

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 5**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Some International and National Legal Issues on the Right to Life and the Application of the death Penalty for Drug-Related Crimes - Practice in Vietnam

---

MAC THI HOAI THUONG<sup>1</sup>

## ABSTRACT

*The right to life is the most fundamental human right. The death penalty is the most severe punishment and is commonly specified in the laws of many countries. This penalty deprives the convicted person of the right to life. Therefore, the death penalty is only applied to the most serious crimes. The application of the death penalty to drug-related crimes in relation to the right to life is a controversial issue and applied differently in different countries. This paper shall analyze the relationship between the right to life and the application of the death penalty to drug-related crimes both internally and domestically. The legal issues studied by this paper include legal issues related to the right to life, the application of death penalty, the legitimacy of application of death penalty to drug-related crimes, the trend of applying death penalty to drug-related crimes in the world and reference to the practices in Vietnam. By this paper, the author shall present the process of formation and development trend of Vietnamese law provisions related to the application of the death penalty to drug-related crimes, assess the compatibility between current Vietnamese regulations on this issue and international human rights standards.*

**Keywords:** right to life, death penalty, drug, legal, Vietnam.

## I. INTRODUCTION

The right to life is one of the fundamental human rights, defines extremely diverse content which member states need to take effective measures to ensure. The right to life was first introduced in Article 3 of Universal Declaration of Human Rights 1948 (UDHR). This article states that "Everyone has the right to life, liberty, and security of person". The right to life is further emphasized and concretized in Article 6 of International Covenant on Civil Rights (ICCPR), whereby "Every human being has the inherent right to life. This right shall be

---

<sup>1</sup> Author is a Researcher, Lecturer Hanoi Law University (HLU), Vietnam

protected by law. No one shall be arbitrarily deprived of his life” (Clause 1). Clauses 2, 3, 4, 5, 6 of Article 6 provide the basic principles for the application of the death penalty in the countries where this penalty is maintained and encourages all member states to abolish the death penalty. Article 6 can be summarized as follows: The death penalty is only imposed on the most serious crimes under the valid law at the time the crime is committed; The death penalty can only be executed by a final judgment made by a competent court; Persons sentenced to death have the right to seek for pardon; Death penalty shall not be imposed on pregnant women and children under the age of 18.

In addition to ICCPR, some other international human rights conventions also specify the right to life, including Convention on the Rights of the Child (Article 6 of this Convention provides that the member states recognize that all children have an inherent right to life); Convention on Prevention and Punishment of the Crime of Genocide (most of the articles in this Convention is to define the acts considered genocidal crimes and punishments for the violation of the right to life; International Convention on the Suppression and Punishment of the Crime of Apartheid (Article 2 of this Convention defines the crimes of Afghanistan, which includes the murder of members of a racial group or groups), etc.

In addition to the provisions specified in Article 6 of ICCPR, in General Comment No. 6 adopted at 16th session in 1982, Human Rights Commission (HRC) further explains some issues related to the meaning and content of the right to life that can be summarized as follows: Firstly, the right to life is "a fundamental human right that cannot be violated in any circumstance, even in the state of emergency" (paragraph 1). Secondly, the right to life should not be understood merely as the integrity of life. Furthermore, this right includes some aspects of ensuring human survival. Under this approach, the right to life requires states to take measures to reduce child mortality and increase average life expectancy, for example, the measures to eliminate malnutrition and diseases, etc. that include both passive and active measures (paragraph 2). Thirdly, one of the common risks that threaten the right to life is war and serious crimes such as genocide or crimes against humanity. Therefore, the prevention of wars and crimes is also to protect the right to life. By this approach, the protection of the right to life in Article 6 is related to the obligation to ban the activities of propaganda of war and incitement to hatred and violence as specified in Article 20 of ICCPR (paragraph 3). Fourthly, the prevention of criminal acts that cause harm or deprive human life is also an important measure to ensure the right to life. Member States should take measures to prevent and punish the arbitrary deprivation of human life caused by any entity, including state security forces (paragraph 5). The abduction and the enforced disappearance are considered as the deprivation

