

# THE DEATH PENALTY FOR DRUG CRIMES AND THE POSSIBILITY OF ABOLISHING THE DEATH PENALTY FOR THESE CRIMES IN VIETNAM

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## Abstract

In the Vietnamese Criminal Code, the death penalty is the most severe punishment and shall be applicable to extremely serious and cruel crimes, including drug crimes. The number of drug crimes sentenced to the death penalty in Criminal Code 2015, amended and supplemented in 2017, has reduced compared to that in the previous criminal codes. Regarding drug crimes, this penalty shall be applied for three kinds of crimes (Illegal production; Illegally transporting and illegally trading narcotics). According to the report of the Supreme People's Procuracy, most of the offenders who are sentenced to death penalty by Court are drug crimes.

As one of the countries that still retains the death penalty for a number of crimes, including drug crimes, the abolition of the death penalty is one of the topics on which human rights mechanisms of the United Nations, including Universal Periodic Review and Treaty-based mechanisms, often recommend to Vietnam.

The content of this article is assessing the compatibility of the current provisions of Vietnamese law, including those on applying the death penalty for drug crimes in the Criminal Code with the provisions of the International Covenant on Civil and Political rights on the death penalty. Besides, the article will evaluate the possibility of abolishing the death penalty for drug crimes in Vietnam today. Based on this, some recommendations would be made towards death penalty abolition for these kinds of crimes in the future.

**Key words:** *drug crimes, drug addicts, illegal drug user.*

## Introduction

According to the Report of Amnesty International statistics, as of December 31, 2019, 142 countries in the world have abolished the death penalty in law and in practice, of which 106 countries have abolished the death penalty for all types of crimes, 8 countries have abolished the death penalty for ordinary crimes, and 28 countries have abolished the death penalty in practice. Moreover, according to this organization's report, there are only 56 countries that still maintain the death penalty in their legal systems, including Vietnam<sup>3</sup>.

According to the Criminal Code 2015, drug-related crimes are one of the eighteen crimes which are subject to the death penalty. The trial practice also shows that drug-related crimes are one of the crimes which are often sentenced to death penalty.

Nowadays, Vietnam are members of many treaties on human right, including International Covenant on Civil and Political Rights (ICCPR). Under Article 6 (2) of ICCPR, the death penalty is only applied to the most serious crimes. In Concluding observations on the third periodic report of Viet Nam in 2019, Human Rights Commission recommended Vietnam to reduce the number of crimes subject to the death penalty and retain the death penalty only for the most serious crimes. Besides, this body also recommended Vietnam to ratify or acced to Second Optional Protocol to the Covenant with the aim of abolishing the death penalty<sup>4</sup>.

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<sup>3</sup> Amnesty International report, *Death sentences and execution 2019, Annex II -Abolitionist and retentionist countries as of 31 December 2019* (2020)

<https://www.amnesty.org/download/Documents/ACT5018472020ENGLISH.PDF>, accessed at 2 January 2021.

<sup>4</sup> Human Rights Committee, *Concluding observations on the third periodic report of Viet Nam*, para.23 (2019)

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en), accessed 2 January 2021.

This article is aimed at assessing Vietnam's possibility to abolish the death penalty for the drug crimes on the basis of an analysis of Vietnam's laws on the death penalty for these crimes and the drug crimes situation in Vietnam.

### **1. Provisions of criminal law currently on the death penalty for drug crimes and comparison with the provisions of the Convention on International Covenant on Civil and Political Rights regarding the death penalty 1966**

According to the provisions of The Criminal Code 2015, amended and supplemented in 2017 (hereinafter referred to as The Criminal Code 2015) of Vietnam, the death penalty is a special penalty only imposed upon people committing extremely serious crimes that infringe national security, human life, drug-related crimes, corruption-related crimes, and some other extremely serious crimes defined by this Code. (Article 40). Accordingly, for drug-related crimes, the death penalty is prescribed for three crimes, including: Illegally producing narcotics (Article 248), and illegally transporting narcotics (Article 250) and illegally trading narcotics (Article 251). In Specifically,

