

IMPLEMENTATION OF HUMAN RIGHTS RELATED TO DEATH PENALTIES IN VIETNAMESE CRIMINAL LAW UNDER THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS (ICCPR)

Nguyen Huu Khanh Linh, LL.M

Bui Thi Quynh Trang

Le Ngoc Phu

Lecturer, University of Law, Hue University

Asia is the region that accounts for 90% of all death penalty cases in the world. In particular, Vietnam is one of the countries in Asia that still has many provisions on the crimes of applying the highest penalty of death, including 18 crimes under the 2015 Penal Code. After Vietnam became a member of the ICCPR, through the recommendations of the United Nations Human Rights Commission, Vietnam should clearly define the criteria for the exercise of human rights under the provisions of the ICCPR in general and the right to live in Vietnamese criminal law in particular, which includes four criteria: i) equality; ii) non-discrimination; iii) a fair trial and iv) the right to life.

The death penalty is not the best measure to prevent criminal acts. The article approaches from the perspective of the death penalty both as a deterrent and protection of the rights of other subjects; however, the conviction and application of the death penalty should also be carefully considered and responded to criteria for ensuring human rights of offenders.

The author does not exclude other criteria to be able to guarantee the right to life and exercise human rights in ICCPR and Vietnamese criminal law. Vietnamese criminal law tends to apply humanitarian principles in adjudication and judgment execution to limit convictions and the execution of the death penalty, but this is not enough. To enforce human rights regulations in general and the right to life in particular, the article sets out the following criteria:

- i) Ensure intrinsic equality through the provision of access to information, and ways to solve legal problems for offenders. Give them different and direct powers to act.
- ii) No discrimination between the victims and the offenders.
- iii) Fair trial by Court and judicial reform aimed at proper crime and conduct.
- iv) Provide recommendations for citizens for preventing serious criminal acts. From there, convicted crimes and the death penalties are reduced.

Keywords: Human rights, death penalty, Vietnamese criminal law, ICCPR

I. Human rights in accordance with the International Covenant on Civil and Politics Rights (ICCPR) and the recommendation of Human Rights Commission for Vietnam on the death penalty

The international legal framework on the abolition of the death penalty has been amended and completed from time to time by UN agencies and regional human rights mechanisms. Majority of countries acknowledge the death penalty as an undesirable measure that negatively affects human's dignity and execution of human rights. Countries that have abolished and most countries that have not yet abolished the death penalty recognize that this measure has no effective effect on crime prevention.

The International Covenant on Civil Rights and Politic (ICCPR) is the first legal document prescribing the obligation of states to ensure the right to life as a supreme right. This convention calls upon member states maintaining the death penalty to limit the application of this penalty to merely the most serious offenses on strict terms. An important milestone on the path towards the abolition of the death penalty was the adoption by the General Assembly of the United Nations Protocol on the Abolition of the Capital in

December 1989¹. States Parties to this Protocol are obliged to take the necessary measures to completely abolish the death penalty within their jurisdiction in both the legal system and in practice.

Under current international human rights law, the right to life is not absolute. Although some international organizations fight for the abolition of the death penalty as a violation of the right to life, in international human rights law the real meaning of the right to life only means that it cannot be taken away arbitrarily². If due process is followed, both in terms of substantive and procedural law, the death penalty can be imposed by the State in most countries: a competent court can send death sentence to a person committing a felony convicted by effective law, in accordance with legal procedures, on the basis of clear evidence.

Currently, the maintenance or abolition of the death penalty is still an issue of particular concern to the criminal law of many countries around the world. Depending on the economic, political, social situation and the opinion of the legislator, different countries have different regulations on this issue.

