and mutual assistance, not for profit like social insurance. In addition, the Health Insurance fund is also managed by the social insurance organization (HẢI; HUÔNG, 2011).

- Social relief (Social protection) is construed as a social security regime for community members to help them overcome their immediate and long-term difficulties. This assurance is made by providing finance, money, items, other material conditions for a specific period or throughout the life (lifetime) of the subject (HIỀN, 2017).

- Social incentives are a particular regime of Vietnam's social security system. This regime was established from the distinctive features of Vietnam, a country that has experienced two wars and the very large number of people with meritorious services in the resistance wars, who deserve the worthy treatment of the State. This regime aims to ensure life for those who have contributed to the country and the nation's revolutionary cause, including those who have attached their whole life to the revolutionary cause; the cause of the community, those who are at risk in the process of working for the common cause of the community (PHUÔNG, 2004).

At the Law University, Hue University, the social security law is a compulsory module in the bachelor's program in Economic Law at some current training institutions (UNIVERSITY OF LAW, HUE UNIVERSITY, 2021). On the basis of meeting the output standards, the social security law module is built to provide with basic legal knowledge on social security, social insurance, health insurance, and social relief, social incentives; the meaning of social security in the socio-economic development of the State. Completing the module will help learners understand and be able to apply knowledge related to social security, law on social security, apply knowledge to solve cases and problems related to law on social security, health insurance, social incentives, and social relief (UNIVERSITY OF LAW, HUE UNIVERSITY, 2019). To achieve the output standards as prescribed by the Training Program, the teaching method is one of the important factors.

The survey shows that, at present, at the Law University, Hue University, besides using the traditional teaching method, the lecturers have actively applied the method of teaching law by legal cases occurring in reality and hypothetical cases in lessons and discussions (LUONG, 2021). In legal science, "Case" can be understood with different connotations. In countries where law training is applied the common law tradition, when applying the case method, the case is the judgment as a case law and as a source of law. The purpose of the case method is to find the law in such case law (HONG, 2015). The documents on the law training by the case method are considered to have been formed in the 1870s, when Professor Christopher Langdell initiated to change the teaching methods from classical (mainly

theoretical exposition, while practice is the task of the learner) into the case method when he worked at the Law Faculty of Harvard University (USA) (GARVIN, 2003).

At present, in countries with a civil law tradition, the case method is increasingly widely applied in law training (HONG, 2015). According to the traditional conception of civil law, a "case" is not just a judgment, but can be any event containing legal issues that need to be "resolved" by learners at the request and under the supervision of a lecturer. Therefore, the case here can also be a hypothetical case (HONG, 2015).

From a comparative perspective, when applying the case method, there are certain differences between the common law and civil law. According to professors of Common Law, it is required to bring case into teaching before learners know about the provisions of the law. Through the case, learners learn how to think legally, know what lawyers need to do and how to do it and this is considered more important than whether learners remember the law or not. With this method, students' thinking ability and creativity can be fully exploited. Thus, the case has become a tool and a means through which learners grasp the provisions of the law (BRESLIN; BUCHANAN, 2008). Meanwhile, professors of civil law think that learners need to know and understand the provisions of the law before analyzing and dealing with real cases or vice versa, through analyzing the particulars of the case, learners need to understand how the law regulates this issue. Thus, whether the case is given first, or the law provision is given first, the objective of using the case is to help learners have a more profound understanding of the current legal regulations (BODIE, 2007).

According to the author, the case method in teaching the social security law module can be understood as the lecturer collecting some real case on a certain legal topic (Social insurance, health insurance, social incentives, social protection) in the social security law module and using it to teach law to learners in the school. In this view, the case is understood in a narrow sense to include only actual cases and actual judgments from the court. Teachers never give hypothetical situations to learners to study. Only judgments from practical cases that are long enough with plentiful circumstances and detailed arguments can be served as good teaching materials for teachers. A case based on a judgment may be just the matter being tried, or only a part of it, depending on the purpose from which the teacher wants the learner to achieve the knowledge, method, or skill. Such a case may raise only one or more issues on substantive law or one or more issues on procedural law (HÔNG, 2015).