+ For the offence of illegally producing narcotics, committing the crime in one of the following circumstances shall be sentenced to 20 years, life imprisonment or death penalty: a) The offence involves a quantity of  $\geq 05$  kg of poppy resin, cannabis resin, or coca glue; b) The offence involves a quantity of  $\geq 100$  g of heroin, cocaine, methamphetamine, amphetamine, MDMA or XLR-11; c) The offence involves a quantity of  $\geq 300$  g of other solid narcotic substances; dd) The offence involves a quantity of  $\geq 750$  ml of other liquid narcotic substances; d) The offence involves  $\geq 02$  narcotic substances the total quantity of which is equivalent to the quantity of narcotic substances specified in Point a through d of this Clause (Clause 4, Article 248).

+ For the offence of illegally transporting narcotics, committing the crime in one of the following circumstances shall be sentenced to 20 years, life imprisonment or death penalty: a) The offence involves a quantity of  $\geq 05$  kg of poppy resin, cannabis resin, or coca glue; b) The offence involves a quantity of  $\geq 100$  g of heroin, cocaine, methamphetamine, amphetamine, MDMA or XLR-11; c) The offence involves  $\geq 75$  kg of coca leaves, khat leaves (*Catha edulis* leaves); leaves, roots, stalks, branches, flowers, fruits of the cannabis plant or parts of other plants that contain narcotic substances prescribed by the Government; d) The offence involves a quantity of  $\geq 600$  kg of dried opium poppy fruits; dd) The offence involves a quantity of  $\geq 150$  kg of fresh opium poppy fruits; e) The offence involves a quantity of  $\geq 300$  g of other solid narcotic substances; g) The offence involves a quantity of  $\geq 750$  ml of other liquid narcotic substances;h) The offence involves  $\geq 02$  narcotic substances the total quantity of which is equivalent to the quantity of narcotic substances specified in Point a through g of this Clause.”(Clause 4, Article 250).

+ For the offence of illegally trading narcotics, committing the crime in one of the following circumstances shall be sentenced to 20 years, life imprisonment or death penalty: a) The offence involves a quantity of  $\geq 05$  kg of poppy resin, cannabis resin, or coca glue; b) The offence involves a quantity of  $\geq 100$  g of heroin, cocaine, methamphetamine, amphetamine, MDMA or XLR-11; c) The offence involves  $\geq 75$  kg of coca leaves (*Catha edulis* leaves); leaves, roots, stalks, branches, flowers, fruits of the cannabis plant or parts of other plants that contain narcotic substances prescribed by the Government; d) The offence involves a quantity of  $\geq 600$  kg of dried opium poppy fruits; dd) The offence involves a quantity of  $\geq 150$  kg of fresh opium poppy fruits; e) The offence involves a quantity of  $\geq 300$  g of other solid narcotic substances; g) The offence involves a quantity of  $\geq 750$  ml of other liquid narcotic substances;h) The offence involves  $\geq 02$  narcotic substances the

total quantity of which is equivalent to the quantity of narcotic substances specified in Point a through g of this Clause.” (Clause 4, Article 251).

Based on the above provisions, it shows that the Vietnam Criminal Code classifies drug crimes into group of extremely serious crimes, subject to the death penalty.

Under Article 6 (2) of International Covenant on Civil and Political Rights (ICCPR), if the states still maintain the death penalty, one of the conditions that states must comply with in order to ensure right to life is “*The death penalty is only applied to the most serious crimes*”. General Comment No. 36 of 2018 by the Human Rights Commission (HRC), which replaced General Comment No. 6 and No. 14, previously adopted in 1982 and 1984 gave an explanation of the concept of the most serious crime. Accordingly, “*the most serious crime must be understood very closely and involves only particularly serious crimes, including intentional murder*”. Moreover, as explained by HRC, crimes that lead to unintentional and direct death, such as attempted murder, corruption and other political and economic crimes, armed robbery, piracy, arrest toads, drugs and sex crimes, though serious by nature, may never be the basis for the application of the death penalty under Article 6<sup>5</sup>.

