

CAO Vu Minh, NGUYEN Nhat Khanh, TRUONG Thi Tu My

*Vietnamese Legislation Regarding Juveniles Sent to Reformatories:
Evaluating Compliance with the United Nations Rules for the
Protection of Juveniles Deprived of Liberty and Offering
Recommendations*

DOI: [https://doi.org/10.34625/issn.2183-2705\(36\)2024.ic-22](https://doi.org/10.34625/issn.2183-2705(36)2024.ic-22)

Secção I

Investigação Científica*

* Os artigos presentes nesta secção foram sujeitos a processo de revisão segundo o método *blind peer review* / The articles in this section have undergone a blind peer review process.

Vietnamese Legislation Regarding Juveniles Sent to Reformatories: Evaluating Compliance with the United Nations Rules for the Protection of Juveniles Deprived of Liberty and Offering Recommendations

A legislação vietnamita relativa aos menores enviados para reformatórios: avaliar o cumprimento das regras das Nações Unidas para a proteção dos menores privados de liberdade e oferecer recomendações

CAO Vu Minh¹
NGUYEN Nhat Khanh²
TRUONG Thi Tu My³

ABSTRACT: In Vietnam, juvenile offenders may be subjected to placement in reformatories as a legal measure, which, in practice, proves to be more severe than adult imprisonment. This study examines the Vietnamese legal framework concerning reformatory placement against international standards for protecting the rights of detained juveniles. Through comparative analysis, significant limitations in Vietnamese law regarding reformatory placement emerge, particularly concerning trial procedures, duration of placement, enforcement of fundamental rights during confinement, and procedures in cases of death within reformatories. A robust mechanism is lacking to guarantee their entitlement to leave the reformatory to attend funerals in the event of a relative's passing or to visit sick family members, free from obstruction by authorities. Recommendations are proposed to refine legislation to align with international legal norms, aiming to mitigate human rights violations against juvenile offenders in Vietnam, even in instances of legal transgressions. This study offers solutions for the Vietnamese government while serving as a credible resource for the international academic community interested in understanding the legal framework and practical implementation of measures regarding juvenile offenders in Vietnam.

KEYWORDS: Juveniles Sent to Reformatories; United Nations Rules; Child Rights; Legal Reform; Vietnamese Legislation.

RESUMO: No Vietname, os jovens delinquentes podem ser sujeitos a colocação em reformatórios como medida legal, o que, na prática, se revela mais severo do que a prisão de adultos. Este estudo examina o quadro jurídico vietnamita relativo à colocação em reformatórios em relação aos padrões internacionais de proteção dos direitos dos menores detidos. Através da análise comparativa, emergem limitações significativas na legislação vietnamita relativamente à colocação em reformatórios, particularmente no que diz respeito aos procedimentos de julgamento, à duração da colocação, à aplicação dos direitos fundamentais durante o confinamento e aos procedimentos em casos de morte dentro dos reformatórios. Falta um mecanismo robusto para garantir o seu direito de sair do reformatório para assistir a funerais em caso de falecimento de um familiar

¹ Corresponding author: Minh Cao Vu, Ph.D in Law, University of Economics and Law, Ho Chi Minh City, Vietnam and Vietnam National University, Ho Chi Minh City, Vietnam, E-mail: minhcv@uel.edu.vn.

² LLM, University of Economics and Law, Ho Chi Minh City, Vietnam and Vietnam National University, Ho Chi Minh City, Vietnam. Email: khanhnn@uel.edu.vn.

³ LLM, Hung & Cong su Limited Liability Law Firm, Vietnam. Email: truongtmy0108@gmail.com.

ou para visitar familiares doentes, livre de obstrução por parte das autoridades. São propostas recomendações para aperfeiçoar a legislação de forma a alinhá-la com as normas jurídicas internacionais, com o objectivo de mitigar as violações dos direitos humanos contra jovens infractores no Vietname, mesmo em casos de transgressões legais. Este estudo oferece soluções para o governo vietnamita, ao mesmo tempo que serve como um recurso credível para a comunidade académica internacional interessada em compreender o quadro jurídico e a implementação prática das medidas relativas aos jovens delinquentes no Vietname.

PALAVRAS-CHAVE: Menores Enviados para Reformatórios; Regras das Nações Unidas; Direitos da Criança; Reforma Jurídica; Legislação vietnamita.

