

# RELEASE OF LIFE SENTENCE PRISONERS IN VIETNAM

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**Abstract:** *When the death penalty has been abolished by a majority of countries in the world at the end of 2020 (108 states canceled it for all crimes in law and 144 nations repealed it in law or practice)<sup>2</sup>, life imprisonment seems to be the alternative punishment for serious and particularly serious offenses with 183 out of 216 countries and territories have formal life sentence, in which around 65 countries impose it without parole<sup>3</sup>. In recent years, the wave of fighting against the incarceration of life has emerged especially among people who work in or stand for human rights. Surprisingly, although Vietnam was named in the top Watch List because of not abrogate the death penalty yet, there were humane regulations about leaving prisoners before release dates, including life imprisonment. However, it means that the government has to face disastrous aftereffects from convicts, the worst circumstance is reoffending and recall to prison which is the weakness of the activists as well as the excuse for countries still remain the sentence of life without pardon. Therefore, the paper will examine the background of life imprisonment, the causes, conditions, consequences, estimate the reality of imposing it in Vietnam and propose some recommendations.*

**Keywords:** *life imprisonment, life sentence, pardon, parole, release, prisoners, Vietnam*

## INTRODUCTION

Life sentence or life imprisonment has been continuing a controversial issue since diverse domestic regulations depend on their own culture, tradition, legal thinking. According to a legal dictionary, life sentence means “incarceration of the defendant until his death”<sup>4</sup>. In case law, a judge from South Carolina explained life imprisonment means until the death of the defendant<sup>5</sup>. We could take the claim of the United Nations as a paradigm of life sentence which means that a person must spend the rest of his or her natural life in prison<sup>6</sup>. In fact, there are two types of life sentence, the first is formal life sentence, in which the authority held criminals in prison for as long as they live; the second is informal life sentence, in which the imposed punishment does not call life sentence, but may result in the person spending life in prison<sup>7</sup>. But it is not the end for prisoners, because a sentence of life with parole is the most common type of life imprisonment in 144 countries and 33 countries do not impose life sentence or death penalty as the ultimate sanction<sup>8</sup>.

Sentence for life goes against the value of international human rights, from human dignity to cruel, inhuman and degrading punishment, right to rehabilitation, and it closes to a slow death in jail<sup>9</sup>. There are some relevant general standards that restrict the overuse of life sentences. The [Convention on the Rights of the Child \(CRC\)](#) prohibits the application of life imprisonment without parole to juveniles below the age of 18. The [International Covenant on Civil and Political](#)

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<sup>2</sup> Amnesty International (2021), *Global Report: Death sentences and executions 2020*, London, UK.

<sup>3</sup> Penal Reform International (2021), *Global Prison Trends 2021*. Retrieved from: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

<sup>4</sup> <https://definitions.uslegal.com/l/life-imprisonment/>

<sup>5</sup> *Shafer v. South Carolina*, 532 U.S. 36 (2001). Retrieved from: <https://supreme.justia.com/cases/federal/us/532/36/>

<sup>6</sup> United Nations (1994), *Life Imprisonment*, Vienna. Retrieved from: <https://cdn.penalreform.org/wp-content/uploads/2013/06/UNODC-1994-Lifers.pdf>

<sup>7</sup> Dirk van Zyl Smit, Catherine Appleton (2019), *Life imprisonment: a global human rights analysis*, Harvard University Press, Massachusetts.

<sup>8</sup> Penal Reform International and University of Nottingham (2018), *Life imprisonment: A policy briefing*. Retrieved from: [https://cdn.penalreform.org/wp-content/uploads/2018/04/PRI\\_Life-Imprisonment-Briefing.pdf](https://cdn.penalreform.org/wp-content/uploads/2018/04/PRI_Life-Imprisonment-Briefing.pdf)

<sup>9</sup> Esther Gumboh (2011), The penalty of life imprisonment under international criminal law, 11 *African Human rights Law Journal*. Retrieved from: <http://www.scielo.org.za/pdf/ahrlj/v11n1/05.pdf>

Rights (ICCPR) states that the final purpose of the prison system is the reformation and social rehabilitation, indicating that every prisoner should have the opportunity to become a normal person, back into society under the authority's supervision and support in lives. Even under the Rome Statute, the International Criminal Court judged gravest offences like war crimes, crimes against humanity and genocide, in which life sentences must be reviewed after 25 years. Those are reasons why life imprisonment with parole will become an unavoidable trend heading towards minimizing life sentences in the world. As evidence of that, more and more countries abolish life imprisonment, such as Portugal, Brazil, Croatia, Serbia, Spain in Europe; Nepal in Asia; Republic of the Congo in Africa; Honduras, Nicaragua, El Salvador, Costa Rica, Venezuela, Colombia, Uruguay, Bolivia, Ecuador, the Dominican Republic in South and Central America<sup>10</sup>. Others try to decrease the number of years served by life-sentenced prisoners like Mozambique with a reduction from 50 years to 30 in 2020, Cameroon reduce to 25 years<sup>11</sup>.

In ASEAN, according to the Revised Penal Code and Supreme Court Administrative Circular No. 6-A-92, life imprisonment in the Philippines has an indefinite duration, has no specific details on pardon, and does not come with compulsory accessory penalties<sup>12</sup>. In 2006, the Philippines abolished the death penalty, so life imprisonment is the highest form of punishment in the criminal penalty system in this country. Under the Criminal Code of Malaysia, life imprisonment is applied to serious crimes and mainly applies to crimes such as crimes against national security, murder, rape or drug crimes. Malaysia divides life sentence into two categories: life imprisonment extends up to 20 years in prison with the possibility of a reduction if there is a good rehabilitation and imprisonment for life (applied until the death of the inmate)<sup>13</sup>. A juvenile commits a crime for which the penalty applied in case the adult commits this crime is death, the juvenile committing the crime will be subject to life imprisonment for a term as determined by the State (without any limitation) according to the Children Act 2001 of Malaysia.

As a member of ASEAN, Vietnam has reasons to keep both death penalty and life sentence to prevent and combat the crime situation with complex developments. According to Article 39 Vietnamese Penal Code 2015, life imprisonment was defined as “an indefinite prison sentence imposed upon people committing an extremely serious crime, but not yet reach the capital punishment. And it shall not be imposed upon offenders under 18 years of age”. Vietnamese laws do not regulate the maximum duration of executing life sentence or divide into two types like Malaysia, but it can be inferred that there are three cases: death penalty commuted to life imprisonment (Article 35 the Penal Code 2015), life sentence with and without pardon. The Penal Code 2015 narrowed the imposing scale of life imprisonment when reducing the prison duration from life to long-term for ten crimes in comparison with the Penal Code 1999, including Giving bribes (Article 364), Smuggling (Article 188), Theft (Article 173), Illegal emigration for the purpose of opposing the people's government (Article 121), Blatant appropriation of property (Article 172), Abuse of trust to appropriate property (Article 175), Deliberate destruction of property (Article 178), Providing information or voluntarily working for the enemy as a prisoner of war (Article 400), Abandonment of combat position or failure to discharge duties in battle (Article 401), Appropriation of property using a computer network, telecommunications network, or electronic device (Article 290). In addition, the Code extends the application of fines as the main

