Drug-Related Crimes Under Vietnamese Criminal Law: Sentencing and Clemency in Law and Practice

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Abstract

Although drug abuse has a long history, Vietnam has recently escalated its fight against drug-related crimes. This paper first discusses the elements of drug-related crimes under the Criminal Code of Vietnam 1999 (as amended in 2009) and calls for a series of reforms. It then analyses sentencing under the Vietnamese criminal law in general, with particular focus on drug-related crimes and the granting of clemency.

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Drug-related Crimes Under Vietnamese Criminal Law: sentencing and clemency in law and practice

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In 1997, Vietnam ratified all three UN Drug Control Conventions (DC Conventions): the Single Convention on Narcotic Drugs 1961; the Convention on Psychotropic Substances 1971; and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988. As a result, drug-related offences under the current Criminal Code of Vietnam 1999 as amended in 2009 (the CCV) have been changed to correspond with the penal provisions of the DC Conventions. This means that the Vietnamese legal system now applies international standards for the criminalisation of drug-related activities and thus shares its general approach to drug-related offences with other member states of the DC Conventions. This paper will argue, however, that the Criminal Code should further be amended to prohibit the unlawful manufacturing of precursors.

A. Drug-related Crimes Under the Criminal Code of Vietnam

Drug-related criminal offences are dealt with in Chapter XVIII of the CCV, ‘Drug-Related Crimes’. In British-derived common law systems, two elements are usually required for a person to be found guilty of a crime: a criminal act (the physical element) and criminal intent (the mental element). The standard common law test of criminal liability is usually expressed in the Latin phrase actus non facit reum nisi mens sit rea (‘the act does not make a person guilty unless the mind is also guilty’). By contrast, under Vietnamese criminal law, a crime must have four elements: the objective element, the subjective element, the physical element and the mental element.


2 Australia is also a State party to the three UN Drug Control conventions.

3 For more information, see Herring, 2009: 37.
Turning first to the objective element, a crime is conducted when it threatens or harms public safety and welfare. Thus, the objective elements of a particular crime relate to the specific interests that are protected by a particular criminal law provision.\(^4\)

Under Vietnamese criminal law, the object of all drug-related criminal provisions is to enable state control and management of narcotic substances in terms of their manufacture, trade, distribution and use. The State has therefore enacted legislation regulating the manufacture, trade (including the import and export), transportation, distribution and use of narcotic substances. The illicit nature of drug-related crimes under the CCV is defined as being contrary to Vietnamese drug control laws and regulations and, therefore drug-related activity violates the government’s drug control regime. In effect, the objective elements of drug-related criminal activity are made out by a breach of existing regulation.\(^5\)

Second, the subjective element of a crime reflects the features of the criminal who commits that crime. These include two components, namely the required age and capacity for criminal liability, although other subjective elements may also be considered by the court. Under art 12 of the CCV, persons who commit prohibited activities must be aged 14 or more to be criminally accountable for ‘very serious crimes with intention’ and for ‘particularly serious crimes’. Once they reach the age of 16, they can be criminally accountable for all types of crimes.\(^6\) An offender may not be considered criminally liable if she or he is under the stipulated age when she or he commits a criminal act or does not have the capacity to be aware of, or to control, his or her acts (for example, because he or she is suffering from a mental incapacity or other disease which deprives him or her of the capacity to be aware of, or to control, his or her acts).\(^7\)

The crime of breaching the regulations on the management and use of addictive drugs or other narcotic substances (art 201) also requires an additional subjective element. This offence must be committed by a person holding a position that makes him or her responsible for the lawful import, export, trade, transportation, protection, distribution or use of drugs.\(^8\) Persons who do not hold such a position and allegedly commit violations of regulations on the management and use of addictive drugs or other narcotic substances may be charged with the (lesser) crime of unlawful stockpiling, transporting or trading of narcotic substances (art 194).

\(^4\) Under the CCV 1999, the object of a crime is generally used to categorise crimes into different Chapters.


\(^6\) Article 12 of the CCV 1999.

\(^7\) Article 13 of the CCV 1999.

\(^8\) Article 278 of the CCV 1999.
Third, the physical element of crime can vary widely. An omission, or failure to act, may constitute a criminal act if there is a duty to act. While some crimes are committed through the act alone, others require that the crime causes actual harm. Drug-related crimes under the Vietnamese criminal law only require a criminal act, not harm (the physical elements of drug-related crimes are analysed in more detail below).

Fourth, as mentioned, criminal liability requires a ‘guilty mind’ (the intent to commit the crime) in addition to the act itself. Certain offences also require additional elements, such as a specific purpose. Under the CCV, however, drug-related crimes only require a ‘guilty mind’ for criminal liability to be established. They do not require any specific motive or purpose.

With regards to the ‘guilty mind’, Vietnamese drug-related offences must be committed with either ‘direct’ or ‘indirect’ intention, terms that correspond to ‘actual intention’ and ‘constructive intention’ in other criminal legal systems. In Vietnamese domestic law, drug-related offences can also be committed unintentionally, that is, when a person foresees that his or her conduct is risk-producing but, in his or her perception, the risk is of low likelihood, is not likely to occur, or can be prevented, or the person does not foresee that his or her conduct is risk-producing, although he or she should have so foreseen (that is, an ordinary person in his or her ‘shoes’ would have foreseen the possibility of that risk).

9 A person commits a crime with direct intention when that person foresees that his or her conduct is harmful and prohibited and that a certain result will follow his or her conduct but nevertheless commits the conduct for the purpose of bringing about that result. A person commits a crime with indirect intention when that person foresees that his or her conduct is harmful and prohibited, and that a certain result will follow his or her conduct, and commits the conduct without the purpose of bringing about that result but with the acceptance of its occurrence. For example, murder is a crime committed with direct intention. Manslaughter is a crime committed with indirect intention. See art 9 of CCV and see also Nguyễn Ngọc Hòa, 2010: 139-43.

10 Article 10(1) of the CCV 1999. See also Trần Thị Quang Vinh, 2013: 156-61.

11 Article 10(2) of the CCV 1999.
THE OFFENCES

In this section, the physical and mental elements of the standard Vietnamese offences relating to supply and consumption are examined in more detail.\(^{12}\)

*Cultivating opium poppy or other kinds of plants bearing narcotic substances (art 192)*

This offence targets the cultivation of plants from which narcotic substances may be obtained, such as the opium poppy, coca bush or cannabis plant.\(^{13}\) The term ‘cultivating’ is not defined, leaving the courts a broad power to elaborate. Generally, cultivating is seen as an activity that begins with the preparation of the soil before planting of seeds and stretches to harvesting of the plant.\(^{14}\) Involvement in any part of the process, such as harvesting of opium fruits, is sufficient to found a conviction for this offence.\(^{15}\) In practice, a person who is not personally involved in cultivating activities, but hires others to cultivate the prohibited plants, may also be considered guilty of this offence.\(^{16}\) This offence must be committed with direct intention, that is, the cultivator knows his or her activities are prohibited. It also requires that the specific purpose of the cultivators is to obtain the controlled substances for either drug trafficking, personal consumption or both. The cultivation of prohibited plants merely to enjoying the beauty of their flowers is not an offence.\(^{17}\) The mental state of the accused is inferred from the circumstances surrounding the commission of the offence and from statements made by the offender.\(^{18}\)

The cultivation of drug-producing plants is strictly prohibited in Vietnam, but because cultivation of opium poppy has a long history among Vietnam’s ethnic populations (being a subsistence crop at various times),\(^{19}\) criminal liability is only imposed on a

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12 The term ‘standard offence’ refers to the offence committed without aggravating factors and is subject to the basic penal scale. Several ascending penal scales are designed for aggravated offences.

13 The fact that opium poppy is specifically listed reflects the strong focus of Vietnamese lawmakers on the fight against the tradition of opium cultivation by ethnic populations. See Đinh Văn Quế, 2004: 22.


17 In such cases, a cultivator may, however, receive administrative sanctions, because cultivation of the plants in question is strictly prohibited. See Đinh Văn Quế, 2004: 26.


19 See also Ưong Chung Luru, 1998: 34.
person who has relapsed and returned to cultivation after being the subject of several non-custodial measures, including official education, financial and technical support for alternative cultivation, and the imposition of a fine or warning. Put another way, a record of administrative sanction is required before such a person will be convicted.\(^{20}\) Pursuant to the *Ordinance on Administrative Sanctions 2002*, a record of administrative sanction is expunged after a year from the date of imposition of the sanction.\(^{21}\) This, of course, makes it very difficult to prosecute cultivators of drug-producing plants. For instance, a person who was subject to an administrative sanction at an early stage of a previous crop may be involved in a later crop – even the next one - without threat of being punished, because his or her record has been expunged.\(^{22}\) Habitual cultivators are able to regularly exploit this loop-hole to escape prosecution and punishment.

*Unlawful manufacturing of narcotic substances (art 193)*

The exhaustive list of narcotic substances involved in this offence is contained in the *Drug Schedule Decree 2001*\(^ {23}\) and its revisions. This Decree explains that ‘narcotic substances’ includes both narcotic drugs under the *1961 Convention* and psychotropic substances under the *1971 Convention*. The term ‘manufacturing’ is broadly defined, covering all activities by which controlled substances are obtained. For example, separating or extracting them from natural plant products, transforming their status, collecting them from their mixtures, and refining or compounding them, are all examples of manufacture.\(^ {24}\) The amount of drugs manufactured is immaterial to the conviction but is relevant to sentencing, that is, the larger the amount of drugs manufactured, the harsher the punishment imposed.\(^ {25}\)

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20 Article 192(1) of the CCV 1999.