Introduction

In juvenile justice, there should be no retribution. The intention is to establish responsibility and, at the same time, to promote re-integration. The young offender should learn the lesson and never repeat the wrongdoing. This is not easy in reality. It requires innovative and effective community sanctions⁴. Central to a human rights approach to juvenile justice is the principle that detention should be considered a last resort under art 37(b) of the CRC and r 19 of the Beijing Rules. This principle recognizes the inherent harm that can be caused to children spending extended periods in detention and reflects the rehabilitative, rather than punitive, focus of human rights law in this area⁵. Nevertheless, Vietnam and certain Southeast Asian nations are displaying indications of non-compliance with these principles by persisting with the incarceration of juvenile offenders amidst inherent flaws within their legal frameworks. In Vietnam, aside from incarceration, juvenile lawbreakers may also be placed in reform schools. This measure mandates social isolation for a duration ranging from six to twenty-four months. Despite its profound impact on the human rights of juveniles, who endure prolonged periods of social isolation, Vietnam's legal framework governing the placement of juveniles in reformatories lacks emphasis, rendering reform school detention even more severe than adult incarceration. Moreover, as it falls outside the realm of criminal proceedings, this measure is executed through less transparent and open procedures⁶. The applicant is further deprived of the right to appeal the decision to enforce this measure. In reality, juveniles, along with

⁴ HAMMARBERG, Thomas. A Juvenile Justice Approach Built on Human Rights Principles. *Youth Justice*, December 2015, 8(3), 193-196.

⁵ CUNNEEN, Chris, GOLDSON, Barry and RUSSELL, Sophie. Juvenile Justice, Young People and Human Rights in Australia. *Current Issues in Criminal Justice*, 2016, 28 (2), 173-188.

⁶ CAO, Vu Minh and NGUYEN, Hoang Yen. Discussing the decision to apply administrative sanctions against people who commit acts of violating the law. *Journal of Legal Sciences*, 2015, (6), 12-18.

their parents or legal guardians, encounter numerous challenges in accessing pertinent information concerning applications for placement in reform schools. Authorities frequently provide inconsistent or arbitrary justifications for restricting or obstructing access to such information⁷. During their time in the reformatory, juveniles are deprived of the chance to practice their religion. A robust mechanism is lacking to guarantee their entitlement to leave the reformatory to attend funerals in the event of a relative's passing or to visit sick family members, free from obstruction by authorities. Furthermore, in the event of a fatality within the institution, the law prohibits relatives from inspecting the body or initiating an investigation in cases of suspected foul play.

This study makes several significant contributions. Firstly, unlike prior Vietnamese research, which merely provided an overview of administrative measures concerning juvenile offenders, this study delves deeply into reformatory school placement's legal and practical aspects⁸. Secondly, it utilizes the international legal framework for safeguarding the rights of juvenile offenders as a basis for comparison with Vietnamese law, thereby elucidating the inconsistencies within Vietnamese legislation that have led to serious violations of juveniles' rights in reformatory placements. Thirdly, the study offers a series of recommendations for Vietnam to address and rectify existing shortcomings within the legal framework, thereby ensuring alignment with international legal standards.

Literature review

At the world level, there have been many research works of individuals and organizations on deprivation of liberty of juveniles so far. In their research, authors Huynh Le Duy Tan, and Yvon Dandurand⁹ stated that the deprivation of liberty of juveniles should only be seen as a last resort for the education of the juvenile. Sharing the same view, author Yvon Dandurand¹⁰ also proposed limiting

⁷ PHAM, Quang Cong. The debate on administrative handling measures to send to reformatory schools and some solutions to improve application efficiency. *The Journal of People Court*, 2019, (18), 36-42.

⁸ HOANG, Minh Khoi. *Administrative Measures Against Juvenile Violators of the Law*. Ho Chi Minh City: The United Publishing House of Hochiminh City, 2017.

⁹ HUYNH, Le Duy Tan and DANDURAND, Yvon. Alignment of Vietnamese Law on the Treatment of Juvenile Prisoners with International Standards and Norms [online]. *Youth Justice*, 2021, 22(1). Available from: <https://doi.org/10.1177/1473225421995266>.

¹⁰ DANDURAND, Yvon. *Introducing the United Nation Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal*

punishments aimed at deprivation of liberty of juveniles. Within the scope of research, authors Anna Aizer and Joseph Doyle¹¹ stated that deprivation of liberty of juveniles may result in the juvenile continuing to violate the law in the future and been deprived of his/ her liberty again. In his thesis, the author Lorens Cheryl Jenna¹² believe that detention in a reform school constitutes a deprivation of liberty so the provision of education, counselling and vocational training must be treated with caution if arguing detention in a reform school according to Vietnamese law is not appreciably detrimental for the minors. Therefore, use of reform institutions as places of rehabilitation requires a significant change in perception on behalf of Vietnamese authorities. In 2021, the author Ngo, Huu Phuoc¹³, mentioned gender equality in the field of education, means that all individuals have equal opportunities and are given equal access to educational levels and programs. This helps us relate to the current substance and execution of education and vocational training within reform schools, which is inconsistent or inappropriate for achieving reintegration of child into society. Besides, authors Laura S Abrams, Sid Jordan and Laura Montero¹⁴ have researched the age of juveniles and the violations of the law deprivation of liberty of juveniles in several countries around the world. These studies and many others have clarified many aspects of deprivation of liberty of juveniles.