Thus, comparing to the Human Rights Commission's explanation of the “most serious crime” in General Comment No. 36, it can be seen that Vietnam's viewpoint in identifying the most serious crimes that are the subject of imposing the death penalty is not the same as the opinion of the Commission on Human Rights. According to the viewpoint of the HRC, although the drug crimes are serious by nature, they are not part of the criminal groups that the country can apply the death penalty. In Concluding observations on the third periodic report of Viet Nam, The Committee noted that the death penalty is still available for crimes, including drug-related crimes, that do not meet the threshold of the most serious crimes within the meaning of article 6 (2) of the ICCPR<sup>6</sup>.

Although Vietnam may quote the crime situation and the extremely dangerous impact of drug crimes on society to justify the applying of the death penalty for these crimes, there is still “gap” between the provisions of Vietnam's criminal law and the provisions of international law on the scope of the death penalty. In theory, this incompatibility raises the need for amendment of the law. Therefore, in principle, Vietnam's criminal law should have an adjustment in the scope of the death penalty application, not to apply the death penalty to drug crimes, to achieve compatibility with international law.

## **2. The possibility of abolishing the death penalty for drug crimes in Vietnam currently**

The regulation of the penalty for a crime depends on dangerous level of this crime to society. This explains why in criminal law, different crimes will have different penalties, even the same crime, but the punishment can be regulated differently from time to time. For drug crimes, the change in punishment for some crimes also stems primarily from this reason. Specifically, regarding the death penalty, in The Criminal Code 1999, the crime of illegally possessing narcotics and appropriating drugs is subject to the death penalty (Article 194) but in The Criminal Code 2015, the highest penalty for these two crimes is reduced to life imprisonment (Article 249, Article 252). In other words, The Criminal Code 2015 abolishes the death penalty for these two offences and only

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<sup>5</sup> Human Rights Commission, *General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, para.35  
[https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_GC\\_36\\_8785\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf), accessed 1 January 2021

<sup>6</sup> Human Rights Committee, *Concluding observations on the third periodic report of Viet Nam*, para.23 (2019)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en), accessed 2 January 2021.

maintains the death penalty for illegally manufacturing, illegally transporting and illegally trading narcotics.

In our opinion, the possibility of abolishing the death penalty for all drug-related crimes is not feasible at the same times for the following reasons:

***The first reason is the dangerous level of drug crimes currently.***

The abolition of the death penalty in general and the death penalty for a specific crime depends on many criterias, but one of the most important criteria is the danger of crime to society in the specific conditions and circumstances in our country.

The reality of drug crimes prevention and fighting of the authorities shows that, these are still extremely dangerous crimes to society because of the complex development of these crimes in many aspects.

*Firstly*, the number of cases, offenders, and the mass of drugs substances have increased each year.

In 2008, the authorities discovered and arrested 12,850 cases, 20,268 offenders, collected 156,163 kg Heroin, 18,796 kg of opium, 8 tons of marijuana 27.95 kg and 44,054 synthetic drug tablets; in 2019, the authorities discovered 22,814 cases (an increase of 77% compared to 2008); 35,151 offenders (up 73%); seized 1,494.29 kg of Heroin (up 857%); 5,500.55 kg (up 19,580%) and 987,913 synthetic drug tablets; 585.99 kg of marijuana; 120.54 kg of cocaine and many other vehicles and properties. On average in the last five years, the authorities discovered about 20,000 cases with over 30,000 offenders. Specifically, in 2015, the authorities detected and arrested 17,821 cases, 27,675 drug-related offenders, collected 988.71kg of heroin, 631.17 kg and 421,867 synthetic drug tablets; In 2016, detecting and arresting 19,333 cases, 31,001 drug-related offenders, collecting 607,813kg of heroin 839.63kg and 427,655 synthetic drug tablets; In 2017, detecting and arresting 22,346 cases, 34,494 drug-related offenders; collecting 906.67 kg of heroin 856.9 kg and 979.487 synthetic drug tablets; In 2018, detecting and arresting 24,552 cases, 37,842 drug-related offenders ,1584.36 kg of heroin, collecting 1755.74kg and 1363.495 synthetic drug tablets; In 2019, detecting and arresting 22,814 cases, 35,151 drug-related offenders, collecting 1,494.29 kg of heroin, 5,500.55 kg and 987,913 synthetic drug tablets<sup>7</sup>.