of the right to life; therefore, member states have an obligation to take effective measures and plans to prevent and investigate these cases (paragraph 4). Fifthly, regarding the relationship between the death penalty and the right to life, although the ICCPR does not require member states to abolish it, the States are obliged to limit the use of it; specifically, this penalty can be only imposed on "the most serious crimes". Moreover, the member states that have not abolished the death penalty are obliged to ensure that the proceedings for the cases are done most reasonably, including non-retroactivity, open trial, the presumption of innocence, guarantees of the right to justification, appeal and seek for pardon, etc. (paragraph 6). General Comment No. 14 (23rd session, 1984) adopted by HRC also highlights the importance of the right to life, considers it the basis for all human rights, and reiterates the obligation to comply with Article 6 of ICCPR in all circumstances.

In addition to ICCPR and Second Optional Protocol, some treaties on the abolition of the death penalty are also adopted at the regional level, including:

- Protocol No. 6 to European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty;
- Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms on the Abolition of the Death Penalty in All Circumstances;
- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

In addition to these binding instruments, since 1977, United Nations General Assembly, United Nations Economic and Social Council, Human Rights Commission (later replaced by the UN Human Rights Council) and Sub-Commission on the Promotion and Protection of Human Rights adopted a series of resolutions urging the member states to stop imposing the death penalty.<sup>2</sup>

---

<sup>2</sup> These resolutions include: (1) Resolution No. 32/61 dated December 8th, 1977 of the United Nations General Assembly on the death penalty; (2) Resolution No. 1984/50 dated May 25<sup>th</sup> 1984 of Economic and Social Council on the implementation of guarantees to protect the rights of those facing the death penalty; (3) Resolution No. 1989/64 dated May 24th, 1989 of UN Economic and Social Council on the implementation of guarantees to protect the rights of persons facing the death penalty; (4) Resolution No. 1996/15 dated July 23rd 1996 of UN Economic and Social Council on guarantees to protect the rights of persons facing the death penalty; (5) Resolution No. 2000/17 of Sub-Commission on promotion and protection of human rights due to the application of death penalty to juvenile offenders; (6) Resolution No. 2005/59 dated 20/4/2005 of United Nations Human Rights Commission on the death penalty; (7) Resolution No. 62/149 dated December 18th, 2007 of General Assembly of United Nations on the suspension of execution of death penalty; (8) Resolution No. 63/168 dated December 18<sup>th</sup> 2008 of United Nations General Assembly on the suspension of execution of death penalty; (9) Resolution No. 65/206 dated December 21<sup>st</sup> 2010 of United Nations General Assembly on the suspension of execution of death penalty; (10) Resolution No. 67/176 dated December 20<sup>th</sup> 2012 of United Nations General Assembly on the suspension of execution of death penalty; (11) Resolution No. 69/186 dated December 18<sup>th</sup> 2014 of United Nations General Assembly on the suspension of execution of death penalty.

Thus, the right to life is a fundamental human right. The right to life is not an absolute right; in other words, while recognizing the right to life, states can still maintain the death penalty. The death penalty is the most severe one, depriving the offender of the right to life. International law clearly states that the death penalty only can be imposed on the most serious crimes. However, the current concept of "the most serious crimes" is still a controversial issue.

This study contributes to the clarification of concerned legal and practical issues, such as whether drug-trafficking is one of the most serious crimes and subject to the death penalty; the tendency to abolish the death penalty; assess the practice and development trend of legal regulations in this field in Vietnam.

## **II. LITERATURE REVIEW- INTERNATIONAL AND NATIONAL LEGAL ISSUES ON THE RIGHT TO LIFE AND THE APPLICATION OF THE DEATH PENALTY FOR DRUG-RELATED CRIMES**

Until now, drugs have always been a significant threat to the international community. Drugs are the causes of social disorder and the roots of many other criminals. To have drugs, drug addicts are willing to do everything to have money to use drugs, such as murder, robbery, etc. This is a great barrier preventing drug addicts from building a civilized and modern life. According to the latest data from United Nations Office on Drugs and Crime (UNODC), about 210 million people illegal use drugs worldwide, and about 200,000 people died from drugs<sup>3</sup>. Drug offenders make up the majority of those who are condemned to die and/or are executed in many retentionist countries. Although comprehensive numbers are difficult to obtain, it is certain that hundreds of people are executed every year for a drug-related offence (and that number would likely reach a thousand if those countries that keep their death penalty figures a secret were counted).