In Vietnam, since the ratification of The International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child, research on human rights has been carried out systematically. However, the studies in Vietnam are basic research on human rights in general and the rights of specific groups of people, such as women, children, people with disabilities, and migrant workers. In 2011, the understanding and history of international

Justice: A New Tool for Policymakers, Criminal Justice Officials and Practitioners. New York: United Nations, 2015.

¹¹ AIZER, Anna and DOYLE, Joseph. Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges. *Quarterly Journal of Economics*, 2015, 130(2), 759-803.

¹² LORENS, Cheryl Jenna. *Detention of children under Vietnamese administrative law: is it criminal?* Master Thesis, University of Oslo, 2011.

¹³ NGO, Huu Phuoc. Gender Equality in Education – Comparative Perspective between International Law and the Legal System, its Practice in Vietnam. *Journal of Human Rights and Peace Studies*, 2021, 7 (2), 202-243.

¹⁴ ABRAMS, Laura, JORDAN, Sid and MONTERO, Laura. What is a Juvenile? A Cross National Comparison of Youth Justice Systems [online]. *Youth Justice*, 2018, 18 (2), 1-20. Available from: <https://doi.org/10.1177/1473225418779850>.

human rights law are mentioned in the study of the Research center for human and citizen's rights under the School of Law, Vietnam National University¹⁵. Following this research, in his study, Hoang, Minh Khoi¹⁶ has given us an overview of the handling of juveniles who violate the law, including the measure of deprivation of liberty of juveniles. There are many works, but there is no research in Vietnam that compares the measure of placement in reformatories with international standards in the protection of juveniles deprived of their liberty. Especially, there have been no in-depth studies on the limitations and inadequacies of the application of the measure of sending to reformatories to deprive juveniles of their freedom in Vietnam. Therefore, this article is the first research project in Vietnam on the measure of sending to reformatories with United Nations rules on protection of juveniles deprived of their liberty.

Methodologies

The article uses methods of systematization, analysis, interpretation comparative jurisprudence, etc., which are common methods in social science research in general and in legal research in particular to carry out the set contents. Specifically, the methods used are: (i). The systematization method and analysis method are used by the authors simultaneously and throughout the entire article to clarify issues within the subject and scope of research of the topic. The overview of the research situation to help systematize published research works and have a comprehensive and complete view of the domestic and foreign research situation on theoretical and practical issues of the measure of sending juveniles to reformatories. The research was carried out in accordance with Vietnamese laws governing placement in reform schools. This included the 2013 Constitution, the 2018 Anti-Corruption Law, the 2015 Criminal Procedure Code, and the 2015 Penal Code. (ii) The article also uses statistical method to collect data on the situation of applying measures to send juveniles to reform schools in recent times in Vietnam and from there, have an overview of the application of this measure. (iii) To use the method of comparative jurisprudence to identify the similarities and differences between the Vietnamese legal system and

¹⁵ THE RESEARCH CENTER FOR HUMAN AND CITIZEN'S RIGHTS UNDER THE SCHOOL OF LAW, VIETNAM NATIONAL UNIVERSITY. *International law on Human Rights - A basic foundation*, Hanoi: Ha Noi National University Publishing House, 2011.

¹⁶ HOANG, Minh Khoi. *Administrative Measures Against Juvenile Violators of the Law*, Ho Chi Minh City: The United Publishing House of Hochiminh City, 2017.

international standards and treaties international treaties to which Vietnam is a member. In order to provide a comprehensive analysis, the legal framework was compared and contrasted with international provisions safeguarding the human rights of juvenile offenders. Specifically, the study referenced the Beijing Rules, the Havana Rules, and the Convention on the Rights of the Child. These findings will be a rationale for giving solutions to amend, supplement and complete the Vietnamese legal system for ensuring the rights of juveniles who are subject to the measure of sending to reformatories.