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<sup>10</sup> Mac Minh Quang (2020), Life imprisonment in the criminal law in some countries and experiences for Vietnam, *Industry and Trade Magazine*. Retrieved from: <https://tapchicongthuong.vn/bai-viet/hinh-phat-tu-chung-than-trong-phap-luat-hinh-su-cua-mot-so-nuoc-tren-the-gioi-va-kinh-nghiem-cho-viet-nam-67968.htm>

<sup>11</sup> Penal Reform International (2021), *Global Prison Trends 2021*. Retrieved from: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

<sup>12</sup> Alyosha J. Robillos (2015), *Life imprisonment, reclusion perpetua, and other legal terms you should know*, CNN. Retrieved from: <https://cnnphilippines.com/news/2015/04/17/life-imprisonment-reclusion-perpetua-legalese-napoles.html>

<sup>13</sup> Denise C. (2018), How does a Malaysian judge decide what punishment to give a criminal?. Retrieved from: <https://asklegal.my/p/malaysian-courts-punish-criminals-jail-rotan-fine>

penalty for less serious crimes (Article 35), exclusively for particularly serious crimes in the crimes violating economic management order and environmental crimes, besides, increase the community sentences for very serious crimes with unintended purposes (Article 36). Determinate imprisonment shall not be imposed upon a person who commits a less serious crime for the first time (Point 2 Article 38).

The situation in Vietnam has so far been largely unexplored in the relevant literature, creating a black hole about the release of life sentence prisoners. This article attempts to close that gap, shedding light on the Vietnamese context for its own purposes, and also as a means to underscore the broader situation in the ASEAN region, as a pathway to better estimate the release policies' influence. Through this article, audiences will hopefully better understand why the release is so important, how the order, procedure work, responsible authorities not only set out the rules but also build human resources having enough commitment and dedication to do the hard job.

The Vietnamese government's attempt is noteworthy in raising public awareness about early release prisoners (including civil servants and communities). But questions remain as to whether those exclusive regulations for life imprisonment prisoners are easily accessed, whether the wardens are fair, impartial enough to select deserving persons and whether the small model of current social centers meets support requirements. This article will investigate these matters.

Therefore, the article is divided into three main parts. Firstly, it will examine the issues of release life sentence prisoners in Vietnam, including exploring the conditions, reasons and consequences. Secondly, the research analyses the responses of the Vietnamese government in improving the situation through practice and law. Thirdly, I propose appropriate recommendations for stakeholders.

## **LITERATURE REVIEW**

The paper reviewed several types of literature, from doctoral dissertations, conference proceedings, research articles, editorial, to international organization reports related to life imprisonment, the release of life sentence prisoners in specific regions and Vietnam. Those are reliable references from large organizations with high reputations, easy to access, high citations as secondary literature for narrow independent studies. In general, those research focused on the different aspects of life imprisonment, some mentioned lifers but there have been few documents directly discussing the release of Vietnamese life sentence prisoners. While a disturbing reality is the actual number of released lifers is unpublished, the pardon process and consequences are secrets that belong to prisoners themselves and enforcement agencies.

First, publications related to life imprisonment in the world showed that many sentencing codes replaced death penalty with life sentence (Penal Reform International 2021; Mac Minh Quang 2020; Penal Reform International and University of Nottingham 2018). There are some reasons for the abolish trend of life imprisonment without parole: harsh sentenced penalties could not reduce the crime rate, financial burden of prisons with long-term incarceration, negative impacts to prisoners and more lifers are released (Marieke Liem 2016).

Second, about the causes leading to release, a prediction of prisoners' future dangerousness is not enough to deny their opportunities of out of jail as some studies showed that there is a comparatively low reconviction rate among released lifers (United Nations 1994).

Third, the presidential pardon decision-making process is different in various countries, legal systems in the world (Phuong Thao 2018). Some give inmates a second chance after clearing their criminal record, others keep it publicly accessible forever. In general, the pardon law of states carefully considers case by case with a complicated application and a number of stages (Eugene Ohotnikov 2021).

Fourth, release consequences include regular supervision; restrictions on the residence, movement, alcohol, behaviors; drug testing; electronic monitoring and surveillance. If released ones break the law, they will be recalled to prison. Therefore, the reintegration process needs

preparation in psychology, health, job arrangement for life-sentenced prisoners even before they actually being released (Penal Reform International and University of Nottingham 2018).

Fifth, the vast majority of life prisoners are released with conditions, the authoritative organizations will decide the pardon based on many factors, such as potential threats to the community; possibility of rehabilitation; request of the court; criminal behavior in custody; and good reformation or any contribution for prisons (Citizens Information Board 2021).

From the literature review above, it can be seen that these studies focus on life imprisonment, there has been little official academic research specialized in the release of life sentence prisoners, especially in Vietnam. However, it can be seen as a social phenomenon, as well as a concerning problem in Vietnam, while the research of its causes, and effects is still limited. Therefore, this study is essential to discover the aspects of pardon in Vietnam, from the current law to the reality, clarify the gap between them to see the next things needed to do.

### **RELEASE OF LIFE SENTENCE PRISONERS UNDER VIETNAMESE LAW**

International human rights law approached prisoners as well as other people who deserve to be treated like humans. It was shown in principle 10, Basic Principles for the Treatment of Prisoners: “*With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions*”<sup>14</sup>; rule 107, Standard Minimum Rules for the Treatment of Prisoners of United Nations: “*From the beginning of a prisoner’s sentence consideration shall be given to his or her future after release and prisoners shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner’s rehabilitation and the best interests of his or her family*”<sup>15</sup> and rule 108(1): All agencies and services responsible for the reintegration of prisoners into society shall ensure that all prisoners have means and available resources to maintain themselves in the period immediately following their release<sup>16</sup>.

Vietnam along with ASEAN countries always follow and uphold United Nations rules, international laws. Release from life imprisonment is a part of Vietnamese pardon policies, is explained in Clause 1 Article 3 Law on Pardon 2018 as: “a special clemency of the State from the President’s decision on setting free convicted persons with determinate imprisonment, life imprisonment before the due date on the occasion of nationally important events, great holidays or special circumstances”. The Law also encourages prisoners to repent, actively learn, labor in prison for getting the State forgiveness and become useful people to society. Fundamentally, a pardon is the state measure for absolution of all or partial punishment. But there is some confusion with parole which is a measure from the Court applying for persons serving the prison sentence when they have enough conditions following the Penal Code 2015, in view of there is no need to force them to continue to carry the penalty in penitentiaries (Article 1 Resolution 01/2018/NQ-HDTP of the Judges Council of Supreme People’s Court). Because current parole regulations in subjects, conditions have similar points with pardon, many opinions said that we need to differentiate clearly those two concepts.