Amnesty international noted that at least 657 executions were conducted in 2018, which decreased 8% compared to 2018 (with at least 690 execution). The statistic presented the lowest number of executions note by Amnesty international for at least a decade. As of 2018, there have been 142 nations abolished the death penalty (in their legal system and in practice); only 56 nations maintain and apply death penalty in their legal system. Although the scope of the death penalty is narrowed down; Vietnam remains one of the countries that still maintain the death penalty for a number of crimes. Ratification of the Protocol on the Abolition of the Death Penalty is one of the topics of concern for UN human rights mechanisms, including the Universal Periodic Review (UPR) and treaty mechanism, often raised for Vietnam.

Under the mechanism of the Human Rights Council, Vietnam submitted National Reports on the protection and promotion of human rights in Vietnam and participated in dialogue at three UPR cycles in 2009, 2014 and 2019. During the implementation of the First UPR Report, Vietnam received 93 recommendations, of which eight were related to the death penalty. Vietnam has received three out of these mentioned eight recommendations relating to amending the law on death penalty, reducing the number of crimes that provide for the death penalty and restrict cases of the death penalty. Out of 227 recommendations that Vietnam received in the UPR II Report in 2014, 29 are related to the death penalty, of which 6 are calling for Vietnam to ratify the Protocol on abolish the death penalty. The Human Rights Council also recommends that Vietnam limit the death penalty by only applying it to the most serious offenses and applying the mechanism of suspending the execution of the death penalty with the intention of abolishing the death penalty. The member nations of the Council also recommended that Vietnam has measures to publish figures on the application of the death penalty. Vietnam accepted recommendations to reduce the number of crimes that require the death penalty and move towards suspending the execution of the death penalty and abolishing the death penalty.

At UPR Dialogue Cycle III in 2019, Vietnam received 291 recommendations from 118 countries. Among these recommendations, 9 recommendations from 20 countries mentioned the issue of the death penalty³. Vietnam is also a member of two international treaties directly

¹ Eric Neumayer, 'Death Penalty Abolition and the Ratification of the Second Optional Protocol' (2008) *The International Journal of Human Rights* 21.

² William A. Schabas, *International Law and Abolition of the Death Penalty* (55 Wash. & Lee L. Rev. 797, 1998), <https://scholarlycommons.law.wlu.edu/wlulr/vol155/iss3/10>, accessed 28 January 2021.

³ United Nations Human rights Council, Universal Periodic Review of Viet Nam: <<https://www.ohchr.org/EN/HRBodies/UPR/Pages/VNindex.aspx>> accessed 26 January 2021.

related to the death penalty, including ICCPR and CAT. According to these treaties, the death penalty is one of the issues that Vietnam receives the most recommendations, including recommendations for ratifying the Protocol on the abolition of the death penalty, recommendations for reducing the use of the death penalty, applying the mechanism of suspending the execution of the death penalty and abolishing the death penalty

The Committee called on Viet Nam to reduce and limit the number of offenses that could be subject to the death penalty and to apply the death penalty only to those that are considered the most serious crimes specified in Article 6.2 and aim to abolish the death penalty. This issue was also reiterated in the recommendation to conclude the Third National Report of Vietnam in 2019 on the implementation of ICCPR together with recommendations for consideration of suspending the application of the death penalty and ratify or join the Protocol to Abolish the Death Penalty and publish official death penalty figures.

In the recommendation, the Human Right Council recommended Vietnam implement some issues related to the right to equal jurisdiction, including: the recommendation relating to “independence of the judiciary and fair trial”; and the recommendation related to “Jurisdiction for the juvenile” (Paragraph 38)

Vietnamese criminal law has been amended to reduce the number of crimes with the application of the death penalty and the temporary suspension of the death penalty. With such a domestic legal context, Vietnam commits the application of the death penalty to strictly complying with the provisions of the Convention on civil and political rights.

One of the recommendations that Vietnam has disapproved of, especially the one from Australia, is to stop the death penalty for non-violent crimes, including drug-related crimes. With the view that the social situation in Vietnam needs to apply the death penalty as a deterrent to drug-related crimes, although there is no statistical basis to affirm that the application of the death penalty helps to effectively improve crime prevention.