Results and discussion

Evolution of Legal Provisions for Establishing Reformatories in Vietnam: A Historical Overview

The measure of sending to reformatories takes its root as special administrative coercive measures, beginning in Resolution No. 49/NQ-TVQH, June 20th, 1961, issued by the National Assembly Standing Committee. This resolution stipulates the consignment of juveniles to concentrated educational and re-educational institutions who commit harmful acts to the society, the juvenile violators have been re-educated many times but not repenting¹⁷. This special administrative coercive measure is decided by the Chairman of the Provincial People's Committee and is approved by the Minister of Public Security within three years and needn't go through the trial of the Court.

On July 13, 1964, The Prime Minister promulgates Circular No. 68/TTg-VG regarding the establishment of reformatories for misbehaved juveniles to re-educate those between 13-17 years old who committed acts of theft, violating the law many times, causing social chaos with a term of 2 years. These schools were named Kim Dong School and were seen as the precursor of reformatories. Until 1967, Kim Dong School was re-organized and renamed as Public School of Industry and Agriculture to educate and provide vocational courses for juveniles aged from 9 to 17 years old who committed theft so many times and not repented according to Decision No 217-TTg/CN date Dec 18th, 1967, of Vietnam's Prime Minister.

In 2002, The National Assembly Standing Committee promulgates the Ordinance on Handling of Administrative Violations to prescribe the measures of

¹⁷ PHAN, Minh Duy. Some issues about measures of sending to reformatories. *The People's Court Journal*, 2020, (10), 22-26.

sending to reformatories. According to the Ordinance on Handling of Administrative Violations 2002, Presidents of District-level People's Committee shall decide to apply the measure of sending to reformatories. Thus, the measure of sending to reformatories is applied in administrative procedure, which means it is applied without the Court proceedings¹⁸. The nature of the measure of sending to reformatories is to arrest people without trial procedures¹⁹. This is contrary to international commitments to which Vietnam is a member.

To overcome this shortcoming, the Congress promulgated the Law on Handling of Administrative Violations 2012 to replace the Ordinance on Handling of Administrative Violations 2002. Under Article 105(2) of the Law on Handling of Administrative Violations 2012, only the district-level People's Courts can have the authority to apply the measure of sending to reformatories for juveniles who violate the law. This is a new regulation that is suitable to the standard of judicial reform because the Court is the most legitimate authority that has the power to deprive of people's liberty²⁰. However, even with such changes, the severity of the deprivation of liberty when applying to reformatories measure is still very high.

Fundamental Legal Aspects Regarding the Implementation of Reformatory Schools in Vietnam

According to the Vietnamese Law, juvenile law violators who are applied the measure of sending to reformatories are individuals who commit law violations but are not at the age to bear criminal responsibility²¹. According to art 12 of the Penal Code 2015, the minimum age to be criminally responsible is at least 14 years old. Specifically, people from 14 to 16 years old shall bear criminal responsibility for a serious crime or an extremely serious crime. People over the age of 16 shall bear criminal responsibility for all crimes. Thus, people under 14 years of age cannot bear criminal responsibility. Similarly, people from 14 to under 16 who committed acts that show signs of a less serious crime or a serious crime cannot also bear criminal responsibility. Vietnam is in the stage of developing a market economy, the number of juveniles who acting law violation

¹⁸ NGUYEN, Cuu Viet. Some issues of reforming the law on administrative violations in our country. *The Legislative Studies Review*, 2009, (1), 18-27.

¹⁹ CAO, Vu Minh. New points of the Law on Handling of Administrative Violations in ensuring human rights and citizens' rights. *The People's Court Journal*, 2014, (13), 1-5.

²⁰ NGUYEN, Cuu Viet. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: National Political Publisher, 2013.

²¹ NGUYEN, Cuu Viet. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: National Political Publisher, 2013.

tends to increase. Every year the rate of juveniles violating the law increases sharply, and it tends to be younger²². Thus, the State stipulated juveniles to be applied the measure of sending to reformatories in order to fill the gap left by the criminal law related to juvenile law violators without criminal prosecution. Article 92 of the Law on Handling of Administrative Violations 2012 regulates the application of the measure of sending to reformatories for the following groups of subjects:

Firstly, a person from full 12 years old to under 14 years old commits an act showing signs of an extremely serious crime specified in the Penal Code. In the Penal Code 2015, a person from full 12 years old to under 14 years old cannot bear criminal responsibility. However, people in this age range who commit acts showing signs of particularly serious crimes shall be subject to the measure of sending to reformatories.