Assessing the experience of using the case method in teaching modules of human law at the Law University, Hue University through the implementation of fundamental science

topics and application in practice, according to the author, the cases used to teach the social security law module include the followings:

Firstly, Illustrative Cases are used to illustrate practically a content/matter that the lecturer presents in teaching. The material used in the illustrative case is the decisions (judgments, decisions) of the judicial authorities (courts, arbitrators) to convey the practice of the law application and it helps the issue under study become more vivid; So, this requires the cases used to illustrate must be designed by summarizing the important content. The practice shows that several Master theses in economic law on social security at the Law University, Hue University have applied the illustrative case method in the research process.

Secondly, judgements' commenting case. Using the method of judgements' commenting cases, sets learners to the basic task of assessing the adjudication's opinion in the cases, sets learners to the main task of assessing the adjudication's opinion in the decisions (judgments, decisions) of the jurisdiction (court, arbitrator). Using this method, learners can gain skills to identify problems, evaluate, comment, collect information, synthesize, systematize and evaluate issues of social security law (LUONG, 2021). However, in terms of writing technique, the "judgement" contains two elements of substantive law and procedural law, so it is not necessary to take the verbatim judgement and the entire judgement to serve as a case but it depends on the content of the social security law module, irrelevant or unnecessary content may be omitted. The current practice of law training shows that the case method of using judgment has been initially applied in some law training institutions, including articles published in the Legal Science Journal (Journal of People's Court, Journal of Legal Science), and monographs (10 monographs on judgments and judgment commenting on "private law" by Assoc. Prof. Dr. Do Van Dai); or the method of case law commenting, including articles published in the Legal Science Journal (typically a series of "8 articles" on case law commenting by the author Tuong Duy Luong (former Deputy Chief Justice of the Supreme People's Court) and monographs (typically the monograph "case law commenting" of the author Dr. LS Luu Tien Dung; and the Supreme People's Court) (HIẾU; ĐÀO, 2021).

Thirdly, Legal advice case. The case method pays great attention to training reasoning skills, counter-argument skills, and debating skills; thereby stimulating and promoting dynamism and creativity in learners. When practicing lessons, lecturers and learners exchange a lot about the circumstances of the case, the court's arguments and the content of the judgment. Lecturers always find ways to stimulate learners' thinking, direct learners to build arguments for their point of view. The catchphrase that a law professor in the US often tell his students is "Think like a lawyer" (TUYẾN, 2009). Using the legal advice case method

requires learners to actively seek to solve the set problem instead of commenting and analyzing the actual way of solving the problem already made by the jurisdiction. To build this type of legal advice case, it is possible to use material sources such as judgments or client advice records of all kinds. However, the legal advice case may integrate the knowledge and skills requirements of substantive law and procedural law for learners. The case builder can also use the judgment as an advice case for lessons learnt from the case to ask learners to give advice to help the hypothetical litigant avoid disadvantages in that case (HÔNG, 2015).

According to the survey and assessment by the author, the practice of application of the case method in teaching the social security law module during lessons at the Law University, Hue University has the significance of clear illustration for the provisions of the law presented by the lecturer. Learners can participate in the lecture and limit the passive reception of information. At the same time, the class time will be livelier and more effective, avoiding boredom. Discussion hours are a good opportunity to use case studies and judgments in law teaching. However, in the lecture hours, the extent and the way to use the case depends on each topic; and the active participation of learners. To use the case during the discussion, both the learner and the lecturer must prepare for the case. This has a decisive influence on the effectiveness of the use of the case, the judgment and the effectiveness of the lesson. For all learners to participate in the lesson, it is recommended to start with simple questions that anyone can answer, even if they are not fully prepared to deal with the case.