From the beginning of 2020 until now, the Customs force has chaired and coordinated with the police forces, the Border Guard to arrest 137 cases, 170 offenders, confiscate 56.60 kg and 181 heroin units; 663.31kg of synthetic drugs in powder and crystal form; 369,870 synthetic drug tablets; 0.17 kg of cocaine, 20.42 kg of marijuana; 13.43kg of opium, 25.65kg of ketamine. In the South area, within the first ten months of 2020, the Anti-Smuggling Drug Control Team in the South area belongs to the Anti-Smuggling and Investigation Department, the General Department of Customs, on the basis of coordination with other functional units, has arrested 34 cases, confiscated 5,018.2 grams of marijuana; 202 kg of synthetic narcotics in stone form; 19,333 synthetic drug tablets; 27,251.8 grams of MDMA synthetic drug; 124.6 grams of cocaine and 19 heroin units<sup>8</sup>.

In addition, the offenders have manufactured synthetic drug production from a number of drugs containing narcotic substances and precursors which have not been governed by law. As of 2019, there are 44 cases of illegal production of narcotics nationwide, including a case of Heroine production, 43 cases of synthetic drug production, 15 cases of synthetic drug production from traditional medicines (accounting for 35%)<sup>9</sup>.

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<sup>7</sup> Report of the Minister of Public Security 2020 in the submission to the Government on the draft Law amending and supplementing the Law on drug prevention.

<sup>8</sup> Report on results of detection, arrest and handling from January to October 2020 of the Southern Anti-Smuggling Control Team under the Anti-Smuggling and Investigation Department, General Department of Customs.

<sup>9</sup> Report of the Minister of Public Security 2020 in the submission to the Government on the draft Law amending and supplementing the Law on drug prevention.

*Secondly*, the modes of drug transportation into Vietnam are increasingly diversified and sophisticated, causing difficulties in the inspection and supervision of the authorities.

Previously, drugs were smuggled into Vietnam by two main routes: Heroin and synthetic narcotics in the form of ecstasy from the Golden Triangle were transported across the border of the Northwest and North Central provinces into Vietnam and then they were transported to China; Meth, ketamine and some other synthetic narcotics from China were transported across the border of the northern provinces to be brought back to Vietnam. However, recently, drugs bosses have brought technology, machinery and equipment to the Golden Triangle to manufacture drugs instead of manufacturing meth in China. Currently, in the southwestern border line, many “hot spots” have appeared, such as Bo Y border gate (Kon Tum), Tay Ninh, An Giang. From here, drugs are quickly transported to Ho Chi Minh City and other neighbouring provinces for consumption or transportation to another countries. There have appeared criminal groups in organizing drug transportation from Cambodia to Vietnam led by foreigners. They use modern communication equipment, often change modes of operation, create fake situations, organize and operate transportation in a well-organized manner to avoid and deal with the authorities. Currently, the situation of illegal trading and transporting drugs is complicated on all routes. In addition to drug trading through the land border, due to our country's open import and export policy to promote economic development, expand trade in the region and the world, the crimes also transport drug through official channels. The authorities also seized cocaine from Brazil and African countries, South America, meth, synthetic narcotics from Europe, transported to Vietnam via air, post, courier, by sea.

In the coming time, according to the assessment of the United Nations Office on Drugs and Crime (UNODC) as well as the Standing Agency of the Government Steering Committee 138 (Ministry of Public Security), the situation of drug crimes will continue to develop complicatedly and the operations of drug crimes will be increasingly sophisticated. The recently discovered and arrested cases of cocaine from Latin American countries show that the drug offenders are targeting the Southeast Asian market, including Vietnam.