Secondly, people from full 14 years old to under 16 years old committed an act showing signs of a very serious crime or an extremely serious crime regulated in the Penal Code, with the exceptions being the following cases: murder (art 123), intentionally causing injury or causing harm to the health of others (art 134), rape (art 141), rape of a person aged under 16 years old (art 142), sexual abuse (art 143), sexual abuse of people from full 13 years old to under 16 years old (art 144), human trafficking (art 150), trafficking people under 16 years old (art 151), robbery (art 168), kidnapping for ransom (art 169), extortion (art 170), snatching (art 171), theft of property (art 173), deliberate destruction of property (art 178), illegal manufacturing of narcotic substances (art 248), illegal possession of narcotic substances (art 249), illegal transportation of narcotics substances (art 250), illegal trading of narcotics substances (art 251), appropriation of narcotics substances (art 252), organizing illegal street races (art 265), illegally street racing (art 266), spreading software programs harmful for computer networks, telecommunications networks or electronic devices (art 286), obstruction or disturbance of computer networks, telecommunications networks or electronic devices (art 287), illegal infiltration into the computer network, telecommunications network or electronic device of another person (art 289), appropriation of property using a computer network, telecommunications network

²² MINISTRY OF JUSTICE. Report No 29/BC-BTP dated February 23, 2021, on law enforcement and handling of administrative violations in 2020.

or electronic device (art 290), terrorism (art 299), destruction of works, facilities or vehicles important to national security (art 303), illegal manufacture, possession, transport, use or appropriation of military weapons or devices (art 304). The above-mentioned crimes are offenses that infringe upon the life, health, honor and dignity of others or are likely to threaten national security. These are special interests that need to be protected, so when individuals from full 14 years old to under 16 years old commit the above-mentioned crimes, they will still be prosecuted for criminal responsibility. The trial practice in Vietnam over the past time shows that the number of cases involving people from full 14 years old to under 16 years old is increasingly common. Therefore, criminal responsibility must be applied to these cases to prevent the rising of crime.

The practice of placing juveniles in reformatory schools entails depriving them of their freedom, isolating them from the community for a minimum period of 6 months, which can extend up to 24 months (Article 91 of the 2012 Law on Handling of Administrative Violations). During this period, violators shall study, labor, and live under the management of reformatories. Some of their civil rights are also deprived such as the freedom of movement, and the freedom of residence.

The placement measure in reformatory schools is applicable exclusively to Vietnamese citizens and does not extend to foreigners according to Clause 2, Article 5 of the 2012 Law on Administrative Handling. For those with both Vietnamese and foreign nationalities being subject to the measure of sending to reformatories, there will be a suitable solution on a case-by-case basis. In case the juveniles enter Vietnam with a valid exit or entry document issued by a competent Vietnamese agency, they will be subject to the measure of sending to reformatories. In case the juveniles enter Vietnam with a passport or a valid document in lieu of a passport issued by a foreign competent authority, this measure is not applicable²³.

In essence, sending juveniles to reformatories bears similarities to imprisonment as stipulated in the Penal Code of 2015. Both involve the deprivation of liberty for a specified period, during which juveniles are isolated

²³ COUNCIL OF JUDGES OF THE SUPREME PEOPLE'S COURT. Resolution No. 04/2015/NQ-HĐTP dated December 24, 2015, on direction leading the implementation of a number of provisions of law on consideration and decision on application of administrative handling measures at the people's court, art 12.

from society. The authority responsible for implementing this measure is the Court. However, there are notable distinctions between sending juveniles to reformatories and imprisonment as outlined in the Penal Code of 2015, see details in Table 1:

Table 1. The comparison table between the measure of sending to reformatories in the Law on Handling of Administrative Violations 2012 and the imprisonment penalty in the Penal Code 2015

Criteria	The measure of sending to reformatories	Imprisonment penalty
Subjects to be applicable	- Persons from full 12 years old to under 14 years old commit acts with signs of a particularly serious crime specified in the Penal Code 2015.	- No criminal liability applies
	- Persons from full 14 years old to under 16 years old commit acts showing signs of a very serious crime or a particularly serious crime specified in the Penal Code 2015, except for some crimes subject to criminal responsibility.	- Persons from full 14 years old to under 16 years old must bear criminal responsibility for a very serious crime or a particularly serious crime in Articles 123, 134, 141, 142, 143, 144, 150, 151, 168, 169, 170, 171, 173, 178, 248, 249, 250, 251, 252, 265, 266, 286, 287, 289, 290, 299, 303 và 304 in the Penal Code 2015
		- Persons aged full 16 years or older must bear criminal responsibility for all crimes.
Duration of application	From 6 to 24 months	- Some crimes against juveniles have low detention time (from 06 months to 36 months) such as Intentionally causing injury (art 134); Crime of stealing property (art 173); Crime of illegal racing (art 266).
Special amnesty	Not entitled to amnesty policy	- Exemption from serving prison sentences upon amnesty.
Proceedings	Administrative procedures combined with judicial procedures	Judicial proceedings.
Right to appeal	No right to appeal	Has the right to appeal

Enforcing Reformatory Placement Measures: Recent Cases and Regional Statistics

In recent years, in Vietnam there is an increase both in the number and nature and extent of the violation in the of law violations committed by juveniles. Violation tricks of juveniles are no longer simple due to impulsiveness and lack of

thoughts but have been carefully calculated and prepared²⁴. Many law violations committed by juveniles have an extremely dangerous nature, causing severe consequences.