**TABLE 1. Brief comparison between pardon and parole in Vietnam**

	<b>Pardon</b>	<b>Parole</b>
<b>Legal foundation</b>	- Law on Pardon 2018	- The Penal Code 2015

<sup>14</sup> United Nations (1990), Basic Principles for the Treatment of Prisoners. Retrieved from: <https://www.un.org/ruleoflaw/files/BASICP~2.PDF>

<sup>15</sup> United Nations (2015), Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Retrieved from: <https://undocs.org/A/RES/70/175>

<sup>16</sup> United Nations (2005), Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prisoners Officials, New York and Geneva. Retrieved from: <https://www.ohchr.org/Documents/Publications/training11Add3en.pdf>

	- Decree 52/2019/ND-CP regulate in detail some articles of Law on Pardon	- Resolution 01/2018/NQ-HDTP on guidelines for the application of Article 66 and 106 of the Penal Code
<b>Subject</b>	Persons who have been serving determinate imprisonment, convicts with life imprisonment but were reduced to determinate imprisonment, persons were temporarily suspended for carrying the sentence, and have enough conditions following the Law on Pardon, the President's Decision about Pardon in each wave.	Persons who have been serving imprisonment in penitentiaries, criminal executive agencies, the district-level police, and have enough conditions following Article 66, 106 the Penal Code 2015.
<b>Decision-maker</b>	The President	The Judge
<b>Legal consequences</b>	Convicts are totally free without probation	Convicts are not totally free, if they commit again in the probation, they have to come back to prison to serve the rest of the sentence.
<b>Time</b>	Special events like the National Day, The Millennial Anniversary of Hanoi, the National Congress of the Communist Party of Vietnam, etc (usually once in three to five years)	Three times per year

Therefore, lifers can only be released in two cases: first on the occasion of nationally important events, great holidays (recently, often on Vietnamese National Day 2nd September) which is regulated in Chapter II of Law on Pardon 2018, second in special circumstances to meet domestic and foreign affairs requirements (Chapter III). While Decree 52/2019/ND-CP has specific instructions for the first case, the other seems to be neglected with only three articles and no guidelines.

According to Article 14 Law on Pardon and Article 5 Decree 52, the proposed pardon file *on the occasion of nationally important events, great holidays* includes:

1. Proposed pardon form of convicts follows the pattern which is enacted by Advisory Council in each wave.

2. Documents prove the personal, family background of proposed pardon people.

3. In case the person sentenced to prison is someone who has made great achievements while serving the prison sentence, a person with meritorious services to the revolution, or a relative of a person with meritorious services to the revolution; people who are suffering from serious illnesses, people who are sick often without self-care; when committing the crime is a person under 18 years old; persons under 18 years of age are serving prison sentences; people aged full 70 years or older; pregnant women or having children under 36 months old who are staying with their mothers in prisons, detention camps or detention houses; people with extremely difficult family circumstances and themselves are the sole laborers in the family; people with severe disabilities or particularly severe disabilities; Persons with difficulties in cognition and behavior control must have the following supporting documents corresponding to each case:

a) A report on the merits of the person sentenced to prison; Written Requests to reward persons sentenced to imprisonment by officers of prisons, detention camps, criminal judgment execution agencies of district-level police offices or investigation agencies. investigative work; certification or a copy of the commendation decision on the fact that the sentenced person has made

great achievements in the course of serving the prison sentence of the warden of the prison, the superintendent of the detention center or the head of the criminal judgment execution agency of district-level police or investigative agencies use persons sentenced to prison to serve investigation;

b) Documents proving that the person sentenced to prison is a person with meritorious services to the revolution in accordance with the law on preferential treatment for people with meritorious services to the revolution; a copy of the decision to award the title of Hero of Labor and Hero in the resistance war against the US for national salvation; copies of Orders and Medals of Resistance;

In case the person sentenced to prison is the father, mother, wife, husband or child of a martyr, the person who has contributed to the revolution is awarded the medal “For meritorious service to the country” or the Certificate of “For meritorious services to the country”; or having merits to raise martyrs at a young age must have a certification or a copy of the proof issued by the commune-level People’s Committee of the place where the sentenced person resided before committing the crime or the unit where the convict who worked and studied before committing the crime confirmed. In case the person sentenced to prison is the adoptive father, adoptive mother, lawfully adopted child of a martyr, or a person with meritorious services to the revolution, he or she is awarded the medal “For meritorious service to the country”; or the “For meritorious services to the country”; or Legally adopted children of “heroic Vietnamese mothers” must have certification or a copy of the adoption certificate issued by the People’s Committee of the commune where the sentenced person resides or the People’s Committee of the commune where the martyr resided before their death, the residence of the Vietnamese Heroic Mother;

c) Conclusion of the Medical Assessment Council or a copy of the medical record, conclusion of the hospital at the provincial or military zone level or higher, for the person sentenced to prison who is suffering from a fatal disease or is suffering from frequent illness; the person sentenced to prison is pregnant;

Documents proving that the sentenced person has a serious illness or frequent illness are only valid for a period of 6 months, up to the date on which the Board considers the request for pardon from the prison, detention camp or agency. criminal judgment execution district-level police departments hold meetings to consider and compile dossiers of request for pardon;

d) A copy of the birth certificate or a copy of the sentence for the person sentenced to prison when committing the crime who is a person under 18 years old, a person under 18 years old who is serving a prison sentence, or a person aged full 70 years or older;

đ) A copy of the birth certificate or a copy of the child’s birth certificate to identify the person sentenced to prison as a woman with a child under 36 months old who is living with her mother in a prison, detention camp or custody house;

e) A copy of the certificate of severe or particularly severe disability, issued by the People’s Committee of the commune where the sentenced person resides before serving the sentence or the Peoples Committee of the commune where the sentenced person serves sentence execution; a copy of a competent court’s decision declaring that the person sentenced to prison has difficulty in perceiving and controlling his/her acts in accordance with the civil law;

g) A document of a competent civil judgment enforcement agency certifying that the sentenced person has partially fulfilled the obligation to return property, pay compensation for damage, and perform other civil obligations under the judgment; Court decisions but fall into extremely difficult economic circumstances in cases where there are no conditions for further enforcement of the remainder as prescribed by the law on civil judgment enforcement and decisions on the impossibility of conditions for judgment execution.

4. Documents prove the completion of supplemental punishment (fine, court fees): Originals or copies of documents showing that the convict has completed serving the additional penalty of fines, payment of court fees, obligation to return property, compensation for damage,