### **Some suggestions in applying the case method in teaching the social security law module at Law University, Hue University**

At present, the use of the case method leads to a feature that is the popularity of "Casebooks" which are the main tools to support teachers in case-based teaching. According to Prof. Wayne L. Anderson and Marilyn J. Headrick, Casebook contains cases for learners to analyze and find out which principles and legal regulations have been applied and how courts have applied those regulations, thereby teach the learners how to "think like a lawyer" (ANDERSON; HEADRICK, 1996). Casebooks are a set of judged court judgments collected and arranged by certain legal topics according to the intentions of the lecturer. Each chapter of the book is designed mostly in the same structure: beginning with a court judgement (or possibly an extract of the essential contents), a few notes, and possibly a few minor hypothetical cases for learners' brainstorm to have a deeper insight into the case, then followed by other cases with the same presentation structure. The importance of the casebook

is in determining the content and approach of each course. In this method, learners have to read the main sources of research from the cases of the judgment and draw their own conclusions, guided by the teacher through dialogue and discussion in the classroom (HÀNH, 2013).

Currently, casebooks have been accepted at several law training institutions in Vietnam through the development of case books at the Ho Chi Minh City University of Law, typical 3 casebooks on Intellectual Property Law; the commercial law on goods and services; and law on contract and compensation for non-contractual damages. Surveying at the Law University, Hue University, the research on using and orienting to build the "case set" in law teaching has been paid much attention and encouraged to be implemented by the affiliated units during the past time. However, due to subjective and objective reasons, casebooks have not yet been deployed for mass publication to be used as learning materials in addition to textbooks in the process of law bachelor training at the Law University, Hue University. According to the author, in order to create a foundation for effectively building and using the "social security law" casebook at the Law University, Hue University in the next time, the specific requirements set forth for lecturers and learners are as follows:

#### ***Firstly, Requirements for lecturers***

- The selected case must follow the outline and content of the Social Security Law module. All cases in the casebook on social security must be built according to a common and unified principle, meeting the requirements of content, objectives, skills, and methods of casebook handling.

- The cases selected in the casebook on social security are associated with some basic skills. Through the teaching process, the lecturer asks the learners to practice the skills learned from solving the case to apply in the process of writing essays or taking tests in class.

- Based on the available cases, the lecturer will give a suggestive orientation for the learners to form the skills of solving certain cases. At the same time, the lecturer encourages learners to work in groups, discover the problem in each case, expand the assumptions made from the cases available in the casebook, and offer many ways to choose the solution.

#### ***Secondly, requirements for learners***

For effective use of the cases and development of the learners' skills, meeting the output standards of Economic Law, learners need to meet the following requirements:

- Finding out lectures and references on the Social Security Law module. Based on the knowledge of the module that learners have accumulated in the process of reading and studying documents, learners will research in advance related cases in the casebook on social security. From there, learners will have an overview of the cases and will have the most effective application. For the problems that they have not understood in the case, learners can ask the teacher to further explain.

- Learners should practice skills to solve cases of social security law. The skills that learners need to cultivate include: skills to determine matters to be clarified and solved in case; Skills to search and apply social security legal documents related to case to be resolved; Reasoning skills to solve cases; The skill of putting questions to clarify issues related to solving situations thoroughly, thereby getting an effective situation.

## Conclusion

The practice of law training in countries around the world and in Vietnam for many years has shown that the use of cases in the teaching process has brought about very positive effects. The effectiveness of the case method teaching is demonstrated using legal cases or real cases, learners have direct access to legal issues in the practice of dispute resolution by the jurisdiction which are sometimes not shown in reference books or textbooks. At the same time, the legal case method creates special attraction to the lecture thanks to the practicality of the research issues and the ability to practice legal skills for learners. Therefore, the use of the case method in teaching the social security law module is very essential in the context of reforming the current higher education training method in our country and especially complies with the training model by credit system.

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