Some of the objective and subjective causes leading to the complex drug crimes situation in Vietnam include:

(i) The geographical position of Vietnam.

Vietnam has a full system of seaports, airways, roads, and railways and is bordered with many countries. The border line between Vietnam and neighbouring countries, such as Laos, China and Cambodia is stretched, mainly in rugged mountainous terrain, with many border gates and trails. Hence, it causes difficulty for the authorities to control the drug crimes. In particular, Vietnam is just away from the Golden Triangle which is the second largest drug manufacturing centre in the world a fairly close distance of 500 kilometers. They are natural conditions that make the offenders use Vietnam as a place to transport drugs and then continue to send them to another countries for consumption.

(ii) The number of drug addicts and illegal drug user in Vietnam is increasing.

In 2009, the Vietnam had 146,731 drug addicts with managing records, by December 2019, Vietnam had 235,314 drug addicts with managing records, an increase of 160% while the detoxification was not effective, the rate of drug relapses high<sup>10</sup>. The drug addicts are found in all localities, in all sectors, all ages, but mainly in young people (0.1% under 16 years old; 76% are under 35 years old)<sup>11</sup>.

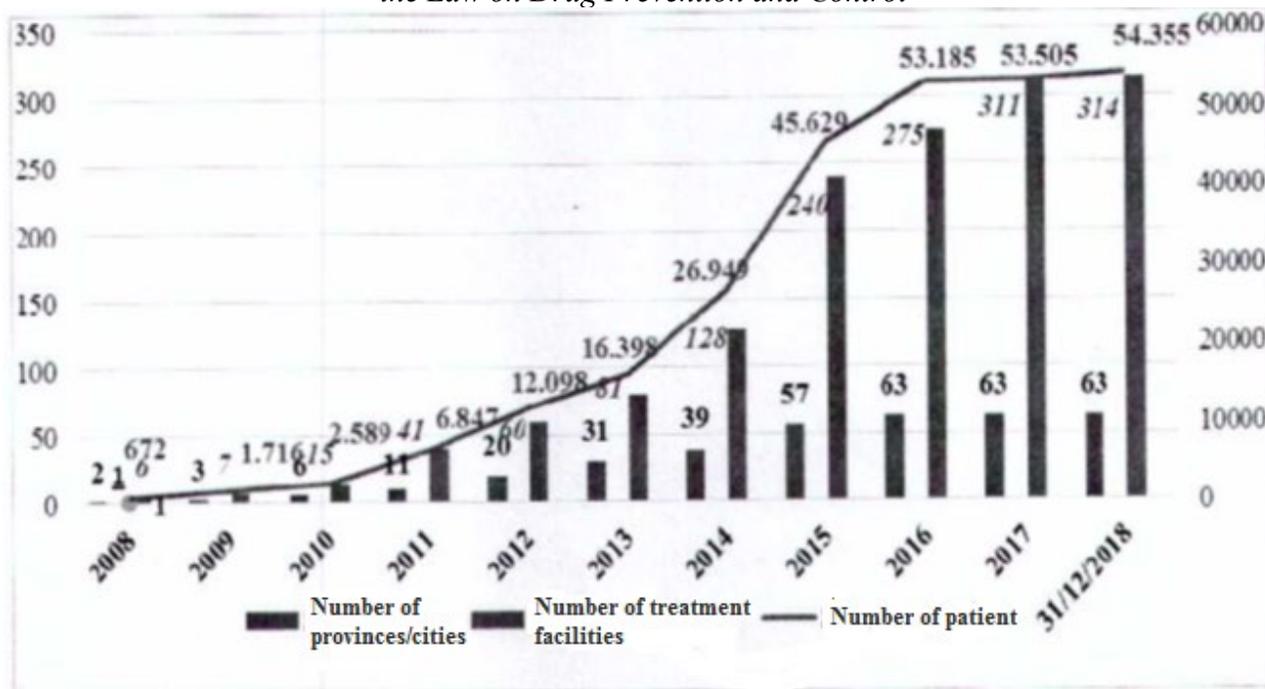
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<sup>10</sup> Report of the Minister of Public Security 2020 in the submission to the Government on the draft Law amending and supplementing the Law on drug prevention.