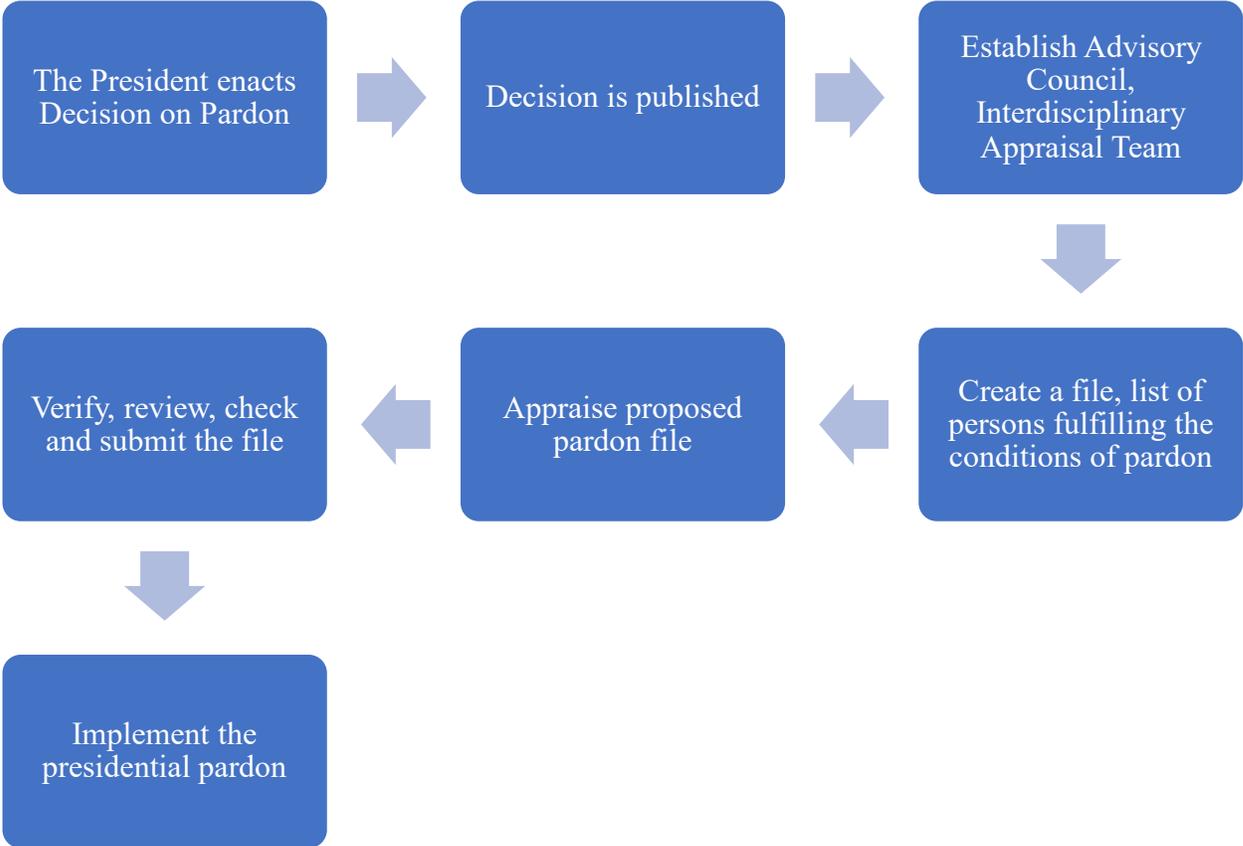
and other civil obligations such as receipts, invoices and evidence showing this or the Court’s decision on exemption from fines or payment of court fees, the decision on suspension of judgment enforcement by heads of competent civil judgment enforcement agencies or written agreement of the judgment creditor or his/her lawful representative on not having to perform the obligation to return property, pay compensation for damage, or other civil obligations under the judgment or decision of the Court. The judgment is certified by the commune-level People’s Committee of the place of residence or the civil judgment enforcement agency that is accepting the case, or other documents showing this.

5. Commitment of the person sentenced to prison for do not break the law, continue to fulfill the obligation to return property, pay compensation for damage, perform other civil obligations if not yet completed, and serve other additional penalties (if any) after being granted pardon according to the form of the Special Advisory Council such as prohibition from holding certain posts, practicing certain professions or doing certain jobs; banned from residence; probation; deprivation of certain citizenship rights; confiscation of property; expulsion.

6. A written request for pardon from the warden of the prison, the superintendent of the detention center of the Ministry of Public Security, the Ministry of National Defense, the head of the criminal judgment execution agency of the provincial-level police department, the head of the criminal judgment execution agency at the military zone level.

The pardon order, procedure on the occasion of nationally important events, great holidays (Article 15 to 18 Law on Pardon and Article 5, 7, 8 Decree 52) can be summarized in the below diagram:

**FIGURE 1. Vietnamese pardon procedure**



*Pardon in special cases* is specified in Chapter III from Article 22 to 24 of the Law on Pardon 2018. This type of amnesty can be implemented at any time when deemed necessary; usually apply individually on a case-by-case basis; beneficiaries are also very special, often

associated with political foreign affairs requirements at the national level and based on the principle of reciprocity or dealing politically sensitive issues. The number of people who are granted pardons in special cases each time is very small. With that characteristic, based on the request for a special pardon, the conditions are usually set out in principle, in general and very open, processes, procedures are very simple and often “closed”. The results and organization of implementation are also often not public<sup>17</sup>.

Relevant authoritative organizations are multiple, but the essential role is attached directly to the President at the central level and wardens of prisons, temporary detentions at the local level.

**TABLE 2. Responsibilities of relevant authoritative organizations in a pardon process**

<b>Organizations</b>	<b>Responsibilities</b>
<b>The Government</b>	<ul style="list-style-type: none"> <li>- Hosting, coordinating with the Supreme People’s Court, the Supreme People’s Procuracy and relevant organizations to examine, build up the draft of Decision on Pardon then propose to the President.</li> <li>-Directing the propaganda plan to diffuse the meaning, aims and contents of pardon.</li> <li>- Directing the Ministry of Public Security, Ministry of Defense, other governmental organs and People’s Committee at all levels implement the pardon.</li> </ul>
<b>Advisory Council</b>	<p>The Chairman is Deputy Prime Minister with commissioners are representative leaders of following organizations: a) Supreme People’s Court; b) Supreme People’s Procuracy; c) General Committee of Vietnam Fatherland Front; d) Ministry of Public Security is the Standing Advisory Council; đ) Ministry of Defense; e) Ministry of Justice; g) Ministry of Foreign Affairs; h) The Office of the Government; i) The Office of the President; k) Other relevant organs decided by the President when needed.</p> <p>The Standing Advisory Council has responsibilities in Article 35 such as:</p> <ul style="list-style-type: none"> <li>- Deploying the Decision on Pardon</li> <li>- Verifying and approving the application for pardon, the list of persons eligible or ineligible for pardon, submitted by the Standing Advisory Council</li> <li>- To summarize and make a list of people eligible for pardon and submit it to the President for consideration and decision.</li> </ul>
<b>Interdisciplinary Appraisal Team</b>	<ul style="list-style-type: none"> <li>- Including representatives of the following agencies and organizations: a) Supreme People's Court; b) Supreme People's Procuracy; c) Central Committee of the Vietnam Fatherland Front; d) Ministry of Public Security; đ) Ministry of National Defense; e) Ministry of Justice; g) Other relevant agencies and organizations shall be decided by the Advisory Council when needed.</li> <li>- appraise the list and dossier of the person requesting for pardon</li> <li>- directly work with the warden of the prison, the superintendent of the detention center under the Ministry of Public Security, the head of the criminal judgment execution agency of the provincial police, the head of the criminal judgment execution agency of the Ministry of National Defense, the chief justice of the people’s court of provinces, Chief Justices</li> </ul>

<sup>17</sup> Nguyen Dinh Quyen (2018), Issues on the time of pardon, *Journal of Legislative Studies* no. 14(366), July 2018. Retrieved from: <http://laphap.vn/Pages/tintuc/tinchitiet.aspx?tintucid=207257>