From 1990 to 2003, the number of juveniles that received the measure of sending to reformatories because of law infringement has rapidly increased. In 1990, in the whole nation, there was 338 juveniles on whom the measure of sending to reformatories was imposed while in 1995, the number increased to 1049 juveniles (increased by 156,8%). From 1996 to 2002, the total number of juveniles being applicable to this measure was 12.005. From 2003 to 2013, reformatories had taken 22.936 juveniles committing law violations (97,52% for men and 2,48% for women). In this period, the average number of people subject to the measure of sending to reformatories each year is about 2,000 people²⁵.

From 2014 to 2018, the nation has made a dossier requesting the application of the measure of sending to reformatories for 1,034 juveniles. The district-level People's Court issued a decision to apply this measure to 1,014 juveniles (rate of 98 percent), while 20 cases did not have enough grounds to apply this measure. In 2019, the nation has 347 juveniles being applicable to the measure of sending to reformatories. In 2020, the number of juveniles being applicable to this measure decreased to 232²⁶. The main reason is not the reduction in the case of juveniles committing crimes but the fact that the application of this measure was transferred from the Chairman of the People's Committee of the district to the People's Court of the district, so the application procedure is stricter and more public²⁷. Meanwhile, the number of cases the Court is accepting to consider applying the measure of sending to reformatories is still very much. In 2021, the number of juveniles being subject to the measure of

²⁴ HOANG, Minh Khoi. *Administrative Measures Against Juvenile Violators of the Law*, Ho Chi Minh City: The United Publishing House of Hochiminh City, 2017.

²⁵ THE GENERAL DEPARTMENT OF PUBLIC SECURITY VIII OF THE MINISTRY OF PUBLIC SECURITY. Report No. 2787/BC-C81 (C86) dated September 11, 2013, on the law enforcement work on the application of administrative handling measures for sending to reformatories.

THE SUPREME PEOPLE'S COURT. Report No. 284/TANDTC-KHXX dated December 19, 2013, on summarizing the practical implementation of the provisions of the law on the application of administrative handling measures sent to reformatories from 2003 to 2013.

²⁶ THE CRIMINAL POLICE DEPARTMENT OF THE MINISTRY OF PUBLIC SECURITY. Report No. 357/C02(P2) dated July 19, 2019, on the summary of 5 years of implementing the measure of sending to reformatories.

²⁷ CAO, Vu Minh. Completing the legislation on measures sending to reformatories in order to protect the rights of juveniles. *The Legislative Studies Review*, 2015, (20), 3-10.

sending to reformatories was 247²⁸. After one year, in 2022, this number decreased by 83 cases to 164²⁹. See detailed figures in Table 2 and Table 3:

Table 2. Results of the number of applications and the number of people subject to the measure of sending to reformatories nationwide from 2014 to 2018³⁰.

No	Region	Total number of applying proposals	The number of people subject
1	Ha Giang	3	3
2	Hai Phong	9	9
3	Vinh Phuc	46	46
4	Phu Tho	30	30
5	Nghe An	94	94
6	Quang Tri	4	4
7	Thua Thien Hue	9	9
8	Ninh Thuan	9	9
9	Binh Thuan	10	10
10	Quang Ngai	34	34
11	Binh Phuoc	13	13
12	Dong Thap	7	7
13	Tien Giang	6	6
14	Cao Bang	6	6
15	Lai Chau	6	6
16	Yen Bai	23	23
17	Hoa Binh	3	3
18	Lam Dong	4	4
19	Tuyen Quang	9	9
20	Kon Tum	2	2
21	Dak Lak	43	43
22	Dien Bien	18	18
23	An Giang	21	21
24	Thanh Hoa	7	7
25	Hai Duong	10	10
26	Bac Giang	39	39
27	Thai Nguyen	14	14
28	Son La	3	3
29	Quang Ninh	19	19
30	Lang Son	36	36

²⁸ MINISTRY OF JUSTICE. Report No. 51/BC-BTC dated March 15, 2022, on law enforcement and handling of administrative violations in 2021.