To consider the legitimacy of imposition of the death penalty to drug-related crimes, it is necessary to assess whether drug-related crime is one of "the most serious crimes" under Article 6, Clause 2 of ICCPR. Unfortunately, the term "the most serious crimes" is being understood differently by different countries and HRC - implementation monitoring body of ICCPR. This leads to the different points of view on the legitimacy of the death penalty imposed on drug-related crimes. Specifically:

The first group of views believes that drug-related crime is not the most serious crime and opposes the imposition of the death penalty to them. The first explanation to this point of view

---

<sup>3</sup> United Nations Office on Drugs and Crime (UNODC). World Drug Report 2011. Vienna: Division for Policy Analysis and Public Affairs, 2011.

comes from HRC<sup>4</sup>, which states that “the most serious crime” must be explained in a limited manner and only imposed on the intentional murder or the crimes causing other particularly serious consequences. According to HRC, in addition to intentional and unintentional murder, corruption and other political and economic crimes, such as armed robbery, piracy, abduction, drug-related crimes, and sex crimes, cannot be considered the most serious crimes to impose the death penalty as specified in Article 6 of ICCPR<sup>5</sup>. The explanation of HRC is not so clear. In practice, HRC associates serious crime directly with intentional murder. *Lubuto v. Zambia* case code (390/90) is an example. “7.2 *The Commission found that the author was convicted and sentenced to death under the law on imposing the death penalty to armed robbery. The issue here is to decide whether the death penalty complies with paragraph 2 of Article 6 (2) of ICCPR which allows the imposition of the death penalty to "the most serious crimes". Whereas, in this case, the use of a weapon did not result in death or injury to anyone; thus, the court cannot use this provision to render the judgment. The Commission found that the imposition of the death penalty in this situation is a violation of paragraph 2, Article 6 of the Convention*”. Moreover, in its Comments for Egypt, HRC expressed the concern about the country's imposition of the death penalty for terrorist crimes<sup>6</sup>. HRC believes that such an act of terrorism does not meet the criterion of causing the most serious consequences. In addition, HRC Comments are not legally mandatory for the member states of ICCPR.

Similarly, Amnesty International and some countries have arguments against the imposition of the death penalty to drug-related crimes. They argue that the imposition of the death penalty to drug-related crimes can lead to the risk that this penalty shall be imposed on not only those who illegally buy, sell or possess drugs - the target objects of the drug law – but also drug addicts. Meanwhile, some national laws consider illegal drug use is a disease rather than a crime.<sup>7</sup> The countries advocating this viewpoint claim that the death penalty for drug-related crimes is too heavy and that its consequence is irreversible in case of wrongful conviction and injustice during the proceedings<sup>8</sup>. Finally, these countries believe that the death penalty is not a reliable deterrent measure; the evidence is that despite the existence of the death penalty in some countries, the number of drug-related crimes does not decrease; it even increases in some

---

<sup>4</sup> Implementation monitoring body of ICCPR

<sup>5</sup> <https://www.ohchr.org/en/professionalinterest/pages/deathpenalty.aspx> retrieved on January 2nd, 2021

<sup>6</sup> United Nations Human Rights Committee, "Comments on Egypt", United Nations Document, UN Doc. CCPR/C/79/Add.23, August 9th 1993, para 8

<sup>7</sup> For example, the US.

<sup>8</sup> Tanya Hector. “The Death Penalty: No Solution to Illicit Drugs.” Amnesty International. <http://www.amnesty.org/es/library/asset/ACT51/002/1995/en/ab550293-eb32-11dd-92ac-295bdf97101f/act510021995en.pdf>.

countries.