	<p>of military courts of military zones to listen to reports on the results of consideration of the request for pardon and to examine the dossiers and list of people eligible for pardon</p> <ul style="list-style-type: none"> <li>- compare the request for pardon with the original file of the person currently serving a prison sentence to ensure accuracy, correct subjects and conditions.</li> <li>- After appraising each dossier, members of the interdisciplinary appraisal team are responsible for clearly stating the opinion. In case of not being eligible for pardon, the reason must be clearly stated as well.</li> </ul>
<p><b>Superintendent of prisons, superintendents of detention camps, heads of criminal judgment execution agencies of district-level police offices, Heads of military zone-level criminal judgment execution agencies</b></p>	<ul style="list-style-type: none"> <li>- Posting and disseminating the decision on pardon for people serving prison sentences</li> <li>- Organize for people sentenced to prison to write an application for pardon and a form of commitment</li> <li>- Organize a collective meeting of the inmate’s team (group) to comment, vote by secret ballot, and introduce the person to be proposed for pardon. The correctional officer in charge of the prisoner’s team (group) is responsible for summarizing the results of the meeting in minutes and proposing opinions on the proposal for pardon for the sentenced person.</li> <li>- Make a list and dossiers of eligible persons and send them to their direct superiors to send to the interdisciplinary appraisal team</li> <li>- Notify and publicly post the list of persons proposed for pardon</li> <li>- Based on the appraisal results of the interdisciplinary appraisal team, make a list and dossier of eligible and ineligible people and send it to the standing advisory council.</li> <li>- Announcement &amp; implementation of the decision on pardon, granting pardon certificates to persons granted pardon, sending a copy of the certificate to the national criminal record center, the court that has issued the judgment enforcement decision, the agency responsible for the enforcement of additional penalties, the civil judgment enforcement agency that has issued the decision, which has no conditions for judgment enforcement, the criminal judgment execution agencies of district-level police offices, commune-level People’s Committees, organizations and military units where the persons granted pardon reside or work, and agencies that receive the deportees.</li> </ul>
<p><b>The President (Office)</b></p>	<ul style="list-style-type: none"> <li>- review and examine the list and dossier of persons proposed by the Advisory Council for pardon and submit it to the State President for decision.</li> <li>- The Office of the President shall assume the prime responsibility for, and coordinate with relevant agencies in, the announcement of the Decision on pardon.</li> </ul>

**WHY RELEASE?**

In order to have an overview of the absolution situation in Vietnam, it is needed to evaluate the causes leading to the release of life sentence prisoners. Pardon is a consistent expression of our state’s criminal policy in the fight against and prevention of crimes and educating offenders to reintegrate into the community. Therefore, the first purpose of a pardon is to make an active contribution to the education and rehabilitation of offenders, the protection of security and social order and safety. The release of people who are serving life imprisonment or fixed-term prison sentence and other restrictions on their freedom must have the effect of really encouraging,

motivating those who are serving prison or other penalties to have the determination, motivation to re-educate so that they can reintegrate into the community soon, return to their wages, become useful citizens for society and their families.

The practice of pardon has proved that there is no education and re-education measure that has a strong and direct impact on the psychology of offenders like pardon by the fact that prisoners are directly witnessed the reality of the release of other prisoners entitled to pardon. Prisoners who are serving their punishment often have a pessimistic mentality, guilt, and thereby have the potential to lead to the self-destruction of their own lives or other negative actions. The implementation of pardon must give inmates who are serving prison sentences the desire to return to society, reintegrate into the community and rebuild their lives. Since then, they are determined to rehabilitate and repent to receive the pardon. However, not everyone serving a life sentence is entitled to pardon, but they must meet the conditions specified in the Law on Pardon 2018 and Decree 52.

According to the law, our country always encourages those who have been sentenced to prison to turn back, repent, actively study and do re-education labor to receive the pardon, even the lifers. The law also creates certain advantages for those who are granted pardons to integrate into society, create conditions for stabilizing their lives and preventing re-offending and violating the law.

Because of international laws in humanity, in order to show respect for the spirit of international treaties on human rights to which Vietnam is a member, at the same time in line with the general trend of the world, the Vietnam Penal Code 2015 has clearly defined the limited scope of application of the life sentence. Vietnamese legislators have considered the recommendations of the international community on this issue, finding that life in prison is a brutal punishment causing many prisoners to die in prison while serving less than 10 years due to severe conditions affecting health.

#### **CONDITIONS FOR RELEASE OF LIFERS IN VIETNAM**

According to Clause 1 Article 11 Law on Pardon 2018, a person sentenced to life imprisonment but has been reduced to prison with a fixed term to be proposed for pardon must fully meet the following conditions:

a) Having made great progress, having a good sense of reform and being classified as serving a good or excellent prison sentence in accordance with the law on criminal judgment execution.

About this regulation, some experts argued that the prisoner's classification needs to be "excellent" or more, cause "good" might not reflect strongly enough the effort and desire of reform.

b) Having served a prison sentence for a period decided by the President, but at least 14 years in the case of a life imprisonment sentence that has been reduced to a definite term, if after being reduced to a prison sentence then continuing reduced for a definite term, the later reduced term shall not be counted into the time of serving the prison sentence.

Persons convicted of sabotaging the implementation of socio-economic policies; crime of undermining the unity policy; crimes of organizing, coercing or instigating other people to flee abroad or stay abroad in order to oppose the administration; crimes of fleeing abroad or staying abroad in order to oppose the administration; a person sentenced to 10 years or more in prison for one of the crimes specified in the Chapter of crimes against human life, health, dignity and honor of the Penal Code on purpose or the convict from 7 years or more in prison for property robbery; kidnapping for the purpose of appropriating property; crime of illegal production of drugs; crime of illegal trading in drugs; The crime of appropriating drugs of the Penal Code has served the prison sentence for a period of time as decided by the President, but at least half of the time in the case of being sentenced to a definite term of imprisonment, if the term of serving the prison sentence has been reduced before, the reduced term shall not be counted into the time of serving the prison

sentence; has served a prison term of at least 17 years in the case of life imprisonment but has been reduced to definite prison, if, after being reduced to definite prison, he continues to receive a reduction in the serving term the imprisonment sentence, the later reduced period shall not be counted into the time of serving the prison sentence;

c) Having completed serving the additional penalty of fine, having paid the court fee;

d) Having fulfilled the obligation to return property, pay compensation for damage and other civil obligations towards persons sentenced to prison for corruption crimes or other crimes as decided by the President each wave.

đ) Having completed or partially performed the obligation to return property, pay compensation for damage or other civil obligations, but fall into extremely difficult economic circumstances in cases where there are no conditions for continuing with the remainder according to the provisions of the law on civil judgment enforcement against persons sentenced to imprisonment who do not fall into the cases specified at Point d of this Clause.

In case the obligation to return property, pay compensation for damage, or other civil obligations to property not owned by the State must be performed, the judgment creditor must agree to postpone the judgment execution or not request the judgment execution;

e) When granted pardon, it does not adversely affect security and order;

g) Not falling into one of the cases specified in Article 12 of this Law.