22 In the northern, mountainous areas of Vietnam only one opium poppy crop is cultivated each year. Therefore, a sanction imposed for cultivation of any given crop will automatically be expunged by the time the next crop is ready: Đỗ Văn Hòa, 1996: 65 and Vũ Quang Vinh, 2002: 9, 138-39.


25 Articles 193(1),(2(e), 3(c) and 4(d) of the CCV.
The manufacture of drugs must be committed with direct intention, that is, the offender must know that he or she has been involved in the illicit manufacture and foresees that his or her conduct is harmful to society, but has intentionally acted against the law. The purpose of drug manufacturing is immaterial to conviction for this offence. Put another way, it makes no difference whether the narcotic substances are manufactured for illicit trafficking, for personal consumption or for both purposes. It should be noted that although the Law on Amending the Criminal Code 1999 in 2009 removed the offence of personal consumption from the list of drug-related crimes, the illicit manufacture of narcotic drugs for personal consumption remains prohibited.

*Articles 194, 195 and 196 of the CCV: Regulating narcotic substances, precursors, and equipment and tools*

Articles 194, 195 and 196 of the CCV deal with three distinct crimes that differ in their particular objects (namely, narcotic substances, precursors, equipment and tools to be used for illicit drug manufacture or illegal drug use), but otherwise have a similar *actus reus*. The statutory list of narcotic substances and precursors is specified under Drug Schedule Decree 2001 and its revisions. Pursuant to Joint Circular 17/2007/TTLT-BCA-TANDTC-VKSNDC-BTP Guiding the Application of the Provisions of Chapter VIII on Drug-related Crimes of the Criminal Code 1999 (Joint Circular 2007), ‘equipment’ and ‘tools’ are things ‘that have been produced specifically for illicit drug manufacture or unlawful drug use or that have been produced for other purposes but have been involved in illicit drug manufacture or unlawful drug use’. This means that items used in everyday life, such as pots, syringes or smoking pipes, can also be defined as equipment and tools. The manufacturing, stockpiling and trading of these things are not, however, criminal offences, unless for illegal purposes (the mental element of the offences is analysed below).

Each of the offences in question includes several forms of criminal conduct, the execution of any one of which is sufficient to ensure conviction. ‘Stockpiling’ refers to both the actual physical control of the objects or having power over them and the intention to later take control of them. Thus, locations of stockpiled objects are immaterial to the conviction. Knowledge and control of the objects, wherever located,

26 See, for example, Nguyễn Ngọc Hào, 2001: 498.


28 Section I(1)(1.3) of the Joint Circular 2007. Although this joint circular was enacted for the purpose of providing guidance on the implementation of the previous CCV 1985, it is still in effect.

29 Pots are used for distilling cannabis resin. See Trần Văn Luyện, 1998a: 73.
attracts criminal liability.  

‘Transporting’ refers to the carrying or moving of the objects in question by any means from one location to another, including cross-border movement or dispatching them for international shipment. The carriage of drugs internally (for example, by swallowing them) to move them from one place to another is also caught by this offence.

Pursuant to the CCV, the quantity of substance is immaterial to conviction for unlawful drug stockpiling or transporting offences. Joint Circular 2007, which replaced Joint Circular 1998, states, however, that the stockpiling, transporting or appropriating of narcotic substances not for the purpose of illicit trade or manufacture of narcotic drugs in less than the minimum amount specified will not attract criminal liability. For example, less than 0.1 gram of heroin or cocaine, two grams of other narcotic substances in solid form, or one gram of opium resin attract no liability. Joint Circular 2007 has been criticised as contradicting the provisions of the CCV but it is considered necessary for practical law enforcement and to protect persons who merely stockpile or transport a very small amount of drugs for personal consumption. I contend that this exclusion is appropriate because if there is no specification of the threshold quantity of drugs necessary to constitute an offence, people detected carrying a drug home for personal use could be charged and sentenced. This is inconsistent given that ‘drug use’ is no longer an offence. To ensure fair and consistent prosecution for stockpiling and transporting, and to avoid any argument regarding the legal basis of Joint Circular 2007, the CCV should directly address the minimum quantity of narcotic substances involved for criminal liability.

The actus reus of the offence of unlawful ‘trading’ in narcotic substances, precursors or equipment, and tools for illicit drug manufacture, broadly covers national and international importation, domestic transport, and possession.

31 The cross-border transportation of the objects in question establishes an aggravating offence that entails harsher punishments. See arts 194(2)(d), 195(2)(e) and 196(2)(e) of the CCV 1999.
33 Articles 194(1), 195(1) and 196(1) of the CCV.
34 Section II(3)(3.6) of the Joint Circular 2007.
36 Article 199(1) of the CCV.
activity, wholesale and retail selling, and purchasing/buying and exchange. The acts of middlemen or negotiators on behalf of others to bargain or contract as accessories in trade are also covered by this offence.

As for the crimes of stockpiling and transporting narcotic substances, the CCV does not prescribe a minimum quantity to attract criminal liability and, in relation to trading, nor does Joint Circular 2007. Thus, all trade in narcotic substances is punishable. This may result in the situation where a person detected in the course of trading in a minor amount of a narcotic substance faces a criminal charge, but may be exempted if the detection takes place while stockpiling or transporting of that drug, rather than selling it.

‘Appropriating’ involves all forms of unlawful taking or removing of the objects that are under the control of another, such as by theft, robbery or fraud. It is noteworthy that the DC Conventions do not require Parties to criminalise this form of conduct.

The ‘manufacturing’ of equipment or tools to be used in illicit drug manufacture or drug consumption covers all activities that produce those things. It also covers the repair of existing things so they can properly function for the intended purposes.

All the offences outlined above are crimes of direct intention: offenders must have known of the existence and nature of the objects in question at the time of performing the proscribed acts. The physical control of things, without knowing they are narcotic substances or precursors, cannot lead to a conviction for unlawful stockpiling. Similarly, a person cannot be convicted for unlawfully appropriating narcotic substances or precursors if he or she has not specifically sought to obtain those substances.


38 Section II(3)(3.4) of the Joint Circular 2007. See also Đinh Văn Quế, 2004: 97 and Nguyễn Ngọc Hòa, 2001: 501. Pursuant to arts 133, 138 and 139 of the Criminal Code 1999, ‘theft’ is the unlawful taking or removing of things that are under the control of another in a secret manner; ‘robbery’ is the unlawful taking or removing of things that are under the control of another with violence (that is, physical force) or the immediate threat of violence; and ‘fraud’ is the unlawful taking or removing of things that are under the control of another by deception.

39 Nguyễn Ngọc Hòa, 2001: 507. A person who prepares tools for himself or herself for unauthorised drug consumption may be simultaneously charged with two crimes: unlawful manufacture of tools to be used for illicit drug use, and unlawful drug consumption. It has been argued that this can result in double jeopardy because preparing suitable tools is merely a necessary step in the drug use process (see Đinh Văn Quế, 2004: 172).

40 A person who appropriates the belongings of others for money but later discovers those belongings contain narcotic substances is not criminally responsible for the offence of unlawful appropriation of narcotic substances. Nonetheless, if the person continues to possess them after becoming aware of the presence of narcotic substances in the
relation to unlawful stockpiling, transporting and trading in precursors, the offenders must have prior knowledge that they are to be used for illicit manufacture of narcotic substances. For someone to be charged with an offence relating to equipment or tools, they must have known that those things were to be used for one of the two purposes, that is, for illicit manufacture of narcotic substances or for their illegal use. Whether the purpose was trafficking or personal consumption is immaterial.

In the previous *Criminal Code of Vietnam 1985* (CCV 1985), unlawful stockpiling, transporting and trading in narcotic substances were distinct offences. The penalties applicable for stockpiling and transporting illicit narcotic substances were less severe than penalties imposed for trading. In practice, as most cases involved arrests made during the course of drug transportation, criminals were able to deny possession of those drugs for trading. To facilitate prosecution as well as to ensure fairness, the CCV combined the separate offences and imposed the same penalties on them (that is, the current combined offence is ‘unlawful stockpiling, transporting, trading or appropriating narcotic substances’).

The Vietnamese offences discussed above correspond to various supply-related offences listed under art 3(1)(a)(i),(iii), and (iv) of the *1988 Convention*. Unfortunately, the CCV does not list the unlawful manufacture of precursors used in illicit drug manufacture as a crime. This omission means Vietnam’s criminalisation of drug-related offences falls short of art 1(iv) of the 1988 Convention.

**Breaching of the regulations on management and use of addictive drugs or other narcotic substances (art 201)**

As mentioned earlier, this is a special crime because it only applies to those who are authorised to conduct or to control licit drug activities, but then breach drug control regulations. There is currently no statutory guidance on the physical and mental elements of this offence, so the courts have broad interpretive powers. These cover a wide range of conduct, such as selling or distributing drugs without medical prescriptions or in amounts greater than prescribed; storing drugs in breach of safety standards, leading to loss of the drugs; and importing, manufacturing or trading in drugs in higher quantities than authorised. It is argued that this offence differs from appropriated belongings, then he or she may be accused of unlawful stockpiling of narcotic substances. A person who intends to appropriate narcotic substances but later discovers that the substances appropriated are not narcotics can still be punished for the offence. See, for example, Đinh Văn Quế, 2004: 97-8 and Nguyễn Ngọc Hòa, 2001: 502.


unlawful manufacturing of narcotic substances and unlawful stockpiling, transporting and trading in narcotic substances because of both the special identity of the offenders and the required mental element. While this offence does not require intention, the other offences need direct intention. Nonetheless, inconsistency remains regarding the mental aspects of this offence. To avoid ambiguity, official guidelines are needed.