II. The assessment of the current state of the death penalty regulations and practice in Vietnam

2.1. The right to life and the death penalty under Vietnamese criminal law

The death penalty is a traditional, long-standing form of punishment. The English term of “Tử hình” is "death penalty" or "capital punishment". “Capital” is derived from the Latin word “capitalist”, which has the origin of the word “kaput”, meaning head. "Capital punishment" means a punishment that, when applied, a person will lose their head, depriving a person of the right to life. In French this penalty is called "peine de mort" or "peine capitale"; in German it is called "todesstrafe".

The 1999 Vietnam Penal Code was amended and supplemented in 2009, regulating 22 crimes with the application of the death penalty. However, the 2015 amended and supplemented Penal Code in 2017 (abbreviated as the 2015 Penal Code) which came into effect on January 1, 2018, has had many changes in the levels of punishment compared to the 1999 Penal Code, including some crime of not applying the death penalty. The Penal Code amended and abolished the death penalty for 8 crimes, of which 5 were completely abolished, including: Conducting banditry activities; Plundering property; Destroying important national security works and/or facilities; Disobeying orders and Surrendering to the enemy. There are 3 crimes that were removed the death sentence on the basis of separating from the crimes previously prescribed the death penalty, including: Manufacturing and trading of counterfeit food or food additives Illegal storage of narcotic substances Appropriation of narcotic substances. With this change, the 2015 Penal Code stipulates the following 18 crimes with the highest penalty: death penalty: Article 108 (High treason); Art 109 (Activities against the

people's government), Article 110 (Espionage); Article 112 (Rebellion); Article 114 (Sabotaging facilities of Socialist Republic of Vietnam); Article 114 (Sabotaging facilities of Socialist Republic of Vietnam); Article 123 (Murder); Article 142(Rape of a person under 16); Article 194 (Manufacture of trading of counterfeit medicines for treatment or prevention of diseases); Article 248 (Illegal production of narcotic substances); Article 250 (Illegal trafficking of narcotic substance; Article 251 (Illegal trading of narcotic substances; Article 299 (Terrorism); Article 353(Embezzlement); Article 354 (Taking bribes); Article 421(Disruption of peace, provocation of war of aggression); Article 422 (Crimes against humanity); Article 423 (War crimes)

In addition, the 2015 Penal Code also stipulates: Death sentence is a special sentence 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. (Clause 1-Article 40). Thus, the Penal Code has clearly identified specific crimes that are subject to the death penalty instead of only determining the type of crime subject to the death penalty as before. In addition, the 2015 Penal Code also provides that special subjects not subject to the death penalty include: people under 18, pregnant women, women taking care of an offspring below three years old and people aged 75 or above when committing a crime or on trial will not be sentenced to death for their crimes. In addition, if women taking care of an offspring below three years old and people aged 75 or above, the person is sentenced to death for embezzlement or taking bribes after conviction have actively returned at least three-quarters of embezzled assets, taken bribes, and actively cooperated with authorities in detecting, investigating, handling criminals or making great achievements. execute the death penalty. The Penal Code also specifies that in the case of parole, the person sentenced to death is converted from the death penalty to life imprisonment.

In Vietnam, death penalty is still considered as a necessary punishment to punish those who commit particularly serious crimes in order to strictly keep the discipline of the country, ensure security and order and safety social, creating a safe environment for people, which means that this kind of punishment still works well in preventing crime. The practice of applying the death penalty over the past decades in our country shows that this penalty has had certain effects in punishing those who commit particularly serious crimes and educating others to respect the law. The correct application of the death penalty is supported by public opinion.