Clause 3 Article 11 stipulated cases when persons who fully meet the conditions specified at Points a, c, d, đ, e and g, Clause 1, the President may decide the imprisonment shorter than the period specified at Point b, Clause 1 of this Article in one of the following cases:

a) Having made great achievements while serving prison sentences, certified by prisons, detention camps, criminal judgment execution agencies of district-level police offices or other authoritative agencies. This point is guided by Clause 4 Article 4 Decree 52/2019 as follows:

- Having taken action to help prisons, detention camps, criminal judgment execution agencies of district-level police offices or agencies competent to conduct criminal procedures to detect, arrest, investigate and handle crimes;

- Saving other people's lives or large property (valued at 50 million VND - equivalent to 2171 USD or more) of the State, collectives or citizens during natural disasters or fires;

- Having inventions, initiatives of great value or other particularly outstanding achievements, certified by prisons, detention camps or criminal judgment execution agencies of district-level police offices.

b) People with meritorious services to the revolution according to the provisions of law on preferential treatment for people with meritorious services to the revolution; who was awarded the title of Hero in the resistance war against America to save the country; the person awarded the title "Hero of Labor"; the person who is awarded one of the Orders and Medals of the Resistance; fathers, mothers, wives, husbands, children of martyrs and people with meritorious services to raise martyrs at a young age; children of Vietnamese Heroic Mothers; fathers, mothers, wives, husbands and children of persons with meritorious services to the revolution shall be awarded the "Fatherland's merits" medal or the "For meritorious services to the country";

c) People who are suffering from serious diseases is person suffering from one of the following diseases: End-stage cancer; paralysis; drug-resistant severe tuberculosis; cirrhosis ascites; heart failure grade III or higher; kidney failure grade IV or higher; clinical stage IV HIV disease with an opportunistic infection, inability to self-serve and with a poor prognosis, high risk of death or other diseases that is granted by a medical examination board or hospital province, military zone level or higher concludes in writing that it is not self-serving, the risk of death is high.

People who are sick regularly but do not serve themselves is a person who is being treated at a clinic or hospital continuously for 3 months or more or not continuously but has to be treated at the hospital for three or more times, each time for 1 month or more, not self-service themselves,

there is a written conclusion of the Medical Assessment Council or the hospital at the provincial, military zone level or higher.

d) The offender is under 18 years old, except for the case specified in Clause 4 of this Article;

đ) Persons aged full 70 years or older;

e) Having extremely difficult family circumstances and being the sole laborer in the family which was guided in Clause 7 Article 4 Decree 52/2019 that is a case where the family of a person sentenced to prison is falling into a particularly difficult economic situation due to an accident, illness, natural disaster, fire or other force majeure event, resulting in no valuable assets remaining. have no income or income below the poverty line, or have a biological father, mother, wife, husband or children with long-term serious illness, without a caregiver who is the sole laborer in the family. The commune-level People's Committee where the person's family resides shall certify that it is true.

g) Pregnant women or children under 36 months of age who are staying with their mothers in prisons, detention camps or custody houses;

h) Persons with severe disabilities or particularly severe disabilities according to the provisions of the law on disabled people; people with difficulties in perception and behavior control according to the provisions of civil law;

i) Other cases decided by the President.

The above conditions of pardon are a notable part that fairly similar to parole, which may lead to misunderstanding them. Therefore, it is necessary to narrower pardon conditions with stricter regulations compared with parole.

On the other hand, Article 12 Law on pardon 2018 also regulated cases that despite a person who fully meets the conditions specified in Article 11, he/she still can not request pardon in one of the following cases:

1. Being sentenced to imprisonment for treason to the Fatherland; crimes of activities aimed at overthrowing the administration; espionage; crimes of infringing upon territorial security; riot crime; terrorism crimes against the administration; crime of sabotaging material and technical foundations of the Socialist Republic of Vietnam; crime of making, storing, spreading or propagating information, documents and items aimed at opposing the Socialist Republic of Vietnam; crime of disrupting security; crimes against detention facilities; terrorism or one of the crimes specified in the Chapter on crimes against peace, against humanity and war crimes of the Penal Code;

2. Court judgments, parts of judgments or decisions against that person being protested against according to cassation or reopening procedures in the direction of aggravating penal liability;

3. Being examined for penal liability for other criminal acts;

4. Previously granted pardon;

5. Having 02 or more criminal convictions;

6. Other cases decided by the President.

## **LIFE AFTER RELEASE**

As can be seen in Table 1, the most visible legal consequence of pardon is freedom without probation that lessens the full rigor of the law. If the person deserves a real chance to start over again, how can we help them is the question. Currently, there are only a few principles on creating conditions for people granted pardon to reintegrate into society and the community in some regulations on management, supervision of amnesty as well as sanctions applicable to cases of breaking the law after being released. Therefore, it is necessary to add a provision on the probation period for those who have been granted pardons in the direction that is at least equal to the remaining time of serving the prison sentence.

Although the number of reoffending prisoners who get pardon is very small, it is not impossible. For most people who have spent many years in prison, especially life imprisonment, being released is a distant dream. So when having the opportunity to remake life at the age on the other side of the slope, no one wants to trade the future, go back to prison again because the time left to live is not much. There will be many difficult challenges ahead, but with what the prisoners considered for pardon have strived to study, work, and improve in prison, they will overcome, become more confident, stable in life, and definitely does not re-offend or violate the law. At the same time, prisoners who have not yet been granted pardon look at the example of those who have been free to try harder, strictly abide by the provisions of the law and the prison rules; actively study and do re-education labor to soon be eligible for the leniency of the Party and State with many favorable policies for inmates such as sentence reduction, pardon, conditional prison release.

After publicizing the pardon decision, the prison will carry out procedures to distribute clothes, shoes, food, travel, community reintegration expense, and labor wages to inmates in accordance with regulations. In the context of complicated epidemic developments, the prison coordinated with local health authorities to ensure strict epidemic prevention: carrying out testing procedures and issuing certificates of COVID-19 test results, issuing masks and antiseptic solutions for prisoners who are granted pardons. One of the great difficulties of prisoners entitled to pardon during this COVID-19 epidemic compared to the previous ones is the frozen economic situation, limited business and production activities, few job opportunities, the possibility of unemployment. Especially, when implementing lockdown according to the Prime Minister's Directive, depending on the characteristics of each locality, travel is also limited, not to mention places that are blocked. If they do not follow the epidemic prevention measures, when they are not fully vaccinated, released prisoners can also be infected. Thus, in general, access to the support of the residence authorities may be delayed due to the impact of the epidemic.

What we are most concerned about is after release, how freed prisoners will contrive to move on in life. They themselves will need some time to get used to their new normal life, catch up with the world outside the prison bars, and figure out what to do next. Their families and friends also need a corresponding period of time to get used to their presence after a long absence, how to help skillfully, delicately without causing hurt because of their past mistakes, show no pity or contempt. In fact, the situation of people who return to their localities after being released from prison without jobs or unstable jobs, lack of capital, the number of people who are stigmatized and shunned by society is still high. Psychologically, after returning from prison, ex-prisoner often carry the inferiority of those who have committed crimes; society is still stigmatized and alienated; Vocational training in prisons and detention camps has not yet diversified in professions or no vocational certificates; the attention and help of local authorities, unions and related departments are still in the formality way. Most of support measures only have capital loans for inmates to do their own business, but very few businesses dare to accept people who have just been released from prison, especially those who have not had their criminal records expunged.