²⁹ MINISTRY OF JUSTICE. Report No. 62/BC-BTC dated March 1, 2023, on law enforcement and handling of administrative violations in 2022.

³⁰ THE CRIMINAL POLICE DEPARTMENT OF THE MINISTRY OF PUBLIC SECURITY. Report No. 357/C02(P2) dated July 19, 2019, on the summary of 5 years of implementing the measure of sending to reformatories.

No	Region	Total number of applying proposals	The number of people subject
31	Ca Mau	13	13
32	Bac Kan	2	2
33	Ha Nam	55	54
34	Dong Nai	13	13
35	Nam Dinh	47	45
36	Lao Cai	10	10
37	Binh Dinh	5	5
38	Long An	9	9
39	Kien Giang	21	20
40	Tra Vinh	12	12
41	Hung Yen	5	5
42	Ha Noi	7	7
43	Ba Ria - Vung Tau	4	4
44	Vinh Long	4	4
45	Ninh Binh	13	13
46	Quang Binh	6	6
47	Bac Lieu	9	8
48	Hau Giang	7	7
49	Da Nang	15	15
50	Binh Duong	5	5
51	Gia Lai	73	69
52	Phu Yen	13	13
53	Bac Ninh	49	44
54	Ho Chi Minh	10	10
55	Can Tho	3	3
56	Quang Nam	8	7
57	Soc Trang	7	6
58	Tay Ninh	6	6
59	Khanh Hoa	10	10
60	Ha Tinh	24	22
61	Đak Nong	16	15
62	Thai Binh	13	12
63	Ben Tre	3	3
Total		1034	1014

Table 3. The result on proposed cases to send to reformatories and the number of people sent to reformatories nationwide from 2019 to 2022³¹.

Nationwide	The total of proposed cases		The number of people to be applied	
	Male	Female	Male	Female
2019	346	32	317	30
2020	236	17	220	12
2021	278	6	242	5
2022	216	7	158	6

Assessing Vietnam's Legal Framework for Reformatory Schools: Aligning with International Norms and Proposing Reform Measures

The legal framework of Vietnam governing the application of the measure of sending to reformatories for juveniles is the Law on Handling of Administrative Violations 2012, the Ordinance on Order and Procedures for considering and deciding on the application of administrative handling measures at the People's Court in 2022 and a legal system including decrees and circulars. Based on this, the chairperson of the district-level People's Committee where the juveniles reside or where the violation is committed shall make a request for application of the measure of sending to reformatories. This dossier of request shall be sent to Head of the district-level Justice Department to check the legality. After the check-ups, the Head of the district-level Justice Department transfers the dossier together with the legality check-ups to the district-level police chief. The district-level police chief considers and sends the official dossier of request to the district-level People's Court to apply the measure of sending to reformatories.

The consideration and the decision on the measure of sending to reformatories are carried out by a Judge through a Court meeting. The proceedings of the measure of sending to reformatories is quite complicated due to the number of stakeholders. In fact, this is a semi-administrative and semi-judicial procedure³². The preparation of dossiers requesting the application of the measure to deprive individuals of liberty for a considerable period of time is

³¹ MINISTRY OF JUSTICE. Report No. 51/BC-BTP dated March 6, 2020, on law enforcement and handling of administrative violations in 2019.

MINISTRY OF JUSTICE. Report No 29/BC-BTP dated February 23, 2021, on law enforcement and handling of administrative violations in 2020.

MINISTRY OF JUSTICE. Report No. 51/BC-BTC dated March 15, 2022, on law enforcement and handling of administrative violations in 2021.

MINISTRY OF JUSTICE. Report No. 62/BC-BTC dated March 1, 2023, on law enforcement and handling of administrative violations in 2022.

³² NGUYEN, Canh Hop. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: Hong Duc, 2017.

carried out by administrative agencies according to administrative procedures (Chairman of the People's Committee of the commune, Head of the district-level Justice Department, and the head of the district-level Public Security). The decision on application is a judicial procedure because it is carried out by a Judge³³.

Enhancing the Procedures for Implementing Reformatory Placement Measures

The rights of children during judicial proceedings are protected in the Convention on the Rights of the Child (arts 9, 12, 31 and 40), the Beijing Rules (r 11), and the International Covenant on Civil and Political Rights (art 14). Article 12 of the Convention on the Rights of the Child provides the most direct support for the principle that children be given opportunities to participate in decisions that affect them, requiring children 'be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child'. Most children and their families struggle to understand court processes, decisions and implications³⁴. This also happens in Vietnam, stemming from the need for more transparency in the decision procedure to apply reformatory schools.