2.2. Factors influencing the death penalty and the tendency to apply it in Vietnam

Each country has its own political, social, economic and cultural conditions. Vietnam has a huge number of followers of religious beliefs, especially Buddhism and Catholicism. So the philosophy of these religions has a positive impact on the social perspective to limit and abolish the death penalty in Vietnam.⁴

2.2.1. Religion - the perspective from religious beliefs.

a. Catholic

Pope Francis recently called for the death penalty to be abolished, as well as life imprisonment, which he described as a hidden death sentence⁵. The Pope acknowledges that while the traditional teachings of the Catholic Church do not rule out the death penalty, it is only executed when there is no other way to protect society, a stance that doesn't seem to exist today, where modern prison and justice systems have proved their role very effective in protecting communities against dangerous criminals. At the same time, the Pope has also

⁴ Phạm Văn Beo, 'Abolishment or maintenance of the death penalty for specific crimes?' (2015) JOURNAL OF LEGISLATIVE STUDIES Vol 20 33, 37.

⁵ Francis X. Rocca, "Pope thanks CNS, says continue fostering honest communication, truth" (Catholic News Service, 23 October 2014).< <http://www.catholicnews.com/data/stories/cns/1404377.htm>> accessed 28 January 2021.

suggested that: modern societies overuse the punishment for criminal offenses, which partly because it is rooted in an ancient tendency to punish and sacrifices criminals who have been accused of assaulting the community.

According to the Catechism of the Catholic Church, the traditional teachings of the Church do not exclude the death penalty, if this is the only way that can effectively protect human life against those who intended to unfairly harm others, but modern advances in protecting society from dangerous crimes do not necessarily require us to put criminals who committed horrible crimes to death. If it happens, this is very rare and never seems to happen. The death penalty does not directly reflect forgiveness, hope, and redemption, which is the heart of the Bible.

b. Buddhism

Depriving a human's life, even if it is a brutal crime, even in the name of justice, always causes many controversies and different views in the world. From the Buddhist perspective, the death penalty is also a matter of concern, and is explained by a profound and compassionate philosophy of life.⁶

Buddhism is the transformation of suffering. All of us can be dominated by negative emotions and unwholesome minds that are harassing or not controlled, guilty or not guilty, but if we know how to apply the above educational methods in everyday, we can reap the fruits of bliss and happiness right here and now in our present life. The best solution is still prevention rather than intervention and education should take place before you can be punished. This is because good causes often produce blessedness. It is the fact throughout the Buddhist scriptures. Buddhism takes a strong stance against killing in general, and the death penalty in some case.

Thus, the Buddha did not accept the death penalty at all. There are no sincere Buddhists supporting the death penalty. But we should understand that the teachings in Buddhism are not dogmas, but crystallization of wisdom. These are advices from the Buddha with clear explanations why we should not kill..., mostly based on ethical grounds and related to the law of karma. The Buddhist stance against the death penalty is based on philosophy and at the same time corresponding to the realities of society.⁷

2.2.2. Viewpoints on the seriousness of criminal acts to civilized and developed society

Stemming from the socio-economic development and international integration process, along with the requirements of judicial reform, building and perfecting the socialist law-governed State in Vietnam, it is necessary to ensure human rights, humanize coercive measures of the State and take comprehensive research on the death penalty in criminal law at different perspectives. In the past, the death penalty was used to remove the most dangerous criminals from society in order to protect the public security, peace and human rights. Society is very concerned about the danger level of the offender's behavior.

The characteristics of social danger of crime is an attribute of the content of the crime, it is the most important fundamental marker, which determines other signs of crime. The characteristics of social danger of crime is determined by factors, such as: The nature and importance of the object of abuse; Nature of objective behavior; The nature and extent of damage or threat of damage to social relationships; The nature and extent of the error; Crime motives and purposes; Time, place, circumstances of crime, ... Therefore, ensuring the scientific nature of provision of a penalty for a crime requires punishment to be

⁶ Tạ Văn Tài, Buddhism and history of Human Right in Vietnam < <https://phatgiao.org.vn/dao-phat-va-nhan-quyen-trong-lich-su-viet-nam-p2-d23721.html> > accessed 15J December 2020.