<sup>11</sup> Report of the Ministry of Public Security in 2019 Summary of 10 years of implementation of the Law on Drug Prevention and Control

### Diagrams of patients receiving compulsory treatment in detoxification facilities

Source: Report of the Ministry of Public Security in 2019 Summary of 10 years of implementation of the Law on Drug Prevention and Control



In addition, the situation of using drugs tends to increase and complicated, especially since The Criminal Code 1999 (amended in 2009) did not regulate the Illegal use of narcotics as a crime. Mainly drugs are Heroin, synthetic drugs, opium, cannabis, in which, the trend of using synthetic drugs is increasing. There are various forms to use drugs, such as, smoking, inhaling to injecting, drinking, and sucking. The explosive development of conditional businesses such as discotheques, bars, restaurants, discos has a significant impact on the use of synthetic drugs. According to the Police Department of Drug Investigation in 2019, Vietnam had 3,879 conditional business establishments (discotheques, bars, motels, hotels, restaurants, clubs ...) showing signs of crime and drug abuse.

(iii) Huge profits from drugs make the offenders willing to find all tricks to commit criminal acts. A heroin unit at Laos costs about 4,500 USD, in Vietnam, the price increases to about 8,000 to 12,000 USD (an increase of 78% to nearly 170%), if a heroin unit is moved to China, it costs about 18,000 to 20,000 USD, more than 3 times the original price in Laos. One kg of meth (ketamine) in border provinces is only 230 million VND but in Vietnam, they are sold for up to 500 million VND<sup>12</sup>.

#### ***The second reason is the practice of applying and excuting the death penalty***

The trial practice shows that the Courts have applied the death penalty for drug crimes and have no basis to confirm that the ability to execute the death penalty has been eliminated completely in fact.

The report of the Supreme People's Procuracy in 2012 summarizing the implementation of The Criminal Code 1999 has shown that drug-related crimes are one of the three types of crime that are often subject to the death penalty, of which, most of them are the crimes of possession, transportation, illegal trafficking or appropriation of narcotics related to drug dealers in large

<sup>12</sup> Report of Crime Police Department (C04), Ministry of Public Security in 2019 on drug crimes in Vietnam

quantities, organized activities<sup>13</sup>. Although The Criminal Code 2015 has continued to reduce the death penalty for drug crimes, the trial practice of many localities in recent years shows that the death penalty has been applied to drug-related crimes. For example, in Son La Province, according to the statistics of the People's Procuracy of Son La province, from 2015 to January 2021, related to drug crimes, the People's Court of Son La province sentenced to death penalty for 127 accused, the number of people who have decisions to be executed the death penalty is 31 people and the number of people who have been executed is 28 people. Meanwhile, in many countries where the death penalty has been abolished in law, they have not applied the death penalty in practice for a long time.

Stemming from the above factors, the abolition of the death penalty for drug offenses at this time is not consistent with the requirements of Vietnam's drug crime prevention and fighting activities.

**3. The possibility of abolishing the death penalty for drug crimes in the future in Vietnam**

In Vietnam, the policy of limiting the death penalty was introduced in 2002 in the Politburo's Resolution No.08/NQ-TW dated on January 2, 2002 on some of keys judicial mission in the coming time. The content of this Resolution was the research on limitation on the application of the death penalty in the Criminal Code. Nextly, the Politburo's Resolution No.49/NQ-TW dated on June 2, 2005 about Judicial Reform Strategy to 2020 affirmed the policy “Limiting the application of the death penalty in the direction of applying for a few particularly serious crimes”. Conclusion No. 92 dated on March 12,2014 of the Politburo on the continued implementation of Resolution No.49/NQ-TW continued to confirm the content of Resolution 49 as above. This policy has been implemented since 2009 during the process of amending and supplementing of the Criminal Code in 1999 and enacting of the Criminal Code 2015.