The second groups argue that drug-related crime is one of the particularly serious crimes that are subject to the death penalty. The countries advocating this point of view claim that the most serious crimes under Article 6, paragraph 2, ICCPR include not only intentional murder but also the crimes causing particularly serious consequences threatening national security, public order, etc. For example, Indonesia imposes the death penalty on drug-related crimes under Indonesia Number 35 of 2009 on Narcotics: importing, exporting, manufacturing, distributing narcotics, etc., are the acts causing serious consequences for Indonesia's society and national security and are subject to the death penalty. Like Indonesia, Singapore believes that the right to life is not the absolute right; the Government has the right to take appropriate measures to ensure the right<sup>9</sup>. The imposition of sanctions against drug-related crimes helps to reduce crime rates and maintain a safe community. How serious a drug-related crime is sentenced to death depends on the number of drugs and the dangerous level of that crime. The more quantity of drugs is, the more harmful and dangerous consequences it will bring to the community<sup>10</sup>. With the same argument as Singapore, Malaysia - where drug-related crimes often transfer drugs through the Golden Triangle (Thailand, Laos, Malaysia) - also claims that drug-related crime is the main cause threatening its national safety and security<sup>11</sup>. The Golden Triangle still produces a quarter of the world's heroin. According to the UNODC 'almost all the heroin produced in the Southeast Asia is consumed in East Asia and the Pacific'. In 2011 the region consumed 65 tons of pure heroin with a retail sales volume of approximately US\$16.3 billion. Crackdowns on heroin production in the Golden Triangle have led to the advent of amphetamine-type stimulants (ATS), which are easier to produce. In the Greater Mekong subregion some 1.4 billion ATS, known locally as yaba, are consumed annually, with an estimated market value of US\$6.5 billion<sup>12</sup>. From the Golden Triangle, narcotics are then trafficked and consumed through the region. That trade will likely become easier at the end of the year when the ASEAN Community is set to introduce freer movement around the region. This in itself could see a push for stricter application of death penalty laws.

Many Southeast Asian countries have authorized its use for myriad drug-related offenses, and

---

<sup>9</sup> Amnesty International, "Singapore – The Death Penalty: A Hidden Toll of Executions", Report, January 2014, p. 4

<sup>10</sup> Michael Hor, "The Death Penalty in Singapore and International Law", *Singapore Yearbook of International Law*, Vol. 8, 2004, p 110

<sup>11</sup> Yinyos Leechaianan, et al, "The Use of the Death Penalty for Drug Trafficking in the United States, Singapore, Malaysia, Indonesia, and Thailand: A Comparative Legal Analysis", *MDPI Journal*, Vol. 2, No. 2, June 2013, p. 132

<sup>12</sup> <https://www.lowyinstitute.org/the-interpretor/drugs-and-death-penalty-southeast-asia>

in some instances, these countries have established a mandatory death penalty for drug trafficking offenses. Vietnam, and Malaysia permit the death penalty for drug trafficking. In 2005, Singapore executed Melbourne man Van Tuong Nguyen for drug trafficking. Most recently, two Singaporeans were executed for the trafficking of pure heroin in July last year. In Malaysia, drug traffickers are among the 900 currently on death row. In Indonesia, of the 133 people on death row in 2012, more than half (71) were there for drug trafficking<sup>13</sup>.

From the above analysis, the problem is that the cases where member states can impose the death penalty are not clearly specified by the provisions in paragraph 2 of Article 6, ICCPR. This leads to different interpretations and imposition in countries around the world. Moreover, in the countries maintaining the death penalty, the imposition of this penalty on drug-related crimes is also different. The number of countries abolishing the death penalty in general and abolishing the death penalty from drug-related crime, in particular, tends to increase. Some countries still stipulate this penalty in law, but it is not executed in practice, such as Brunei Darussalam, Lao People's Democratic Republic, and Myanmar. However, in the group of countries maintaining the death penalty for drug-related crimes, the number of offenders subject to the death penalty has increased significantly.