**Money-Laundering Offenses (Article 251)**

‘Legalising money or property generated from a crime’ is an offense that was newly inserted under the CCV to address the laundering of money or other types of proceeds derived from any offense, including drug-related crimes. Although the term ‘laundering’ is not used, this offense corresponds to money laundering offenses in the domestic legal systems of other countries. It involves activities that integrate illegally obtained money or property into legitimate assets through financial and/or banking operations, or through other business and investigation transactions that obscure their true source. This is an offence of direct intention. The offenders must know that they are engaged in prohibited conduct and foresee and intend the result that will follow. Additionally, they must have prior knowledge of the illicit source of money and property involved.

A person who launders money or property derived from his or her commission of a crime may also be convicted of this offense. Thus, in general, the Vietnamese offence of legalising money or property generated from the commission of a crime corresponds to the money laundering offense under art 3(1)(b) of the 1988 Convention. In 2009, the Law on Amending the Criminal Code 1999 renamed this crime as ‘money laundering’, with the elements of this offence similar to those in art 3(1)(b) of the 1988 Convention.

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44 Đinh Văn Quế, 2004: 305.

45 On the other hand, there is an argument that the offence in question can only be committed with intention (see Nguyễn Ngọc Hòa, 2001: 515). Other, more compromising, views argue that the offence in question can be committed either with or without intention: Trần Văn Luyện, 1998a: 92; and Trần Minh Hưởng, 2002: 379.

46 It should be noted that in practice, the number of prosecutions for this offence is relatively small (see Đinh Văn Quế, 2004: 18). This is probably due to that fact the official guidance has not been provided.


48 Article 251(1) of the CCV.

Harbouring or consuming illicit property that others obtained from the commission of a crime (art 250)

It is worth mentioning that under the CCV, hiding, possessing or using property generated from the commission of a crime is a distinct offence known as ‘harbouring or consuming illicit property obtained by others from the commission of a crime’. In marked contrast to the money laundering offence, a person who uses or sells property derived from an offence that he or she committed is not liable. ‘Harbouring’ takes place where an offender who has committed an offence hides ill-gotten property (that is, puts it in a place where it cannot be seen or found), or where a person assists the offender in doing so. ‘Consuming illicit property’ covers various forms of conduct, including buying (or exchanging) ill-gotten property for personal use, or re-selling it for profit, or assisting a criminal to sell it. This offence again requires intention and offenders must have knowledge of the illicit source of the property at the time they receive it. This Vietnamese crime appears to correspond to the offence of acquisition, possession or use of property, knowing at the time of receipt that such property was derived from a drug-related offence, under art 3(1)(c)(i) of the 1988 Convention. The Vietnamese offence, however, is wider in terms of the type of conduct that falls within its ambit.

Organising the illegal use of narcotic substances (art 197)

This offence broadly covers: (i) instructing, managing or administering the insertion of narcotic drugs into the body of another person; (ii) instructing, managing or administering the preparation of narcotic drugs; (iii) supplying narcotic drugs for users; (iv) providing the location and means for illegal drug use; and (v) seeking out drug users. Furthermore, Joint Circular 2007 stipulates that any person assisting another person with the instruction, management and administering of the organisation of illegal drug use is an accessory to the crime, including if they assist with the preparation of narcotic drugs, for example, by trading, stockpiling or manufacturing narcotic drugs. This offence must be committed with direct intention, that is, offenders must know that their conduct is prohibited and foresee the harm it causes. The commission of any one of the listed forms of conduct is sufficient for a conviction for the offence.

Due to its very broad ambit, difficulties occur distinguishing between this offence and others. Joint Circular 2007 stipulates that if the actions of a person satisfy the

50 Article 250 of the CCV.
51 For example, Nguyễn Ngọc Hòa, 2004: 565.
52 Section II(6)(6.1) of the Joint Circular 2007.
53 Lê Thanh Bình, 2002: 154-55 and Từ Văn Nhũ, 2002: 142-143 It is argued that the dividing line between the offence of organising the illegal use of narcotic substances and other offences is vague, including unlawful manufacturing of narcotic substances, unlawful
elements of this offence and other drug-related offences, then several offences may be simultaneously alleged, at the discretion of the court with jurisdiction over the case.\textsuperscript{54} Thus, the application of the offence depends on the interpretation of very particular factual situations.

\textit{Harbouring of the illegal use of narcotic substances (art 198)}

This offence criminalises the lending of property, with or without payment, to others for the illegal use of narcotic substances. The property involved may belong to the offenders or simply be under their control.\textsuperscript{55} The offence requires intention and the offender must therefore have been aware that the property was to be used for illegal drug consumption. That knowledge may exist at the time of lending the property or may be formed later. There is some ambiguity in differentiating between this offence and the offence of organising illegal drug use, particularly in relation to the active and passive mental elements of the offender. Some have argued that if the offenders actively seek to support the illegal use of drugs, the charge of organising illicit drug use should be laid. If they passively lend a hand to unlawful drug users, the offence of harbouring illegal drug use should be used.\textsuperscript{56}

\textsuperscript{54} Section II(6)(6.1) of the Joint Circular 2007.

\textsuperscript{55} Section II(7)(7.1) of the Joint Circular 2007. In addition to the conduct of lending property with or without payment for illegal drug use, art 198 of the CCV indicates that ‘other forms’ of conduct of a person who lets their property be used for illegal drug use may also be punished. In practice, however, this does not happen. See Đinh Văn Quế, 2004: 239.

\textsuperscript{56} Trần Văn Luyện, 1998b: 83-84; Lê Đăng Doanh, 1999: 4; and Trần Đức Thìn, 2002: 51.
Forcing or inducing another to use narcotic substances illegally (art 200)

The DC Conventions do not oblige Parties to criminalise these forms of conduct.\(^{57}\) This crime, an addition in Vietnam, criminalises conduct that seeks to influence the mind of another, causing that person to use narcotic substances illegally. ‘Forcing’ covers both physical and mental influence, such as violence or threats. ‘Inducing’ involves various activities of inciting, promoting or persuading.\(^{58}\) This is an offence of direct intention.

It should be noted that inducing illegal drug use can overlap with organising illegal use of narcotic substances. The unclear borderline between these two offences leads to inconsistent interpretation by local courts.\(^{59}\) Some suggest that inducing non-drug users into illegal drug use makes out the crime of inducing illegal drug use, whereas others suggest inducing drug users into illegal drug use constitutes the crime of organising illegal drug use.\(^{60}\) In marked contrast, others claim that being a user or a non-user is immaterial to differentiating between the two offences in question, because the difference lies in whether the user induced, in fact, demanded drugs. If the ‘user’ has demanded the illegal use, then the offence of organising illegal drug use is made out. On the other hand, if the induced person has not asked to use drugs, then inducement is considered to have played a key role in causing him or her illegally to use the controlled substances.\(^{61}\) I argue that it is very difficult to prove whether a person has actually demanded illegal drug use because the term ‘demand’ is very abstract and flexible. Using it to distinguish between those offences may obstruct prosecutions. Therefore, to differentiate between these offences, a test based on whether the induced person is a drug user seems more useful and should be applied.

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57 The 1988 Convention obliges Parties to make the public inducing of others to commit any drug-related offences an offence but, because it does not establish illegal use of drugs as a crime, the inducing of others to use drugs illegally appears to be beyond the ambit of that offence.

58 Section II(9)(9.1) and (9.2) of the Joint Circular 2007.


61 Trần Đức Thìn, 2002: 52.
CRITICAL ANALYSIS OF VIETNAMESE CRIMINAL LAW ON DRUG-RELATED CRIMES

The ambiguities

In general, elements of drug-related crimes are clearly prescribed in Vietnamese criminal law. Some offences, nevertheless, contain ambiguities that hinder prosecution.

First, and as noted above, the offence of ‘organising the illegal use of narcotic substances’ criminalises instructing, managing or administering another person’s illegal drug use, including intentionally providing premises for illegal drug use. It lacks, however, a precise description of the various active and mental elements of the crime.\(^{62}\) This ambiguity means that an arguable defence arises to the crime of ‘organising’ by a seller who, although also providing premises, did not actively and intentionally suggest and provide a place for the subsequent use of the narcotic substances. That is, a passive response to a customer’s demand to use drugs at the place of sale only constitutes the crime of selling narcotic substances, rather than also organising their illegal use.\(^{63}\) Nevertheless, in practice, a seller who also passively permits drug abusers to use drugs at his or her premises is typically found guilty of the crime of ‘organising the illegal use of narcotic substances’.\(^{64}\)

Second, the CCV does not treat the production of counterfeit narcotic substances as ‘fraud’. This creates doubt about whether creating counterfeit narcotics is a fraudulent crime or the crime of unlawful drug production. To create consistent interpretation of the law in this area, guidance from the Supreme People’s Court is necessary.