**The Summary table of number of drug-related offences stipulates the death penalty (in relation to total the number of drug-related crimes specified in the Criminal Code)**

	<b>The Criminal Code 1985</b>	<b>The Criminal Code 1985, amendment, supplement in 1989</b>	<b>The Criminal Code 1985, amendment, supplement in 1991, 1992</b>	<b>The Criminal Code 1985, amendment, supplement in 1997</b>	<b>The Criminal Code 1999</b>	<b>The Criminal Code 1999, amendment, supplement in 2001</b>	<b>The Criminal Code 2015, amendment, supplement in 2017</b>
<b>The number of drug-related crimes</b>	01	02	02	12	09	09	13

<sup>13</sup> Report No. 144 / BC-VKSTC-V8 dated December 5, 2012 of the Supreme People's Procuracy on the Review of Implementation of The Criminal Code 1999.

The number of crimes stipulates the death penalty	00	01	01	07	03	02	03
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Considering the correlation between the number of crimes which are subject to the death penalty and the total number of drug crimes which are prescribed in the Criminal Code, we can see two tendencies. The total number of drug -related crimes which are regulated in the Criminal Code has been increased through amendments and supplements. In contrast, the number of crimes which are subject to the death penalty has been mainly reduced. In particular, the Criminal Code 2015 changed the way to build the regulations on drug-related crimes. It divided drug-related crimes into many offences and regulated them in many difference provisions, instead of combining many crimes into one offence and regulating them in only one provision. Hence, if we compare with the Criminal Code 1999, it can be seen that the number of offences which are subject to the death penalty has been decreased. Specifically, the Criminal Code 1999, amended and supplemented 2001 stipulated the death penalty for five offences, including illegal production of narcotics, illegal possession of narcotics, illegal transportation of narcotics, Illegally buying and selling narcotics and appropriating narcotics while the Criminal Code 2015 only stipulates the death penalty for three offences, including illegal production of narcotics, Illegally transporting narcotics and trading in narcotics. It can be seen that the provisions of Vietnam's criminal law related to drug-related crimes are gradually being completed at the direction of narrowing the scope of the application of the death penalty.

Stemming from Vietnam's policies related to the application of the death penalty in general, as well as the specific provisions on the penalty for drug crimes in the Criminal Codes from 1999 up to now, we can see that, Vietnam is capable of abolishing the death penalty in the future at an appropriate time. This is also consistent with the current general trend of the world to gradually reduce the death penalty, towards the abolition of the death penalty, as well as suitable with recommendations of the Human Rights Commission for Vietnam. However, it is not really simple to answer the question when Vietnam will abolish the death penalty for drug crimes because it depends on many factors such as: the crime situation, the possibility of substitution of the death penalty by other penalties or other measures to prevent or punish the crimes or other relevant factors. In other words, it is necessary to carry out many comprehensive solutions in terms of economy, society, politics as well as legal aspects to be able to abolish the death penalty. Within the scope of the article, the authors will mention a number of legal solutions to eliminate the death penalty for drug crimes.

**Firstly**, improving the legal documents system on prevention, fight and control drugs so that they are reality and compatibility with other relevant legal documents.

From an economic perspective, the fight against drug crimes is a battle between “supply” and “demand” for drugs. The increase in drugs demand due to the recent increase in the number of drug addicts and illicit drug use is one of the reasons leading to the increase of drug crimes. Therefore, from the legal perspective, it is necessary to have a system of effective legal documents in preventing, combating and controlling illegal drug use activities.