### **III. RESEARCH METHODS**

This conceptual paper focusses on the use of capital punishment for drug trafficking offenses in Vietnam. To study this topic, the author will use the combination of theoretical research methods such as the synthesis-analysis method, the interpretation-inductive method, the statistical method, the comparative comparison method, etc. to go from study the actual developments to generalize and make an assessment of the general trend. Using a set of typical legal research methods, in particular, legal history, doctrinal research, philosophy of law and, sociology of law, the article analyzes the change and reform of capital offences in Vietnamese laws. The study employed content analysis of current laws and methods of interpretation of international law. There is a comparative analysis of Indonesia, Singapor cases. The Indonesia's death penalty laws similar to what exists in Singapor. The study examined both international and domestic laws. The research juxtaposed the right to life within international law with the nation's death penalty laws. In terms of reception of international law into the domestic system, the transformation and incorporation doctrines apply. These doctrines form the theoretical basis of the analysis. Conventions would need to be acceded to and incorporated as part of the domestic law.

---

<sup>13</sup> <https://www.lowyinstitute.org/the-interpreter/drugs-and-death-penalty-southeast-asia>



#### **IV. FINDINGS AND DISCUSSION**

The problem is that the cases where member states can impose the death penalty are not clearly specified by the provisions in paragraph 2 of Article 6, ICCPR. This leads to different interpretations and imposition in countries around the world. Moreover, in the countries maintaining the death penalty, the imposition of this penalty on drug-related crimes is also different. The number of countries abolishing the death penalty in general and abolishing the death penalty from drug-related crime, in particular, tends to increase. Some countries still stipulate this penalty in law, but it is not executed in practice, such as Brunei Darussalam, Lao People's Democratic Republic, and Myanmar. However, in the group of countries maintaining the death penalty for drug-related crimes, the number of offenders subject to the death penalty has increased significantly.

To consider the legitimacy of imposition of the death penalty to drug-related crimes, it is necessary to assess whether drug-related crime is one of "the most serious crimes" under Article 6, Clause 2 of ICCPR. Unfortunately, the term "the most serious crimes" is being understood differently by different countries and HRC - implementation monitoring body of ICCPR. This leads to the different points of view on the legitimacy of the death penalty imposed on drug-related crimes. Specifically:

The first group of views believes that drug-related crime is not the most serious crime and opposes the imposition of the death penalty to them. which states that "the most serious crime" must be explained in a limited manner and only imposed on the intentional murder or the crimes causing other particularly serious consequences. In addition to intentional and unintentional murder, corruption and other political and economic crimes, such as armed robbery, piracy, abduction, drug-related crimes, and sex crimes, cannot be considered the most serious crimes to impose the death penalty as specified in Article 6 of ICCPR<sup>14</sup>.

Amnesty International and some countries have arguments against the imposition of the death penalty to drug-related crimes. They argue that the imposition of the death penalty to drug-related crimes can lead to the risk that this penalty shall be imposed on not only those who illegally buy, sell or possess drugs - the target objects of the drug law – but also drug addicts. Meanwhile, some national laws consider illegal drug use is a disease rather than a crime.<sup>15</sup> The countries advocating this viewpoint claim that the death penalty for drug-related crimes is too

---

<sup>14</sup> <https://www.ohchr.org/en/professionalinterest/pages/deathpenalty.aspx> retrieved on January 2nd, 2021

<sup>15</sup> For example, the US.

heavy and that its consequence is irreversible in case of wrongful conviction and injustice during the proceedings<sup>16</sup>. Finally, these countries believe that the death penalty is not a reliable deterrent measure; the evidence is that despite the existence of the death penalty in some countries, the number of drug-related crimes does not decrease; it even increases in some countries.

The second groups argue that drug-related crime is one of the particularly serious crimes that are subject to the death penalty. The countries advocating this point of view claim that the most serious crimes under Article 6, paragraph 2, ICCPR include not only intentional murder but also the crimes causing particularly serious consequences threatening national security, public order, etc.

Vietnam is a member state of 7 among total 9 core international human rights treaties, including International Covenant on Civil and Political Rights 1966 (ICCPR), but is not a member state of The Second Optional Protocol to Abolish the Death Penalty under ICCPR 1989, which is currently the only international treaty on the abolition of the death penalty. In recent years, Vietnam has made many efforts to gradually reduce the number of crimes subject to the death penalty by: Firstly, reducing the number of crimes subject to the death penalty from 29 crimes in the Penal Code 1985 (accounting for 14.87% of the total number of crimes specified in the Penal Code) to 22 crimes in Penal Code 1999 (amended and supplemented in 2009) (accounting for 8.09% of the total number of crimes specified in the Penal Code), and then to 18 crimes in Penal Code 2015 (accounting for 5.73% of the total number of crimes specified in the Penal Code). Moreover, the list of persons who are not subject to the death penalty is expanded.