B. SENTENCING

The Constitution of Vietnam 2013 provides that a defendant is innocent until ‘the crime is proved in accordance with legal procedure’ and the decision of the court has taken ‘effect’.\(^{65}\) The equivalence of this term to the substantive right (innocent until proven guilty) that exists in certain common law countries is debatable, but it seems clear a person will only be treated as guilty of an offence upon conviction by a court. Upon conviction, he or she will be punished by the court.

The sentencing of offenders is considered a difficult task and is defined as ‘the process by which the court decides sanctions to be imposed upon convicted persons in


\(^{63}\) Trần Văn Luyện, 1998b: 57.

\(^{64}\) Lê Đăng Doanh, 1999: 4.

accordance with the law’. Sentencing is also viewed as an important task because it is fundamental to administering criminal punishment. If a sanction imposed upon a convicted person is unduly lenient, it may lead to disregard for law and thereby reduce the deterrence of crime within communities. If a sanction imposed upon a convicted person is unduly harsh, it may cause a convicted person, and those around him or her, to react negatively and challenge social consensus. Unprincipled sentencing can operate as a barrier to effective retribution, and to the convicted person’s rehabilitation and education, and, indeed, the fight against crime in society as a whole. A fair and just sentence helps those convicted to be aware of their wrongful acts and to deter other members of society from criminal conduct. For these reasons, the court must give weight to each of the purposes of punishment when sentencing. Article 27 of the CCV explicitly sets out the purposes of punishment and serves as directions to the court. Additionally, art 45 of the CCV provides rules that the courts must follow when determining sanctions. These reflect established sentencing principles in Vietnamese criminal law.

The following paragraphs analyse the purpose of punishment and sentencing principles under the CCV and their relationship to the sentencing of drug-related crimes.

1. **PURPOSE OF PENALTIES**

There is a broad range of penalties available under the CCV, and the quantum of each can vary, which provides the courts with significant discretion when sentencing. When exercising this discretion, the courts must take into account the purpose of penalties including retribution, education, rehabilitation and deterrence.

*Retribution*

As the criminal has ‘acted against society’, he or she should be punished in proportion to the gravity of the offence. That is, the degree of punishment should match the crime and its particular gravity. One standard by which punishment can be determined is the degree to which the crime affects others or society at large.

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68 Ibid.

69 Ibid.

70 Article 27 of the CCV.
**Education**

Punishment can serve as a means for society to publicly denounce criminal conduct. In addition to retribution, the aim of punishment is to educate criminals about what behaviour is not acceptable and help them become useful to society.

**Rehabilitation**

Some punishment includes work or education to reform and rehabilitate the wrongdoer so they will not commit the offence again. The goal here is also to change the offender’s attitude to what they have done, and make him or her appreciate that his or her behaviour was wrong. For example, criminals are forced to do work while serving their prison sentence, such as cultivating and harvesting rice plants. Through this, they are expected to recognise the value of labour and become aware that crimes against the property of others are wrong. It is worth noting that there is also an element of rehabilitation in education and vice versa. Education, for example, about social values, plays an important role in rehabilitation. Thus, the aims of education and rehabilitation are closely related in Vietnamese criminal law.

**Deterrence (prevention)**

In general, deterrence aims to convince others not to mimic or copy criminal behaviour, that is, punishment ought to reduce the likelihood that another person in a similar situation will offend in the future. With ‘special deterrence’, the purpose of punishment is to deter previous offenders from re-offending.

Article 27 of the CCV clearly specifies these principles as guidelines for sentencing, yet does not explicitly require the courts to consider them when exercising their sentencing discretion. Thus, it is recommended that art 45 of the CCV, which sets out sentencing guidelines, should be revised by the addition of a requirement that when sentencing, the courts must consider how the stated purposes of punishment set out under art 27 can be realised.

2. **PRINCIPLES OF SENTENCING**

In addition to stating the purpose of penalties, the CCV sets rules governing the exercise of discretionary sentencing. According to art 45 of the CCV, the courts must determine penalties based on the provisions of the CCV and take into account: the nature and extent of danger posed to society by the criminal act; the personal circumstances of the offenders; and any extenuating circumstances or those that aggravate criminal liability.\(^{71}\) This provision reflects a number of wider sentencing principles in Vietnamese

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\(^{71}\) The extenuating and aggravating circumstances are listed in arts 46 and 48 of the CCV.
criminal law, namely: rule of law, proportionality, fairness, and humanity.\textsuperscript{72}

\textbf{Rule of Law Principle (Nguyễn Tắc Pháp Chế)}

According to Vietnamese scholars, the rule of law principle (Nguyên tắc pháp chế) is a requirement that everybody — including state officials and state institutions — must obey the law. In the context of punishment, the rule of law principle requires that courts must obey the law in deciding the punishment applicable to convicted persons. This is not to be confused with the notion of a rule of law state (Nhà nước pháp quyền), in which the law is respected by the state, even if it constrains the state.

Under the rule of law principle, no individual can suffer criminal punishment except in strict accordance with laws and regulations. This means no person may be prosecuted for an act that is not punishable by law and no person may be sentenced to a penalty that is not prescribed by law. If the court seeks to punish someone with a sanction not prescribed at the time the crime was committed, the rule of law will be violated.

Further, the rule of law principle requires that the courts must limit themselves to the types and scales of penalties specified in the CCV when determining penalties. They must also strictly obey rules on the conditions and limitations applying to each type of penalty, as described below.

\textbf{Proportionality Principle (Nguyên tặc cá thể hóa hình phạt)}

Like the principle of proportionality in common law systems, this principle operates under Vietnamese criminal to guard against the imposition of unduly lenient or harsh sentences. The principle requires that a sentence should neither exceed, nor be less, than the gravity of the crime, having regard to the objective circumstances of the case. Put another way, there must be a ‘fit’ between the sentence and the seriousness of the offence. This requires that equal sentences be imposed for offences of equal seriousness, and that different sentencing be handed down for offences of different degrees of seriousness. The severity of the sentencing increases proportionately with the seriousness of the offence. Furthermore, proportionality requires that at the general level of sentencing the entire sentencing level be neither too severe nor too lenient.

To create uniformity or parity of approaches in evaluating the seriousness of offences, art 48(1) of the CCV provides an exhaustive list of aggravating circumstances in respect of which sentences must be increased,\textsuperscript{73} while art 46(1) offers a list of circumstances

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\textsuperscript{72} Đào Trí Úc, 1995: 230-572.

\textsuperscript{73} These aggravating circumstances include: a) committing crimes in an organised manner; b) committing crimes in a professional manner; c) abusing position and power in order to commit crimes; d) committing crimes in a hooligan-like manner; e) committing crimes with despicable motivation; f) intentionally carrying out crimes to the end; g) re-offending,
attracting leniency in sentencing. The courts are also entitled to take into account other circumstances that reduce the sentence, but must clearly describe them and give reasons in the judgment.\(^4\)

In terms of drug-related crimes, the single most relevant factor in determining the seriousness of an offence is the amount of drugs involved. Generally, the larger the amount of drugs involved, the higher the sentence applied. The quantum of drugs involved is also used as a measure by which to distinguish between penal scales.

**Fairness Principle (Nguyên tắc công bằng)**

The fairness principle requires that a sentence imposed on a convicted person should be similar to sentences imposed on similar offenders for like offences committed in similar circumstances throughout the country. The fairness principle prohibits distinction of any kind between offenders on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. To fulfil this requirement, there must be consistency in sentencing for similar offences and there should not be sentencing disparities without justification. This principle is intended to ensure fairness between similar cases.

\(^{74}\) The mitigating circumstances include: a) offenders have prevented and/or reduced the harm caused by their offences; b) offenders volunteer to repair, compensate for the damage or overcome the consequences; c) crimes are committed in cases where it is beyond the limit of legitimate defence; d) crimes are committed in cases where it is beyond the requirements of the urgent situation; e) crimes are committed in cases where offenders are mentally incited by the illegal acts of the victims or other persons; f) crimes are committed due to particular difficulty, and the offender’s plight is not caused by him or herself; g) crimes are committed but no damage or minor damage is caused; h) crimes are committed by first time offenders and, in cases of less serious crimes; i) crimes are committed due to threats and/or coercion by other persons; j) crimes are committed due to ignorance; k) offenders are pregnant women; l) offenders are aged persons; m) offenders are persons suffering from illnesses that restrict their cognitive capability or the capability to control their acts; n) offenders give themselves up; o) offenders make honest declarations and reports and show their repentance; p) offenders actively help responsible bodies detect and investigate the crimes; q) offenders redeem their faults with achievements; and r) the offenders are persons who have recorded outstanding achievements in production, combat, study or work. See art 46(1) of the CCV 1999.
The fairness principle assists to make real the systemic objectives of consistency and equality before the law. Thus, one of the goals of the provincial courts of appeal is to maintain parity in sentencing and minimise differences in sentencing approaches. Further, the Supreme People’s Court is responsible for guiding fairness across the country. Sitting as the Judicial Council, the Supreme People’s Court (Hội đồng thẩm phán Tòa án nhân dân tối cao), can issue a resolution providing guidance on proportional penalties for local courts.