The issue of continuing to manage and educate the returnees after pardon is a crucial step to ensure that those entitled to pardon soon integrate into the community, it requires all levels, departments, organizations must work together. The most important thing is to help them get a job, solve their problems, and continue to manage, educate, sensitize them so that they can truly turn over a new leaf. It is important to avoid seeing this as the private job of the police. Recognizing the significant position of the post-pardon work, the Ministry of Public Security has directed local police units to proactively plan to advise governments at all levels, agencies, departments and the public to join and cooperate to do this work well. It is necessary to mobilize the strength of the entire political system, with the participation of the Communist Party and people. Only then can the work of pardon be effectively implemented as a noble humanitarian policy of Vietnam.

## SITUATION OF PARDON AND COMMUNITY REINTEGRATION SUPPORT IN VIETNAM

During the ten years of implementation of the Law on Pardon 2007, the President has seven times issued decisions on pardon on the occasion of major holidays and important events of the country. According to statistics, from 2009 to 2017, Vietnam had a total of more than 87000 people who were granted pardons, returned to the correct address of residence and were guided by local police, registered for residence, and issued identity documents. The released subjects have fulfilled their civil obligations with an amount of more than 3184 billion VND (equivalent to over 139 million USD); in which, collection and payment to the state budget is nearly 1438 billion VND (approx. 62 million USD); collecting compensation for citizens and social organizations more than 1746 billion VND (about 76 million USD), the asset value obtained is more than 1064 billion VND (over 46 million USD). Out of a total of prisoners, nearly 50000 people have stable jobs and incomes. Surprisingly, the rate of people committing illegal acts and re-offending is very low (1007 people, accounting for 1,16%)<sup>18</sup>.

Hence, such a batch of more than 10000 released people per year<sup>19</sup> creates a contradiction that when the Trial Council increases or decreases the sentence for 6 months or 1 year, they must consider, even under great pressure from society, but when it comes to pardon, it can be a very large amount with many years off. This law has not fully expressed the true meaning of national privileges for offenders. To overcome this situation, since the Penal Code took effect, the National Assembly has approved to release prisoners before the time limit 2 or 3 times every year, apart from pardon.

Most recently, the classification, group of crimes and time are new criteria in the Decision on Pardon of President Nguyen Xuan Phuc last June 2021. Since the amendment of the Law on Pardon in 2018 took effect, this is the first time after 4 years, the President decided to pardon prisoners ahead of time for those sentenced to fixed-term imprisonment, life imprisonment reduced to fixed-term prison. On August 30, the President signed Decision No. 1535/QĐ-CTN, deciding to grant pardon to 3026 prisoners who are serving prison sentences and three who are temporarily suspended from serving prison sentences. Accordingly, there are 283 prisoners who committed crimes of infringing upon the order of economic management and positions (From Article 188 to Article 234 of the Penal Code); they have paid 24 billion VND (equivalent to 1 million USD) to enforce additional penalties such as fines, compensation for damage, arrears, court fees or other civil obligations. All the prisoners granted pardon this time have paid 80 billion VND (over 3 million USD) for remedial measures and civil compensation. In this pardon, there are 499 people from ethnic minorities; 314 inmates are religious, 21 foreign prisoners with 7 different nationalities, including 10 Chinese; 3 Nigerian; 2 Cambodian; others of American, Japanese and Korean nationality; in which 2 prisoners are granted pardons in special cases<sup>20</sup>. Unfortunately, specific figures on the number of prisoners serving life sentences who receive pardons are not made public. Statistics on annual sentence execution of the Ministry of Justice only mention the total number of people sentenced to prison, the number of people who are released from prison before the time limit, not the number of inmates serving life sentences or the number of lifers who are released from prison.

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<sup>18</sup> Quang Truong (2018), There were 50 thousand people which granted pardon coming back home and having jobs, Capital Security Newspaper. Retrieved from: <https://anninhthudo.vn/tu-2009-den-2017-co-hon-5-van-nguoi-duoc-dac-xa-tro-ve-dia-phuong-co-viec-post372361.antd>

<sup>19</sup> Thai Vu (2018), Pardon has been given once every several years in order to not coincide with parole, Court Journal. Retrieved from: <https://tapchitoaan.vn/bai-viet/van-de-thoi-su-thoi-su/dac-xa-nhieu-nam-moi-lam-mot-lan-de-khong-Trung-voi-that-tu-truc-thoi-han>

<sup>20</sup> Phuong Thuy (2021), Publication of presidential pardon for 3026 prisoners, People's Police Magazine. Retrieved from: <https://cand.com.vn/thoi-su/cong-bo-quyet-dinh-cua-chu-tich-nuoc-dac-xa-3-026-pham-nhan-i626376/>

About creating convenient conditions for those who have completed their prison sentences, including those granted pardons to reintegrate into the community and stabilize their lives, the Government has issued Decree No. 49/2020/ND-CP detailing the Law on Criminal Judgment Execution on community reintegration replacing Decree No. 80/2011/ND-CP, which has adjusted and supplemented more specifically on measures to ensure community reintegration. This is an important legal document for ministries, branches and authorities at all levels to effectively implement community reintegration work. The regulated objects of the Decree are the prisoners before completing their prison sentences, being granted pardon, or parolees prior to their terms with conditions at detention facilities (collectively referred to as inmates); people who are granted pardon, who are released from prison before the conditional term, who have finished serving their prison sentences have returned to the community (collectively referred to as those who have finished serving their prison sentences). Thus, it can be seen that the prisoners receiving pardon are classified in the same group as early release, while according to Table 1, these two types of amnesty are different. This is a disadvantage when no document regulates community reintegration measures for this particular group.

Chapter III with 4 articles includes ensuring measures of community reintegration. Article 9 “*Information, communication and education on community reintegration*” orients and encourages the social community to participate in education, help to eliminate prejudice, stigma and discrimination towards those who have finished serving their prison sentences; raising awareness, sense of law observance, prevention of recidivism and law violations. Article 10 “*Psychological help, support for legal procedures*” states that:

1. Psychological support to help those who have completed their prison sentence to build confidence, willpower and will to reintegrate into the community and prevent negative acts and violations of the law. Contents of psychological support include counseling to remove inferiority complex; practice life skills, community integration skills; improve the ability to self-solve difficulties and problems in social relations. Psychological support is provided as soon as the person who has finished serving the prison sentence returns to his/her place of residence, through the following forms:

- a) Organizing private and group consulting;
- b) Provide information and documents on the basis of the need for assistance of the person who has finished serving the prison sentence;
- c) Through talks, community activities, forums with topics that people who have completed their prison sentence need help;
- d) Consulting through social networks, websites, email, telephone and other means of information and communication.

2. Persons who have completed their imprisonment penalty shall be supported and guided in necessary legal procedures when participating in criminal, civil or administrative proceedings; when performing civil contracts; carry out procedures to request the Court to issue a decision on criminal record remission, request the issuance of a judicial record card and carry out other administrative procedures in accordance with the law.

Article 11. *Vocational training and job creation for those who have finished serving prison sentences:*

1. Persons who have completed their prison term participate in vocational training at college, intermediate, elementary level for less than 3 months are entitled to tuition fee exemption or reduction, boarding policy, training expenses support, food and travel expenses if they are eligible for vocational training support policies in accordance with current law.