The provisions of the Vietnamese Penal Code on the imposition of the death penalty specify that the death penalty is a special penalty and only applied in certain special cases. Whether this penalty is maintained or abolished form, the penal code should be based on the specific characteristics, conditions, and requirements of fighting against crime in each country.

The group of crimes subject to the death penalty includes Crimes involving national security; Crimes of infringing upon human life and health; Drug-related crimes; Crimes of corruption, and some other particularly serious crimes prescribed by the Penal Code, such as manufacturing and counterfeit trading of medicines; terrorism; crimes of war of aggression,

---

<sup>16</sup> Tanya Hector. "The Death Penalty: No Solution to Illicit Drugs." Amnesty International. <http://www.amnesty.org/es/library/asset/ACT51/002/1995/en/ab550293-eb32-11dd-92ac-295bdf97101f/act510021995en.pdf>.

crimes of peace; crimes against humanity; crimes of war.

The death penalty is not imposed on those who are: (1) juveniles (people under 18 years old); (2) woman becomes pregnant at the time of sentencing or during the trial; (3) woman who is raising a child under the age of 36 months at the time of sentencing or during the trial, and (4) persons are at the age of or above 75 at the time of sentencing or during the trial.

The drug-related crime situation continues to be complicated in Vietnam. In recent years, illegal drug trafficking has increased both in the number of case and quantity of drugs. According to the Supreme People's Procuracy of Vietnam, from 2007 to May 31st, 2018, the investigation agency prosecuted 159,924 new cases and 201,775 defendants (accounting for 20% of the total number of newly prosecuted cases in the whole country during the same period). Only in the first 6 months of 2018, the investigating agency prosecuted 8,969 cases, increasing by 765 cases (9.3%) compared to the same period in 2017. Specifically:

Year	The total number of cases, the defendants prosecuted		Wherea, drug-related crimes		Rate (%)	
	Cases (1)	Defendants (2)	Cases (3)	Defendants (4)	Cases (3/1)	Defendants (4/2)
2007	80.301	124.855	10.901	14.955	13,58	11,98
2008	70.880	108.945	11.474	14.779	16,19	13,57
2009	62.842	96.771	10.958	13.961	17,44	14,43
2010	62.226	96.490	12.160	15.205	19,54	15,76
2011	71.599	114.660	15.079	18.815	21,06	16,41
2012	74.134	120.561	15.222	19.549	20,53	16,22
2013	76.245	122.465	15.266	19.757	19,44	16,13
2014	77.503	119.602	15.069	19.379	18,32	16,20
2015	70.852	106.870	12.983	16.250	22,38	15,20
2016	69.481	100.147	15.553	19.308	24,33	19,28
2017	69.479	98.025	16.905	20.619	19,29	21,03
<b>Total</b>	<b>785.542</b>	<b>1.209.391</b>	<b>151.570</b>	<b>192.577</b>	<b>19,29</b>	<b>15,92</b>

*Statistics of drug-related crime and crime situation nationwide, according to trial statistics.*

*(Source: Supreme People's Procuracy of Vietnam)*

The table above shows that the total drug-related crime in the whole country (2007-2017) is 144,818 cases with 184,025 defendants. In the past decade, each year, the Court adjudicated about 14,482 cases with 18,403 defendants. Crime methods and tricks are increasingly sophisticated; the criminal characteristics are increasingly dangerous, aggressive, and reckless; armed with "hot" weapons, modern means; they fiercely resist the functional forces when being detected and arrested. The activities of drug-related crimes are mainly in the Northwest,

<sup>17</sup> <https://vksndtc.gov.vn/tintuc/Pages/lists.aspx?Cat=12&ItemID=7697&Page=3> retrieved on March 1<sup>st</sup>, 2021

Central, Southern borderlines and continue to go further inland. Notably, the amount of heroin transported to Vietnam in 2009 increased by 29% compared with the previous year; and the amount of methamphetamine increased by 11 times.