⁷ Thích Nữ Giới Hương, 'The death penalty in the name of justice - a special perspective from Buddhism' (Web Portal of Buddhist Sangha of Vietnam, 11 December 2018) <<https://mangyte.vn/news-an-phat-tu-hinh-nhan-danh-cong-ly-goc-nhin-dac-biet-tu-phat-giao-ky-cuoi-258332.html>> access 05 February 2021.

commensurate with the characteristics of social danger of crime. In this way, the penalty will be fully effective in preventing and combating crime as well as educating all citizens to voluntarily comply with the law. There are crimes that require the death penalty to be kept, and there are crimes when it is time to abolish the death penalty. This factor has a great impact on the current trend of amending criminal laws in Vietnam.

2.1.3. Humane legislative background and international integration trend

During the past criminal legislative process, the death penalty was of special deterrent, irreplaceable in the prevention of murder or other serious crimes. This school of thoughts stems from the theory that each person's behavior is affected by fear, so those who intend to commit a crime will have to think about the consequences that they may suffer, including the possibility of execution. This is considered a common argument that countries that are maintaining the death penalty all put forward. The death penalty is based on the concept of "taking the penalty of penalty" to punish the offender. This point of view has a significant impact on thinking about the death penalty, both ethically and legally: the offender must pay the price if he has committed a serious crime. Accordingly, the death penalty is considered as a necessary form of compensation for the losses caused to the victim and their families.

However, according to the tendency of international integration, the humanitarian nature of the legislature of Vietnam has been clearly shown in the criminal law documents relating to the humanitarian principle. The humanitarian principle is one of the basic principles of the Penal Code. The purpose of these humanitarian principles in the Penal Code is to ensure minimum interests, to ensure inviolable rights to honor, dignity and life.

The humanitarian principle is the way of institutionalizing the policy for the people of the Socialist Republic of Vietnam, is the tolerant view that considers education to persuade the personality of the person primarily. In today's society, as humanity progresses and the more developed society is, the more the death penalty application scope tends to narrow, progressing to abolish the death penalty. According to the law of countries that still keep the death penalty, this penalty is usually only applied to crimes of particularly high danger, infringement of national security, world peace effects, crimes drug offenses, murder...

Humanitarian tendencies are also reflected in many provisions of the criminal law, the legal basis of the application of criminal law.

2.3. The trend of application of death penalty in Vietnam

As of December 2018, 86 countries have ratified this Protocol. The Human Rights Commission which monitors the implementation of ICCPR has issued a recommendation calling on ICCPR member states to consider joining or ratifying the Protocol on the abolition of the death penalty. The United Nation has also passed a series of Resolutions calling on member states to adopt the mechanism of suspending the execution of the death penalty with the intention of abolishing the death penalty.

Regarding the compatibility between the provisions of the Vietnamese legal system and the Protocol on the abolition of the death penalty, it is necessary for Vietnam to make more efforts to fully comply with ICCPR's standards on narrowing of sphere and restricting the application of the death penalty. In the present social and economic conditions, Vietnam cannot completely abolish the death penalty. The abolition of the death penalty in Vietnam takes much longer and needs a process of change in the criminal legislative trend in the context of international integration.

Currently, individuals and organizations in Vietnam believe that the maintenance of the death penalty is unnecessary, ineffective, unfair, and therefore the tendency is to oppose the maintenance of the death penalty with the following reasons:

Firstly, considering the death penalty as an effective measure in crime deterrence lacks theoretical and practical grounds. According to the author, in fact the effect of the death penalty and other types of punishment such as life penalty, there is no clear boundary for

crime deterrence. Imposing life imprisonment on offenders perceived as a threat to society will have the effect of preventing them from re-offending.

Secondly, the consequences of the execution of the death penalty are irreversible if there are mistakes or omissions in the criminal's access to justice during the pre-proceedings and court proceedings. Since then, the false conviction of criminal defendants who are sentenced to death can not be ruled out. Practice in Vietnam has proven to this problem over the years with death penalty cases lacking a legal basis.