**Humanity Principle (Nguyện tắc nhân đạo)**

As analysed above, the purposes of punishment affect sentencing. If rehabilitation of the offender is defined as the primary objective of a sentence, then different results may be expected from cases where retribution or general deterrence is considered the dominant purpose. In Vietnam, the humanity principle requires that the courts use the least intrusive and severe sanction possible, according to the circumstances of the offence and the offender. Further, the ultimate objective of the system of sentencing is to educate and assist with the rehabilitation of those convicted. Thus, under the principle of humanity, the courts must not impose a sentence that is more severe than that necessary to achieve the purpose for which the sentence is imposed. This means that terms of imprisonment, where imposed, should be as short as possible and when the purpose of penalties is considered to have been achieved, the sentence of imprisonment should be commuted. This principle is founded on the humanitarian view that the pain of punishment should be minimised as much as possible.

Under this principle, the courts must take into account the personal circumstances of the convicted when practising discretionary sentencing, including any prior criminal record and other factors such as homelessness, family circumstances, educational needs and so on. Further, it is suggested that the courts must also take into account the psychological state of the convicted, as this may affect the possibility of their rehabilitation. Reflecting this principle, art 45 of the CCV officially requires the courts to take into account personal circumstances when sentencing.

### 3. SENTENCING OPTIONS

Under the Vietnamese criminal law, penalties applicable to a convicted offender are classified into two categories - principal penalties and additional penalties. A crime is subject to only one principal penalty, but may be subject to various additional penalties.

The following list provides an overview of the usual types of principal penalties that the courts in Vietnam may impose on an adult offender.

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**Warning (Cảnh cáo)**

A warning applies to offenders who commit ‘less serious’ crimes with extenuating circumstances. As noted above, the extenuating circumstances are prescribed under art 46 of the CCV.  

**Fine (Phạt tiền)**

A fine is applied as a principal penalty to offenders convicted of ‘less serious’ crimes against economic order, public order, administrative order and a number of other crimes prescribed in the CCV. The level of the fine depends on the nature and seriousness of the crimes committed, the property situation of the offenders and the fluctuation of prices but must not be lower than 1 million dong (roughly US $47.50). The fine can be paid in a lump sum or instalments, subject to time limits decided by the court.

**Non-custodial Reform (Cải tạo không giam giữ)**

Non-custodial reform applies to persons committing ‘less serious’ crimes or ‘serious’ crimes. Non-custodial reform can range from a six month minimum to a five-year maximum. This penalty is only applicable if it is deemed unnecessary to separate an offender from society and the convicted offender has a stable place of work or clear residence. If the sentenced person has been held in custody or detention, the time spent in custody or detention must be subtracted from the total period of their non-custodial reform sentence, with one day of custody or detention served equal to three days of non-custodial reform.

A person sentenced to non-custodial reform must perform a number of duties according to the provisions governing the execution of non-custodial reform. He or she must also be subject to deduction of between 5 per cent and 20 per cent of income for remittance to the State budget. In special cases, the court may exempt a convicted party from income deduction but must clearly explain the reasons for such exemption in the judgment.

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76 Article 29 of the CCV.  
77 Article 30 of the CCV.  
78 Article 31(1) of the CCV.  
79 Article 31(3) of the CCV.  
80 Article 31 of the CCV.
Deportation (Trục xuất)

Deportation only applies to foreigners, who may be sentenced to leave the territory of the Socialist Republic of Vietnam. Deportation may be either a principal or an additional penalty.

Term of Imprisonment (Tù có thời hạn)

A sentence of imprisonment involves incarceration of a convicted offender in a prison for a fixed period of time. The term of imprisonment imposed upon offenders who commit a single crime can range from a minimum of three months to a maximum of 20 years. In cases where more than one crime has been committed, the court first decides penalties for each crime and then adds them together but the total must not exceed a maximum term of thirty years. If the convicted person was kept in custody or detention prior to sentencing, then he or she is entitled to have that period subtracted from duration of the term of imprisonment. To calculate the reduction, a day of custody or detention equals a day of imprisonment. According to art 58 of the CCV, the period of imprisonment may subsequently be reduced if prisoners make progress while serving the sentence. Each prisoner may be entitled to many reductions, provided he or she serves at least half of the declared sentence.

Life Imprisonment (Tù chung thân)

Under Vietnamese criminal law, life imprisonment is an indefinite penalty. Because this penalty is very heavy, it applies only to persons committing ‘particularly serious’ crimes. Life imprisonment is not applicable to juvenile offenders.

Death Penalty (Tử hình)

The death penalty is the heaviest penalty and, therefore, only applies to persons committing ‘particularly serious’ crimes. It may not be applied to juvenile offenders (that is, those aged less than 16), pregnant women or women nursing children under the age of 36 months at the time of committing the crime or being tried. Furthermore, a woman who is sentenced to death, but subsequently proves that she is pregnant or

81 Article 32 of the CCV.
82 Article 32 of the CCV.
83 Article 50 of the CCV.
84 Article 33 of the CCV.
85 Article 34 of the CCV.
86 Article 35 of the CCV.
nursing children under the age of 36 months, is entitled to an exemption from execution of the death penalty. In such cases, the death penalty is converted to life imprisonment.

In addition to these principal penalties, convicted adult persons may also be subject to the following additional penalties.

**Ban from holding certain posts, ban from practising certain occupations or doing certain jobs (Cấm đảm nhiệm chức vụ, cấm hành nghề hoặc làm công việc nhất định)**

A ban on a convicted person from holding certain posts or a ban from practising certain occupations or doing certain jobs may be applied when the privilege of holding such a post, practising such an occupation or doing such a job may provide a convicted person with the chance to commit acts harmful to society.

The duration of a ban imposed in addition to a prison term may range from one to five years from the date that imprisonment ceases. If the principal penalty is a warning, fine or non-custodial reform, or if the convicted person receives a suspended sentence, then the punishment begins on the day the judgment takes legal effect.

**Ban from residence (Cấm cư trú)**

A ‘ban from residence’ only applies to people sentenced to imprisonment and requires released prisoners not to take temporary or permanent residence in certain localities. The residence ban can range from one to five years from the date on which the imprisonment was completed.

**Probation (Quản chế)**

‘Probation’ means forcing a sentenced person to reside, earn their living and reform themselves in a certain locality under the supervision and education of the local administration and people. During the period of probation, the sentenced person must not leave their residence, is deprived of a number of citizens’ rights, and is banned from practising certain occupations or performing certain jobs.

Probation applies to persons who commit crimes infringing upon national security, dangerous recidivists, or others stipulated by the CCV.\(^{87}\) Probation can range from one to five years from the end of imprisonment.

**Deprivation of Certain Citizen’s Rights (Tước một số quyền công dân)**

A Vietnamese citizen sentenced to imprisonment for infringing national security, or any other crime prescribed under the CCV, shall be deprived of the rights to stand for election; elect deputies to the State’s bodies; work in the State bodies; or render service

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\(^{87}\) Article 38 of the CCV.
in the people’s armed forces.\footnote{Article 39 of the CCV.}

The time for which a citizen’s rights may be deprived ranges from one to five years after imprisonment, or from when the judgment takes effect if a person has received a suspended sentence.

\textit{Confiscation of Property (Tích thu tài sản)}

‘Confiscation of property’ means to confiscate part or all of the criminal’s property for remittance to the State budget. This penalty is applicable only to prescribed crimes under the CCV and is limited to ‘serious’ crimes, ‘very serious’ crimes or ‘particularly serious’ crimes.\footnote{Article 40 of the CCV.} When ‘all property’ is confiscated, the sentenced person and their family are entitled to retain a small proportion to enable them to survive.\footnote{Article 40 of the CCV.}

\section*{4. SENTENCING OPTIONS IN RELATION TO DRUG-RELATED CRIMES}

Table 1 (p 28) shows the penalties applicable to drug-related crimes under the CCV. As indicated in Table 1, all drug-related crimes are punishable by deprivation of liberty. These include the offences of unlawful manufacturing of narcotic substances (art 193); unlawful stockpiling, transporting, trading or appropriating of narcotic substances (art 194); unlawful stockpiling, transporting, trading or appropriating of precursors used for illicit manufacture of narcotic substances (art 195); organising illegal use of narcotic substances (art 197); and breaching the regulations on management and use of addictive drugs or other narcotic substances (art 201), which can all result in life imprisonment or the death penalty. In other words, life imprisonment and the death penalty apply to half of the drug-related offences specified under the CCV. In practice, however, life imprisonment and the death penalty are only imposed in major cases, primarily on the basis of the amount of drugs involved. In comparison with other crimes, the National Assembly of Vietnam has a tough approach to drug crimes.

The CCV details several penal scales\footnote{Each scale specifies the minimum and maximum penalties that may be imposed for the offence.} applicable to each type of drug-related offence and corresponding to aggravating factors. The basic scale is applied to a standard offence, whereas harsher punishments are imposed on cases committed in aggravated circumstances. As noted above, in addition to the principal punishment, the CCV
prescribes a range of additional penalties that may be imposed: fines; confiscation of assets; and prohibition on holding certain posts, practising certain occupations or doing certain jobs. This means a person who is convicted of a 'serious', 'very serious' or 'particularly serious' drug-related crime, can be subject to confiscation of all proceeds generated from the commission of that crime and, additionally, part or all of his or her own property.

As mentioned, in 2009, the CCV was amended and the offence of personal drug use was removed. Thus, drug abusers are now subject only to compulsory rehabilitation, but not deprivation of liberty and criminal responsibility. This amendment was made in an effort to grant more humanitarian treatment to drug users.