In particular, there is an increase in the activity of international drug cartels. Drug-related crimes are dangerous to society. Drug-related crimes in Vietnam are directly or indirectly involve with drugs; They infringe the State's monopoly on drugs management, allow drugs to enter the community, increase drug addicts, exert negative impacts on many aspects, such as economy, politics, culture, social order and safety, seriously harm human life and health, trigger other crimes.

Based on the current situation of drug-related crimes in Vietnam, the death penalty is still considered a necessary and indispensable penalty to punish those who commit particularly serious crimes to ensure security, social order and safety, and create a safe environment for people. Therefore, this kind of punishment still works well in preventing crimes. The practice of imposition of the death penalty over the past decades in our country shows that this penalty has certain effects in punishing those who commit particularly serious crimes and educating others to respect the law. The correct imposition of the death penalty is advocated by the public. However, the death penalty is only specified as the heaviest penalty frame for crimes and always an optional penalty for life imprisonment. This means that, according to the Vietnamese Penal Code, there are no cases where the death penalty is mandatory. Penal Code also clearly and strictly provides the conditions for imposing the death penalty to the offenses that are subject to this penalty. Thereby, the Court can consider and impose the death penalty in the specific case, for example, the crimes of illegally manufacturing, transporting or trading narcotics are subject to the death penalty (Clause 4 of Articles 248, 250, 251).

## **V. CONCLUSION**

At the global level, the imposition of the death penalty is increasingly considered incompatible with the protection of the right to life - the most important of all human rights. With the growing support for this issue, the trend to abolish the death penalty is increasing. International law allows the imposition of the death penalty on the most serious crimes as an exception to the right to life. However, the legitimacy of the application of the death penalty to drug-related crimes is still a controversial issue. Adapting with the general trend, Vietnamese law on the death penalty has seen many positive improvements, such as reducing the number of charges subject to the death penalty, increasing the list of exceptions of the death penalty, providing the death penalty parallel to life imprisonment for the courts to consider in the specific case. In

the context of complicated developments in drug-related crimes with signs of increasing both the number of cases and the number of drugs, and the collusion between Vietnamese and foreign criminals, maintaining the death penalty is necessary as required by the socio-economic situation, the requirement of preventing and fighting with crimes in Vietnam, and by the context that Vietnam has not had an effective alternative to the death penalty so as to deter and prevent drug-related crimes.

\*\*\*\*\*

**VI. REFERENCES**

1. United Nations Human Rights Committee, "Comments on Egypt", United Nations Document, UN Doc. CCPR/C/79/Add.23, August 9th 1993
2. United Nations Office on Drugs and Crime (UNODC). World Drug Report 2011. Vienna: Division for Policy Analysis and Public Affairs, 2011.
3. Tanya Hector. "The Death Penalty: No Solution to Illicit Drugs." Amnesty International. <http://www.amnesty.org/es/library/asset/ACT51/002/1995/en/ab550293-eb32-11dd-92ac-295bdf97101f/act510021995en.pdf>.
4. Amnesty International, "Singapore – The Death Penalty: A Hidden Toll of Executions", Report, January 2014
5. Michael Hor, "The Death Penalty in Singapore and International Law", Singapore Yearbook of International Law, Vol. 8, 2004,
6. Yingyos Leechaianan, et al, "The Use of the Death Penalty for Drug Trafficking in the United States, Singapore, Malaysia, Indonesia, and Thailand: A Comparative Legal Analysis", MDPI Journal, Vol. 2, No. 2, June 2013
7. Tanya Hector. "The Death Penalty: No Solution to Illicit Drugs." Amnesty International. <http://www.amnesty.org/es/library/asset/ACT51/002/1995/en/ab550293-eb32-11dd-92ac-295bdf97101f/act510021995en.pdf>.
8. <https://vksndtc.gov.vn/tintuc/Pages/lists.aspx?Cat=12&ItemID=7697&Page=3> retrieved on March 1st, 2021
9. <https://www.ohchr.org/en/professionalinterest/pages/deathpenalty.aspx> retrieved on January 2nd, 2021.

\*\*\*\*\*