2. Persons who have completed their imprisonment sentences may borrow loans for vocational training according to the provisions of the law on credit for pupils and students; may borrow capital for job creation from the National Employment Fund, and have priority in

registering to participate in public employment policies in accordance with the law on job creation support policies and the National Employment Fund.

4. Based on the needs of persons who have completed their imprisonment sentence and labor market realities, the Employment Service Center shall organize free job counseling and introduction for those who have completed their imprisonment sentence; monitor and report on the employment status of persons who have completed their imprisonment sentence introduced by the center to the state management agency in charge of employment services.

Up to now, there have been 31 provincial People's Committees, 50 police units and localities sending the implementation plan to perform Decree 49/2020/ND-CP to the Ministry of Public Security. Regarding the inspection, guidance, exchange, discovery and replication of good models in implementing community reintegration work, according to statistics (as of July 2020), there are 339 models of community reintegration that are being maintained and operating effectively; many models have been integrated with the mass movements to protect national security at the grassroots level. In particular, 11 localities have built funding models, mobilized capital contributions from agencies, organizations, individuals and businesses to support and help the wrongdoers get loans, create jobs, stabilizing life, such as: The model of "Entrepreneur fund with security and order" of Dong Nai province, has mobilized 25 billion VND, loaned money to over 1,200 people who made mistakes; Dong Thap province's model "Development Fund for Community Reintegration" has so far had a revolving capital of over 19 billion VND, has supported loans for 682 cases of people who have completed their prison sentences; the Entrepreneur with Information Security model in Nga Son district, Thanh Hoa province, attracting more than 300 businesses to help persons who have completed their imprisonment sentences and those who have been granted pardon, etc<sup>21</sup>.

## **RECOMMENDATIONS**

It is necessary to supplement regulations on the probation period for persons granted pardon and the obligations of them during the probation period, sanctions for handling in case they violate corresponding obligations similar to people who received parole in order to ensure consistency with the Penal Code 2015. In particular, more specific regulations on the responsibilities of the sentenced person in order to be considered for pardon need to be enacted like explain how is "fully serving additional penalties such as fines, compensation for damage, court costs or other civil obligations after being granted pardon"; and "commit not to violate the law, continue to fully serve additional penalties such as fines, compensation for damage, court costs or other civil obligations after being granted pardon"; avoiding the case that regulations are made generally in nature, making it difficult to be feasible in practice. In addition, it is vital to clarify the responsibilities of competent agencies in organizing the implementation of the pardon decision, especially in the execution, handling of fines, civil compensation and court fees.

Although the law does stipulate the state's policy in pardon for those sentenced to prison, enabling them to reintegrate into the community once they are granted pardons. Specifically, Article 6 of the Law on Pardon (amended) stipulates: The State encourages people sentenced to prison sentences to repent, actively study and do re-education labor to enjoy pardon; create favorable conditions for people granted pardon to reintegrate into the community, stabilize their lives, prevent re-offending, violate the law and strive to become useful people to society. However, such provisions are very general while the reality of the community reintegration work of those released ahead of time and granted pardon is basically still difficult for the released prisoners and their families. The work of ensuring and re-integrating the community of the released prisoners does not belong to anyone but needs the cooperation of the whole society. Therefore, it is proposed that the National Assembly Standing Committee pay attention to, supplement and clearly define

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<sup>21</sup> Ministry of Public Security, Online Q&A, Retrieved from: <http://bocongan.gov.vn/hoidap/Pages/hoidap.aspx?ItemID=3092>

the conditions and mechanisms to ensure the pardon reintegration into the community, stabilize their lives and strive to become useful people for the society. The State should have the policy to mobilize social resources together with the State in the community reintegration; mobilizing enterprises, organizations and individuals to participate in helping activities in various forms, models suitable to the conditions, circumstances of each object and each locality.

Otherwise, to ensure transparency when applying the Law, I proposed to assign the Government to promulgate sub-law documents specifically guiding the criteria for determining what event is considered important as a basis for the President to decide on pardon. Clearly defining this content will ensure publicity, transparency and uniformity when applying the pardon regime to people serving a fixed-term prison sentence, sentenced to life imprisonment but have been reduced to a fixed-term prison, who is temporarily suspended from serving a prison sentence. Other comments suggest specific regulations on the time and frequency of the pardon, which can be three years or five years/period; or specify the time of amnesty as National Day September 2, on the occasion of the Lunar New Year or the Liberation Day of the South and Reunification of the Country on April 30.

In order for the work of pardon to be fair and strict, the Government should continue to research, further improve the regulations on conditions for pardon; which clearly and specifically divide each subject to be proposed for pardon, which standards should be ensured. Moreover, it is necessary to supplement regulations on organization or sanctions to check and evaluate the results of the request for pardon.

Another recommendation is that the conditions of parole and pardon must be different. The current Law on pardon is stipulating many specific conditions that are basically the same as the conditions for a parole before the conditional term specified in the Penal Code 2015. Therefore, if the regulations on pardon conditions are kept stricter, it will lead to policy duplication because the subjects eligible for pardon have basically been released by the court before the conditional time limit. On the contrary, if it is revised in the direction of regulations that loosen the conditions of pardon compared to early release, it will not overcome the situation of pardon in large numbers as in the past time. We need to distinguish the characteristics of the specific policy from other lenient policies.

Because it is very short from the policy date until the Decision on pardon and to the time the presidential pardon is announced, so difficult to implement measures to support community reintegration for prisoners. Only when they were released, even after a long time, they might receive support. It is recommended to add prisoners who receive pardon together with prisoners who have completed their prison sentences into a group of prisoners who are about to be released from prison and are supported about legal procedures such as: residence registration; civil status registration; issue of citizen identification; loans, business registration, signing of labor contracts and other administrative procedures as prescribed by law under Clause 4, Article 5 Decree 49/2020/ND-CP. Measures to prepare for reintegration and measures to ensure reintegration should not be divided, as the two are similar, both can be applied before, during and after the prisoner's release.

## **CONCLUSION**

Recently, life imprisonment has attracted the attention of Vietnamese policymakers and law enforcement instead of death penalty. This study presents the definition of life sentence and assistance for prisoners after release in Vietnam. In doing so, it provides a more exclusive picture of these issues in a Southeast Asian country, which will be a valuable reference for those who are interested in this topic. Furthermore, this thesis appears to be the first empirical research examining how lifers are released in Vietnam, adding to a little amount of current official academic research specialized in life imprisonment. It emphasized the absence of systematic and complete data which was rarely mentioned before.

The literature review studied different reasons, consequences of release lifers, conditions, the application, the decision process in some countries and the lack of Vietnamese statistics.

In terms of approaches to the release process of life sentence prisoners, the findings of this study make several contributions to the current literature. First, this research highlights the similarity between conditions of pardon and parole. Second, it should be noted that there are few reports, research, projects about the release of lifers, so I suggest increasing the number and quality of research (conducted by Vietnamese organizations/experts) about life imprisonment. Experiences learned from Vietnamese context showed that community reintegration support will work well with the participation of the government, the criminal executive agencies, the society besides ex-prisoners attempts. It also emphasizes the importance of in-time assistance for ex-prisoners in the Covid-19 pandemic as many countries, not just Vietnam applying the lockdown policy which brought both positive and negative outcomes to the social-economic situation.