Over the past years, the legal documents system governing drug prevention has been gradually improved. It has created a legal basis for drug prevention. However, the current legal provisions still have some limitations, such as:

+ The Law on Prevention and Combat Drug 2000, amended and supplemented in 2008 conflicts with other Laws, such as, contradictions with the Law on handling of administrative violations regarding the competence to send the drug addicts who are from full 12 years old to under 18 years old into detoxification establishments or contradictions with The Criminal Procedure Code and the Law on Organization of the Criminal Investigation Agency on investigating competence of the Border Guard. Moreover, a number of new acts have been specified in the Criminal Code 2015, such as “Violations of regulations on temporary import, re-export, delivery, management, control, storage, allocation, and permission for the use of narcotics and addictive drugs or psychotropic drugs”, but they have not been regulated yet in The Law on Prevention and Combat Drug.

+ The illegal use of narcotics is only subject to a warning or a fine of from 500,000 VND to 1,000,000 VND. This fine is too low, so, it is not effective enough to deter a person from using narcotics.

Therefore, it is necessary to continue to improve the legal provisions on drug prevention and control, according to a number of contents below: (i) Supplementing regulations on the competence of the specialized agency and amending regulations on the competence of Border Guards, Coast Guard and Customs to ensure the consistency with the Criminal Procedure Code and the Law on Organization of the Criminal Investigation Agency; (ii) Supplementing regulations on the management of illicit drug users to prevent them from continuing to use drugs, such as, regulations on supervision and strict management of illegal users of narcotics; (iii) Amending and supplementing regulations on drug addictions treatment in order to overcome the shortcomings in detoxification and ensure the consistency with the law on handling of administrative violations; (iv) Amendment of stricter sanctions against illegal use of narcotics...

**Secondly**, continue to reduce the number of drug crimes subject to the death penalty in the Criminal Code. The reality of drug crimes situation in Vietnam as well as the practice of applying the death penalty to drug crimes shows that the abolition of the death penalty should continue to be carried out according to the current gradual reduction schedule, instead of immediately deleting. Therefore, the legislatures will determine which crime(s) can continue to be abolished the death penalty, depending on the actual situation of each drug-related crime at a particular time,.

**Thirdly**, researching alternative measures to the death penalty in accordance with the general trend of the world in abolishing the death penalty and the requirements of fighting and preventing crimes in Vietnam. According to the Report of Penal Reform International, a non-governmental organization that aims to develop and promote fair, effective, and commensurate responses to criminal justice issues around the world, many countries has adopted the life imprisonment as an alternative to the death penalty. Now, there are two main types of life imprisonment. The first type is life imprisonment without parole, that is, the law does not provide for parole, so, a prisoner will serve a prison sentence until that person dies. The second type is pardoned, meaning that, the law will set a minimum number of year which a prisoner must serve a prison sentence, after that time, he can be considered for released if the necessary conditions are met. For example, under German law, prisoners serving a life sentence will be considered for release only after they have served a minimum of 15 years. Where there is release, the offender may subsequently be subjected to supervision for a limited or lifelong period. Failure to comply with supervision conditions can lead to the convicted person being returned to prison, to serve a prison sentence until the end of natural

life or until further, successful review<sup>14</sup>. Vietnam can study practices of the other countries in the world, combined with Vietnamese practice to come up with measures to replace the death penalty in general and to replace the death penalty for drug crimes in particular.

### Conclusion

Although The Convention on International Covenant on Civil and Political Rights 1966 does not require countries to abolish the death penalty, the trend of most countries today is to gradually abolish it. The United Nations has also adopted a series of Resolutions calling on member states to take measures to suspend the execution of the death penalty with the ultimate goal of abolishing the death penalty in all nations.

Nowadays, Vietnam is also joining the general trend of the world in reducing the death penalty gradually. This is considered a legal premise for the progress to abolish this penalty. However, as analyzed above, the drug crimes situation in Vietnam is very complicated and the death penalty has been applied or excuted in fact. Therefore, the abolition of the death penalty in Vietnam in general as well as the abolition of the death penalty for drug crimes in particular can only be carried out under a roadmap with many synchronous solutions, and the appropriate time to abolish the death penalty must be counted on the basis of careful consideration of factors affecting the crime fighting activities.

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