Thirdly, using the death penalty to punish the offender as a compensation for the loss to the victim and their families is not really satisfactory. Not all victims or their families feel compensated for the damage when offenders are executed. With the mentality of law enforcement, crowd psychology of society causes the danger level of offenders' behavior to increase. Since then, the victim's psychological compensation and family becomes the desired psychology of the crowd in society. On the other hand, the application of the death penalty does not bring out an economic advantage over the other ones. And, the State's important role is to protect people's lives and property rather than to deprive them of their right to life. Therefore, the State should not apply the death penalty. The death penalty is ineffective, unnecessary and cannot be a deterrent to offenders.

III. Vietnam's Actions to exercise human rights concerning death penalty

3.1. Real equality is demonstrated through providing methods to access information and solving legal problems for offenders.

Guarantee of rights and access to justice is considered one of the essential principles of judicial rights and is also one of the basic characteristics of human rights guaranteed by the Court. Article 10, Universal Declaration of Human Rights (UDHR) states that "everyone is equal in the right to a fair and open trial by an independent and impartial tribunal" to define rights and obligations of the person involved in the proceedings, as well as of any charges against them. Everyone shall be entitled to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; to be tried without undue delay; to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; to have the free assistance of an interpreter if he cannot understand or speak the language used in court; not to be compelled to testify against himself or to confess guilt (Clause 3 Article 14 International Covenant on Civil and Political Rights). Protected by a fair trial is essential to ensure fundamental human rights such as the right to life, liberty and individual security.

The right to access justice has been recognized and guaranteed in the Constitution and procedural law in our country, the Judicial Reform Program to 2020 and the judicial reform work plan of the People's Court system has set the goal: "Studying, step by step, implementing the reform of administrative and judicial procedures at the Court towards openness, simplicity and convenience so that people can easily exercise their right to initiate lawsuits before the Court, people initiate lawsuits. In a Court, the Court is responsible for determining the authority to resolve under which authority to transfer the file and notify the petitioner; publicizing the procedure for access to the record, providing documents and information, extracting court judgments and rulings according to the provisions of law". The affirmation of the goal of building the socialist law-governed State in the 2013 Constitution with the constitution of the values of the Rule of the socialist law-governed State such as

human rights, judicial rights of the Court, the task of protecting justice, protecting children's rights people, defending the recorded values of the Court, ... it can be seen that the noble purpose of our State is for the people and for justice.

The right to access to justice is considered as a measure of fairness and equality of all people in a society. Inequality in accessing to justice can result from the traditional psychology of the people to choose methods to guarantee their rights in the dispute, but it cannot be denied that the effectiveness of the public policies in ensuring human rights have not yet met the needs of the citizens. Judicial reform and improving the effectiveness and efficiency of the law are an urgent need to ensure human rights in Vietnam nowadays.

3.2. No discrimination is made between the victim and the offender.

Equal rights in court and the right to fair trial are fundamental to the human rights protection and a means of protecting the rule of law. Article 14 of the Convention aims to ensure justice and is a prerequisite for the guarantee of specific rights. Offenders have equal rights before the law and are protected by law like other subjects. The offender may be the subject of another relationship infringement in one situation, but the offender can also be the subject of infringement of other rights in another situation. No direct or indirect discrimination between public and private factors invalidates or undermines equality in livelihood opportunities. Vietnam's criminal law still records a number of crimes related to officials who accept bribes or embezzlement that stipulate the death penalty. And whoever is the offender, there is still no discrimination in the proceedings⁸.

So as to fulfill human rights criterias, the Vietnam Government needs to be proactive in assisting people who are discriminated against, for example, criminals subject to death penalty or defendants or defendants in cases which the sentence is included in the charges with the death penalty applied.

3.3. Fair trial by Court and judicial reform aimed at correct charges and behavior.

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.⁹

That individual has equal access to the court and tribunal. Legal criminal proceedings and a public trial by independent and competent courts are essential. During the trial in Court, the defendant has the right to the principle of innocence and assurance in determining the crime in accordance with the act and the danger level of the act committed by himself. Especially, for child defendants and other vulnerable subjects, they enjoy the right to a fair trial by the Special Court for them. And all the Court's decisions on the mandatory death penalty are reviewed by a higher court to evaluate, monitor and review the legality, principle and injustice of the death penalty.