92 Pursuant to art 28(3) of the CCV, a conviction may entail one principal penalty and one or more additional penalties. Criminal liability is imposed only upon natural persons. A child under the age of 14 years is exempted from criminal responsibility. A child who is aged at least 14 years but less than 16 years is criminally responsible for very serious crimes committed with intention, and for all particularly serious crimes, but not for offences of a less serious or a serious nature. See arts 8(1) and 12 of the CCV 1999.

93 That is, a person who is convicted of a less serious offence with a penalty not exceeding a maximum of three years is exempted from confiscation. See art 40 of the CCV.

94 See, for example, arts 193(5), 194(5), and 197(5) of the CCV.
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<thead>
<tr>
<th>Crimes</th>
<th>Principal Penalties (gaol)</th>
<th>Additional Penalties (fine, confiscation and working prohibition)</th>
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<td></td>
<td>First penal scale (basic)</td>
<td>Second penal scale (serious)</td>
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<tr>
<td>1. Cultivating opium poppy or other kinds of plant bearing narcotic</td>
<td>6 months–3 years</td>
<td>3–7 years</td>
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<td>substances (art 192)</td>
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<td>2. Unlawful manufacturing of narcotic substances (art 193)</td>
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<td>7–15 years</td>
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<td>3. Unlawful stockpiling, transporting, trading or appropriating of</td>
<td>2–7 years</td>
<td>7–15 years</td>
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<td>narcotic substances (art 194)</td>
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</table>
| 4. Unlawful stockpiling, transporting, trading or appropriating of precursors used for illicit manufacture of narcotic substances (art 195) | First penal scale (basic) 1–6 years | i) Fine: 5 mil VND - 50 mil VND  
ii) Confiscation of part or whole of property  
iii) Prohibition on holding certain posts or practising certain occupations or doing certain jobs for a period from 1 to 5 years |
|                                                                      | Second penal scale (serious) 6–13 years | Nil |
|                                                                      | Third penal scale (very serious) 13–20 years | Nil |
|                                                                      | Fourth penal scale (particularly serious) 20 years or life imprisonment | Nil |
| 5. Unlawful manufacturing, stockpiling, transporting, trading or appropriating of equipment or tools used for the illicit manufacture of narcotic substances or illegal use of narcotic substances (art 196) | First penal scale 1–5 years | i) Fine: 5 mil VND - 50 mil VND  
ii) Confiscation of part or whole of property  
iii) Prohibition on holding certain posts or practising certain occupations or doing certain jobs for a period from 1 to 5 years |
|                                                                      | Second penal scale 5–10 years | Nil |
|                                                                      | Third penal scale 7–15 years | Nil |
|                                                                      | Fourth penal scale 15 years – 20 years | Nil |
| 6. Organising illegal use of narcotic substances (art 197)           | First penal scale 2–7 years | i) Fine: 50 mil VND - 500 mil VND  
ii) Confiscation of part or whole of property  
iii) Probation or residence prohibition for a period from 1 to 5 years |
<p>|                                                                      | Second penal scale 7–15 years | Nil |
|                                                                      | Third penal scale 15 years – 20 years | Nil |
|                                                                      | Fourth penal scale Death sentence was removed in 2009 | Nil |</p>
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<tr>
<th>Crimes</th>
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<td>Fourth penal scale (particularly serious)</td>
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<td>7. Harbouring illegal use of narcotic substances (art 198)</td>
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<tr>
<td>8. Illegal use of narcotic substances (art 199)</td>
<td>This offence was removed in 2009</td>
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<td>9. Forcing or inducing others into illegal use of narcotic substances (art 200)</td>
<td>2 –7 years</td>
<td>7–15 years</td>
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<tr>
<td>10. Breaching of regulations on management and use of addictive drugs or other narcotic substances (art 201)</td>
<td>Fine: 5 mil - 100 mil VND or 1–5 years</td>
<td>5–12 years</td>
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Critical analysis of drug-related penalties under the CCV

As mentioned, the CCV describes the quantities of drugs involved as factors in sentencing for several drug-related offences. These are ‘unlawful manufacture of narcotic substances’ (art 193); ‘unlawful stockpiling, transporting, trading or appropriating narcotic substances’ (art 194); and ‘unlawful stockpiling, transporting, trading or appropriating precursors used in the illicit manufacture of narcotic substances’ (art 195). The legislation, however, simply sets out a single scale of penalties, ranging from 20 years imprisonment to the death sentence (see Table 5, p 44). It does not specify the actual amounts of drugs corresponding to 20-years imprisonment, life imprisonment or the death sentence.\(^\text{95}\) Additionally, the CCV requires that, in determining the sanction for a case involving the trafficking of a variety of narcotic drugs, the quantities of different drugs should be calculated and added together as if only one type of drug had been involved. The law does not, however, provide conversion rates between drug types, resulting in discrepancies in conversions by different local courts.\(^\text{96}\) To work around these omissions, the Council of the People’s Supreme Court issued Resolution 01/2001,\(^\text{97}\) which provided guidance on proportional penalties for local courts, as summarised in Table 5 (p 44). This resolution determines rates for conversion, reflecting the respective minimum penalties laid down for each narcotic drug in the CCV.

Generally, the Vietnamese legal system is considered similar to civil European legal systems. There is therefore no system of judicial precedent. Nevertheless, as a matter of practice, the People’s Supreme Court sitting in council can issue resolutions that are binding on lower courts. Many scholars would, however, like to see the detailed sentencing principles currently set out in Resolution 01/2001 included in the CCV. This would serve as a clear legislative guideline as to exactly when the death sentence, life imprisonment or 20 years imprisonment should be imposed.

Further, as can be seen from Table 5, relationships between penalties and drug quantities have only been established for the narcotic substances most commonly trafficked in Vietnam, that is, heroin, cocaine and opium. As a result, there is still uncertainty about the conversion rates for other substances also defined as narcotics

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\(^{95}\) Trần Văn Luyện, 1998b: 42.


\(^{97}\) Section 3 of the Resolution number 01/2001/NQ-HDTP dated 15 March 2001 of the Council of Judges of the Supreme People’s Court. Section 3 of this Resolution sets out death penalty for 600 gr heroin or cocaine or more; life imprisonment for 300 gr up to less than 600 gr heroin or cocaine; and 20 years imprisonment for 100 gr up to less than 300gr heroin or cocaine. These rules apply in relation to the crimes of unlawful manufacturing of narcotic substances (art 193) and unlawful stockpiling, transporting, trading or appropriating of narcotic substances (art 194).
in Vietnamese law, such as psychotropic drugs. Further, the relationships between penalties and quantities cover only precursors in solid form, neglecting precursors in liquid form. A government circular issued in 2007 on the prosecution of drug-related crimes unfortunately does not provide legal guidance on these rates of conversion. To ensure fair and consistent sentencing, further, more detailed, guidelines are needed.

5. CLEMENCY

Reflecting the humanitarian principle mentioned above, it is the Vietnamese government’s policy to use the least intrusive and severe sanction possible given the circumstances of the offence and the offender and the purpose of the penalty. This creates the possibility for exemption from punishment or commutation of sentences. Under this policy, the CCV sets out various forms of clemency (Miễn trách nhiệm hình sự), including exemption from criminal liability (Miễn trách nhiệm hình sự); exemption from punishment (Miễn hình phạt); suspended sentence (Án treo); exemption from serving a sentence (Miễn chấp hành hình phạt); commutation (Giảm mức hình phạt đã tuyên): and reprieve (Tạm đình chỉ hoặc chấp hành hình phạt đã tuyên). These are now discussed.

Clemency 1: Exemption from criminal liability (Miễn trách nhiệm hình sự)

Exemption from criminal liability (perhaps best equated with a ‘pardon’ in other legal systems) releases a prisoner from criminal liability, punishment or the serving of a sentence, and reinstates his or her civil liberties. An exemption from criminal liability does not indicate that the exempted person is not guilty, but that he or she is forgiven and no longer deserving of punishment or a criminal record.