The requirement to respect the values of justice has opened up a new mindset, a new judicial philosophy. The Court protecting justice and human rights are very new issues not only in the Constitution but also in science and practice, requiring further research to bring common understanding and implementation in fact.

Conclusions

In tune with global trends demonstrated by the approval to abolish the death penalty, it is possible that Vietnam should continue to make efforts to perfect the legal system in the direction of restricting the application and proceeding to abolish the death penalty. These

⁸ United Nation, Human Rights Indicators: A Guide to Measurement and Implementation (The Office of the High Commissioner for Human Rights (OHCHR) 2012) 84.

⁹ International Covenant on Civil and Political Rights 1966, s 14 (1).

steps also help Vietnam meet all necessary conditions to accede the Protocol on the Abolition of the Death Penalty at an appropriate time.¹⁰

- Researching and disseminating relevant experiences on the abolition of the death penalty in order to provide complete and comprehensive information for making national policies on the death penalty.
- Continue to reduce the number of offenses where the death penalty is possible, expand those who do not apply the death penalty or do not serve the death penalty or have the death penalty postponed through revising relevant documents and it is necessary to reconsider the concept of "the most serious crimes" subject to the death penalty to ensure compliance with the conception of international law on human rights and Article 6 of ICCPR. Do not apply the death penalty for non-violent crimes, only for the most serious crimes, proceed to abolish the death penalty.
- Considering the application of the suspension of the death penalty as an important preparatory step towards the complete abolition of the death penalty.
- Disclosure of information on the application of the death penalty, increasing transparency in numbers, methods and crimes of the death penalty.

¹⁰ Ministry of Justice, 'Study: On the possibility of Viet Nam ratifying the Second Optional Protocol to the ICCPR aiming at the Abolition of the Death Penalty' (2019) 6.

REFERENCE

1. Eric Neumayer, 'Death Penalty Abolition and the Ratification of the Second Optional Protocol' (2008) *The International Journal of Human Rights*
2. Francis X. Rocca, "Pope thanks CNS, says continue fostering honest communication, truth" (Catholic News Service, 23 October 2014).<
<http://www.catholicnews.com/data/stories/cns/1404377.htm>>
3. International Covenant on Civil and Political Rights 1966, s 14 (1)
4. Ministry of Justice, 'Study: On the possibility of Viet Nam ratifying the Second Optional Protocol to the ICCPR aiming at the Abolition of the Death Penalty' (2019)
5. Phạm Văn Beo, 'Abolishment or maintenance of the death penalty for specific crimes?' (2015) *JOURNAL OF LEGISLATIVE STUDIES* Vol 20 33, 37
6. Tạ Văn Tài, 'Buddhism and history of Human Right in Vietnam' <
<https://phatgiao.org.vn/dao-phat-va-nhan-quyen-trong-lich-su-viet-nam-p2-d23721.html>>
7. Thích Nữ Giới Hương, 'The death penalty in the name of justice - a special perspective from Buddhism' (Web Portal of Buddhist Sangha of Vietnam, 11 December 2018) <
<https://mangyte.vn/news-an-phat-tu-hinh-nhan-danh-cong-ly-goc-nhin-dac-biet-tu-phat-giao-ky-cuoi-258332.html>> access 05 February 2021
8. United Nation, *Human Rights Indicators: A Guide to Measurement and Implementation* (The Office of the High Commissioner for Human Rights (OHCHR) 2012)
9. United Nations Human rights Council, *Universal Periodic Review of Viet Nam*: <
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/VNindex.aspx>>
10. William A. Schabas, *International Law and Abolition of the Death Penalty* (55 Wash. & Lee L. Rev. 797, 1998), <https://scholarlycommons.law.wlu.edu/wlulr/vol55/iss3/10>,