Exemption from criminal record may be granted to persons for various reasons, as set out in Table 2, and enables the convicted person to be released from all types of criminal liability including punishment, some judicial measures and a criminal record. The range of bodies authorised to grant this pardon is relatively wide and includes the National Assembly, investigation institutions, the prosecution and the courts. Except for general amnesty, the authorised bodies grant pardons only if the convicted person meets particular conditions under the CCV. As shown in Table 2, under particular circumstances, and where the convict meets the required conditions, the authorities must grant an exemption from criminal record, that is, the grant of this particular exemption is compulsory. These circumstances include: (i) voluntary termination of

100 Judicial measures are coercive measures set forth in the CCV, such as confiscation of tools and means that the offenders used in the crime’s commission; confiscation of the proceeds of crime; compensation to victims for their loss; and compulsory medical treatment.
incomplete crimes; (ii) passage of the statute of limitations for prosecution; (iii) change of circumstances where the criminal act or the offender is no longer dangerous to society; and (iv) general amnesty. Any decision on general amnesty is a matter for the National Assembly to exercise its discretion. Where the National Assembly decides to grant general amnesty, relevant authorities (that is, investigation institutions, the prosecution or the courts) must exempt those convicted, who satisfy the prescribed conditions, from criminal liability. Thus, exemption from criminal record in such a case is compulsory.
### Table 2 Exemption from criminal liability under the Criminal Code of Vietnam 1999 (amended in 2009)

<table>
<thead>
<tr>
<th>Reason</th>
<th>Conditions</th>
<th>Authority to grant pardon</th>
<th>Character</th>
</tr>
</thead>
</table>
| Voluntary termination of incomplete crimes (art 19 of the CCV) | • The offender voluntarily terminates the commission of a crime although there was no obstruction from outside  
• The terminated crime must be incomplete | Court | Compulsory¹ |
| Expiry of the limitations period for prosecution (art 23 of the CCV) | • Expiry of the limitations period for prosecution, that is, 5 years for less serious crimes, 10 years for serious crimes, 15 years for very serious crimes and 20 years for particularly serious crimes, calculated from the time of commission (art 23 of the CCV)²  
• Within the above time limit, the offender did not commit a new crime or commit a new crime for which the CCV stipulates a maximum penalty of less than one year  
• Within the above time limit, the offender did not deliberately escape and there was not a warrant issued for his or her arrest | • Investigation institution, if the case is in the investigation stage  
• Office of prosecution, if the case is in the prosecution stage  
• Court, if the case is under the trial stage | Compulsory |
<table>
<thead>
<tr>
<th>Reason</th>
<th>Conditions</th>
<th>Authority to grant pardon</th>
<th>Character</th>
</tr>
</thead>
</table>
| Change of situation where the offence or the offender is no longer    | • The offence is no longer dangerous to society; or  
• The offender is no longer dangerous to society                                                                                           | • Investigation institution, if the case is in the investigation stage  
• Office of prosecution, if the case is in the prosecution stage  
• Court, if the case is in the trial stage                                                                 |           |
| dangerous to society (art 25(1) of the CCV)                           |                                                                                                                                                                                                             |                                                                                             |           |
| General amnesty (art 25(3) of the CCV)                                | • Subject to decisions of the National Assembly                                                                                                                                                    | National Assembly                                                                                                                                   | Compulsory³ |
| Confession (art 25(2) of the CCV)                                     | • The confession must be made before the act of criminal offence is detected  
• The offender gives him/herself up and clearly declares and reports facts  
• The offender effectively contributes to the detection and investigation of the crime and tries to minimise the consequences of the crime | Court                                                                                       | Optional⁴ |
<table>
<thead>
<tr>
<th>Reason</th>
<th>Conditions</th>
<th>Authority to grant pardon</th>
<th>Character</th>
</tr>
</thead>
</table>
| Juvenile offenders (art 69(2) of the CCV) | 11. The offence committed is categorised as a less serious or serious crime  
12. The offence committed causes no great harm  
13. There exist at least two mitigating circumstances  
14. There are commitments by family or relevant organisations to supervise and educate the convicted person | Court | Optional |

Note 1 The term ‘compulsory’ means that where the criminal offence and personal circumstances of the convicted meet the specified conditions under the CCV, the authorised body must grant a pardon.

Note 2 Expiry of the limitations period for the prosecution does not apply to crimes against national security and crimes against international peace and humanity set out under Chapter XI and XXIV of the CCV 1999.

Note 3 Under the Resolution of National Assembly on general amnesty, the investigation institution, the office of prosecution and the court must review all cases in their hands. If the accused or the convicted and their cases meet the specified conditions, these authorities must release them.

Note 4 The term ‘optional’ means where the criminal offenders and their cases meet all conditions specified under the Criminal Code 1999, authorised bodies may grant a pardon at their own discretion.
Clemency 2: Exemption from punishment (Miễn hình phạt)

The court has discretion to exempt a convict from punishment when any two of the mitigating circumstances specified in art 46(1) of the CCV apply and, according to the court, the offender deserves to be released from punishment, but not to the extent of exemption from criminal liability. Differences between the exemption from criminal liability and exemption from punishment rest on, first, the degree to which the convict can be forgiven and, second, the bodies entitled to grant clemency. Under the first type of exemption, the convict is released from punishment and certain judicial measures, and has his or her criminal records deleted. Under the second type of exemption the convict is only released from punishment. He or she is still subject to judicial measures and will have a criminal record, although his or her record will be eradicated as soon as he or she meet all obligations placed upon him or her in the judgment. For example, the paying of court fees or compensation to the victim will expunge the record. Various bodies are authorised to grant the exemption from criminal liability but only the courts may grant an exemption from punishment.

Clemency 3: Suspended sentence (Án treo)

A suspended sentence is considered a special type of exemption from the serving of a sentence (similar to a conditional pardon in other jurisdictions). The circumstances in which a suspended sentence can be granted include: (i) the imposed penalty is a term of imprisonment not exceeding three years; (ii) he or she has a good personal record (that is, does not have a criminal or administrative record); and (iii) there are at least two mitigating circumstances. The courts may, at their sole discretion, grant a suspended sentence to a convict meeting these specified conditions. The period of probation is generally double that of the original sentence, but not less than one year and not exceeding five years. If the sentenced person commits a new crime during probation, he or she must serve the original sentence as well as any new sentence imposed.

Clemency 4: Exemptions from the serving of a sentence (Miễn chấp hành hình phạt)

Exemptions from serving a sentence may be granted to persons for various reasons. Table 3 sets out the six conditions under which this exemption might be made. Under this type of exemption, the convicted person is punished, but is exempted from serving either the whole or a part of the sentence. Thus, while pardons in the form of exemption from criminal liability and exemption from punishment are applicable during the investigation, prosecution and trial, this type of pardon is only granted after the judgment takes legal effect and relates to the execution of the sentence.

101 See art 54 of the CCV.
### Table 3 Exemption from the serving of a sentence under the Criminal Code of Vietnam 1999 (amended in 2009)

<table>
<thead>
<tr>
<th>Reason</th>
<th>Conditions</th>
<th>Authority to grant pardon</th>
<th>Character</th>
</tr>
</thead>
</table>
| Expiry of the period of limitations for sentence execution (art 55 of the CCV) | • The offender has not served his or her sentence  
• The limitations period for the execution of a sentence has expired, calculated from the date the judgment takes legal effect (art 23 of the CCV):  
  – 5 years for pecuniary penalty, non-custodial reform or an imprisonment of not exceeding three years;  
  – 10 years for imprisonment of between three years and fifteen years; and  
  – 15 years for imprisonment of between over fifteen years and thirty years.  
• Within these time limits, the offender did not commit a new crime  
• Within these time limits, the offender did not deliberately escape and there was not a warrant issued for his or her arrest | Court                      | Compulsory |
| ‘Great achievements’ or suffering from a dangerous disease (art 57(1) of the CCV) | • The offender is sentenced to non-custodial reform or term of imprisonment and has not served the sentence  
• The offender has recorded great achievements or suffers from a dangerous disease  
• The offender is no longer dangerous to society  
• There is a proposal by the Director of the office of Prosecution to exempt the person from the execution of the whole sentence | Court                      | Optional   |
<p>| General amnesty (art 25(3) of the CCV)                                  | • Subject to decisions of the National Assembly                                                                                                                                                    | National Assembly         | Compulsory |</p>
<table>
<thead>
<tr>
<th>Reason</th>
<th>Conditions</th>
<th>Authority to grant pardon</th>
<th>Character</th>
</tr>
</thead>
</table>
| Special amnesty | • The offender is sentenced to a term of imprisonment or life imprisonment;  
• The offender has been of good behaviour; and  
• The offender has served at least a third of his or her prison term or at least fourteen years if the sentence was life imprisonment and the State President determines a release | State President | Compulsory |
| Exemption from the serving part of the fine sentence (art 58(2) of the CCV) | • The offender has paid one-twentieth of the fine but not less than 200,000 VND  
• The offender falls into a prolonged and particularly difficult economic situation due to natural calamities, fires, accidents or ailments which render him or her unable to continue serving the remainder of the sentence, or has recorded great achievements,  
• There is a proposal for exemption by the Directors of the Office of Prosecution | Court | Optional |
| Exemption from the serving part of additional penalties in terms of ban from residence and probation (art 57(5) of the CCV) | • The offender has served half of his or her sentence;  
• The offender shown good behaviour (demonstrating rehabilitation); and  
• There is a proposal for exemption by the administration of the locality where the offender is serving his or her sentence | Court | Optional |

Note 1 The expiry of the period of limitations for the execution of a sentence does not apply to crimes against national security or crimes against international peace and humanity set out in Chapters XI and XXIV of the CCV.

Note 2 Under the Resolution of National Assembly on General Amnesty, the investigation institution, the office of prosecution and the court must review all cases in their hands. If the accused or the convicted and their cases meet the required conditions they must be released.
**Clemency 5: Commutation (Giảm hình phạt đã tuyên)**

Under the CCV, commutation is a reduction of part of a sentence. Commutation may be granted by the Courts if the convict has served part of his or her sentence and meets the prescribed conditions. These include: (i) he or she is recorded as making progress; and (ii) there are proposals from the implementing institutions (for example, the manager of the prison) for the courts to consider commutation. The courts are authorised to grant commutation at their own discretion. Table 4 summarises conditions for commutation and sets out the possible reductions.

In addition, a person sentenced to death may seek a commutation from the State President, within seven days of the judgment imposing that sentence. To seek clemency in such a case, the offender must submit an application for commutation to the State President via his office. The State President grants commutation at his or her sole discretion. While there is no law guiding the exercise of this discretion, the State President generally considers the appropriateness of extinguishing the convicted person’s ongoing role in the community and a range of other factors, which may include political issues. If the State President accepts the application for commutation, the sentence of death is commuted to life imprisonment.102

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102 See CCV (Vietnam), above n 4, art 35 and Criminal Procedural Code of Vietnam 2003 (Vietnam), above n 15, art 258(1).
Table 4: Conditions for commutation and possible sentence reduction for adult convicts under the Criminal Code of Vietnam, 1999 (amended 2009)

<table>
<thead>
<tr>
<th>Comparisons</th>
<th>General cases The offender has served:</th>
<th>Special cases¹ The offender has served:</th>
<th>Cases involving the commission of a new crime: The offender has served:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• One third of the sentence, for both non-custodial reform and imprisonment</td>
<td>• One fourth of the sentence, for both non-custodial reform and imprisonment</td>
<td>The offenders have served:</td>
</tr>
<tr>
<td></td>
<td>• 12 years, for life imprisonment</td>
<td>• 12 years, for life imprisonment</td>
<td>• Two thirds of the sentence, for both non-custodial reform and imprisonment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• 20 years, for life imprisonment</td>
</tr>
<tr>
<td>First time considered for a commutation</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
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<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduction for each commutation</td>
<td>• 3 months up to 9 months, for non-custodial reform</td>
<td>• 3 months up to 1 year, for non-custodial reform</td>
<td>As in general cases</td>
</tr>
<tr>
<td></td>
<td>• 3 months up to 3 years, for imprisonment</td>
<td>• 3 months up to 4 years, for imprisonment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Life imprisonment is commuted to thirty years imprisonment on the first commutation</td>
<td>• Life imprisonment is commuted to thirty years imprisonment on the first commutation</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum time of the sentence to be served²</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• One half of the sentence, for non-custodial reform and imprisonment</td>
<td>• Two fifths of the sentence, for non-custodial and term imprisonment</td>
<td>As in general cases</td>
</tr>
<tr>
<td></td>
<td>• 20 years in respect of life imprisonment</td>
<td>• 10 years in respect of life imprisonment</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commutation of death sentence</td>
<td>Death sentences may be commuted to life imprisonment by the State President at his sole discretion.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Clemency 6: Reprieve (Tam dinh chi hoac hoan chap hanh hinh phat da tuye)**

A reprieve is the suspension or postponement of punishment. The courts are the authorised bodies to grant reprieves for special reasons, for example, if (i) the offender is seriously ill; (ii) the offender is a pregnant woman or nursing children under 36 months of age; (iii) the offender is the only bread-winner in the family; or (iv) the offender is needed for official duties (in the case of less serious crimes). Where the offender has a serious illness, pregnancy or is nursing children, postponement of punishment may be granted for a period exceeding one year, but may not exceed one year if the reasons are for supporting a family or official duties. Offenders convicted of ‘less serious’ crimes who have been granted a reprieve may be granted further exemptions from serving the rest of their sentences if they have recorded ‘great achievements’ during the period of suspension or postponement, and there exist proposals in support of this from the Procuracy. The courts are authorised to grant a reprieve on the basis of such proposals at their discretion.

**Critical Analysis of Clemency**

The CCV provides for various forms of clemency, however, some of them are not clearly distinguished and this can lead to confusion. More particularly, the exemption of a convicted person from serving a sentence can, as mentioned, include exemption from serving whole or part of the sentence. Overlaps thus exist between the latter pardon (exemption from serving part of the sentence) and commutation (reduction of part of the sentence). Both forms of clemency release the convict from part of their sentences if they have served part of their sentence. They can only be distinguished by how the rest of their sentence is lessened. Under an ‘exemption from serving part of the sentence’, the convict is released from serving the rest of their sentence. Under a ‘commutation’, the convict is released from serving part of the rest of their sentence. They therefore differ only in the length of commutation. In my view, exemption from serving part of the sentence (that is, the where a convict is required to serve part of his or her sentence in order to be considered for clemency) should be categorised as ‘commutation’. Article 58(2) of the CCV entitled ‘Reduction of the Declared Penalty’ (that is, Commutation), however, prescribes an exemption from the serving part of the sentence. This results in a conflict between the title of the article and its content that creates significant confusion. The language of art 58(2) should be revised to create consistency between the provision and the definition. Similarly, art 57 of the CCV on exemption from serving part of the sentence, which applies to a ban from residence or probation, should be re-categorised as ‘commutation’ and the parts of the provision that

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103 Articles 61(1) and 62(1) of the CCV.
104 Article 61(1) of the CCV.
105 Article 57(4) of the CCV.
sets out ‘pardons’ should be moved to art 58 on commutation.

Second, under the CCV, an exemption from criminal liability is distinguished from an exemption from punishment principally on the basis of the scope of the exemption. That is, offenders exempted from punishment still have their crime recorded. However, under arts 64(1) and 67(3) of the CCV, their records are automatically erased once they complete other obligations set out in the judgment, such as the payment of court fees or compensation to victims. This means there is very little difference between exemption from punishment and exemption from criminal liability, as offenders granted the latter exemption are also subjected to court fees and must pay compensation to victims. I therefore agree with those who suggest that the CCV should create a clear distinction between these two types of pardon by specifying a longer criminal record for offenders exempted from punishment.¹⁰⁶

Third, while the CCV provides time limits for the postponement of punishment, it is silent about time limits guiding the suspension of punishment. I suggest that the suspension of punishment should be subjected to similar time limits to those set out for the postponement of punishment. This would be reasonable because art 62 of the CCV on suspension is currently entirely based on the format of art 61 on postponement.

C. CONCLUSION

In summary, under Chapter XVIII of the CCV, all drug-related crimes are punishable by deprivation of liberty. As Table 5 demonstrates, half of these attract life imprisonment and the death penalty. When determining sanctions to be imposed on a person convicted of drug-related crimes, the courts must give weight to each of the purposes of punishment and base their determination on the principles of rule of law, proportionality, fairness and humanity.

When the view is taken that the purposes of punishment have been achieved, the courts may grant various forms of clemency, including exemption from criminal liability (removing the record); exemption from punishment or exemption from serving a sentence; commutation; and reprieve. Where the convict meets the conditions set out under the CCV, the courts must exempt the convict from criminal liability or the serving of their sentence, whereas the courts have discretion whether or not to grant exemptions. Additionally, the National Assembly can grant general amnesty to exempt offenders from criminal liability and from the serving of a sentence. The State President may, at his or her own discretion, reduce a death sentence to life imprisonment, thereby granting special amnesty.

¹⁰⁶ Trịnh Tiến Việt, 2013: 596-98.
### Table 5 Penalties applicable to drug-related offences in relation to the quantities of drugs

<table>
<thead>
<tr>
<th>Narcotic substances</th>
<th>20 years</th>
<th>Life imprisonment</th>
<th>Death sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opium resin, cannabis resin, cocaine glue</td>
<td>5 kg - &lt; 10 kg</td>
<td>10 kg - &lt; 20 kg</td>
<td>≥ 20 kg</td>
</tr>
<tr>
<td>Heroin or cocaine</td>
<td>100 mg - &lt; 300 mg</td>
<td>300 mg - &lt; 600 kg</td>
<td>≥ 600 mg</td>
</tr>
<tr>
<td>Cannabis leaf, flowers and seeds</td>
<td>75 kg - &lt; 200 kg</td>
<td>200 kg - &lt; 600 kg</td>
<td>≥ 600 kg</td>
</tr>
<tr>
<td>Opium poppy dried seeds</td>
<td>600 kg - &lt; 1500 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opium poppy fresh seeds</td>
<td>150 kg - &lt; 400 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1500 kg - &lt; 4500 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>400 kg - &lt; 1200 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>≥ 4500 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>≥ 1200 kg</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other narcotic substances in solid form</td>
<td>300 gm - &lt; 900 gm</td>
<td>900 gm - &lt; 2500 gm</td>
<td>≥ 2500 gm</td>
</tr>
<tr>
<td>Other narcotic substances in liquid form</td>
<td>750 ml - &lt; 2000 ml</td>
<td>2000 ml - &lt; 5000 ml</td>
<td>≥ 5000 ml</td>
</tr>
<tr>
<td>Precursors</td>
<td>≥ 1200 gm</td>
<td>Not imposed</td>
<td></td>
</tr>
</tbody>
</table>

*Source: Resolution 01/2001/NQ-HDTP of the Council of the People’s Supreme Court on Guiding the Application of Articles 139, 193, 194, 278, 279 and 289 of the 1999 Criminal Code.*

*Note 1* This table only deals with offences under arts 193 and 194 of the CCV, for example, the manufacture of narcotic drugs (art 193) and the stockpiling, transporting, trading or appropriating of narcotic drugs (art 194).
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Legislation

Vietnam

Criminal Code 1999 (with amendments).

Council of the People’s Supreme Court (2001) Resolution 01/2001/NQ-HDTP on Guiding the Application of Articles 139, 193, 194, 278, 279 and 289 of the 1999 Criminal Code.


Quyet Dinh so 798/QD-CTN ngay 01/09/1997 cua Chu tich nuoc cong hoa xa hoi chu nghia Viet Nam ve viec tham gia ba cong uoc cua Lien hiep quoc ve Kiem soat ma tuy. (1997) [Decision 798/QD-CTN of the President of Vietnam to ratify the three United Nations Drug Control Conventions (1997)].

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<td>Dr Daniel Pascoe</td>
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