According to the 2022 Ordinance on Order and Procedures for Considering and Deciding on Administrative Measures at the People's Court, the Chief Judge of the district-level People's Court is required to designate a judge to evaluate and decide on the application of reformatory school measures within one working day of receiving the dossier. Subsequently, within 3 working days after being assigned, the judge has to make one of the following decisions: To request supplementation of documents and evidence; To adjourn or suspend the consideration of, and decision on, application of measure of sending to reformatories; To open a meeting to consider and decide on the application of sending to reformatories measure. After that, within 7 working days after deciding to hold a meeting, the court shall hold such meeting to consider and decide on applying reformatory measures.

The provision for a judge to consider reformatory placement appears to be merely a legitimacy of international standards and norms in terms of the

³³ NGUYEN, Cuu Viet. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: National Political Publisher, 2013.

³⁴ SHEEHAN, Rosemary and BOROWSKI, Allan. *Australian Children's Courts Today and Tomorrow*. Springer, 2013.

deprivation of liberty of the individual subject to the consent of the child. The judicial path is equal to the Court, not the same as the open and transparent judicial procedure when adjudicating criminal cases³⁵. Furthermore, the regulation that judges hold a meeting to consider the application of the measure of sending to reformatories is also inconsistent with the 2013 Constitution of Vietnam. To be specific, Article 102(1) of the Constitution 2013 stipulates that: “*The People’s Court is the judicial organization of the Socialist Republic of Vietnam, exercising judicial power*”. Article 103(4) of the Constitution 2013 still stipulates: “*The People’s Courts shall conduct collective trials and make decisions by the majority*”. The Constitution claims that when exercising the judicial power, the district-level People’s Court must conduct a collective trial (the trial panel is composed of judges and people’s jurors), via a Court and the results of judicial activity will be demonstrated by a judicial decision. Meanwhile, procedures for applying the measure of sending to reformatories shall be carried out only with a judge’s consideration and decision. Besides, although the procedure is resolved by the Court, the procedure is not conducted by a court session but only by a meeting. Practically, each meeting to consider and decide to apply the measure of sending to reformatories only takes about 40-45 minutes. The judge is the presiding officer and independently decides to apply this measure with little debate from the parties to the session³⁶. This is inappropriate with proceedings that promote litigation over the deprivation of liberty of a juvenile, which are provided in the Havana Rules. Due to little controversy, the majority of applications for reformatory measure were readily accepted by the judge. In fact, from 2014 to 2020, the district-level police chief transfers 1,665 files to request the district-level People’s Court to apply the measure of sending to reformatories, the judge is assigned to decide to apply up to 1593 cases (95,6%).

To enhance the procedure for applying reformatory measures in Vietnam, we recommend conducting this process through collective adjudication by the court rather than just a closed-door session as currently practiced. This shift would ensure transparency and fairness when deciding on reformatory school

³⁵ TRINH, Tam. Obstacles and shortcomings in the practice of implementing Ordinance No. 09 on the application of administrative handling measures at the People’s Court. *Procuracy Magazine*, 2016, (14), 16-20.

³⁶ DAO, T.T.An. Completing the law on the measure of sending to reformatories for juveniles who violate the law. *The Journal of Inspection*, 2019, (5), 29-33.

placements. By doing so, decisions to deprive juveniles of their liberty would be scrutinized more carefully and reliably while providing opportunities for relevant stakeholders to participate in the decision-making process. This would help ensure that legal proceedings are conducted fairly and in line with international principles concerning the rights and protection of juveniles.

Detailed Guidelines Regarding the Timeframe for Implementing Reformatory Placement Measures

Presently, the duration for implementing the reformatory placement measure varies between 6 to 24 months. The decision on the time limit for applying the measure of sending to reformatories must be based on the nature, seriousness and consequences of the violation, the violator's identity, the subjects of violations and the extenuating as well as aggravating circumstances and juveniles' awareness of the dangerous nature of the violation to the society. The law provides for such maximum and minimum time limit for the judge to decide to apply this measure in accordance with the nature and seriousness of the violation. This provision is quite consistent with the content of the "principle of proportionality" in the Beijing Rules.

However, Vietnamese law currently has no specific rule to determine the exact time limit for applying the measure of sending to reformatories. In other words, the length of time for reformatory period shall be determined unilaterally by the judge without any control mechanism. In fact, most of the juveniles being applied the measure shall be sent to reformatories for the maximum period of 24 months³⁷. The minimum period of 6 months, despite being applied, accounted for a mild percentage of 8%³⁸. Thus, Vietnamese law was incompatible with the recommendation of the Beijing Rules that "*the deprivation of liberty of a juvenile should be used only as the last resort and for the shortest appropriate period*".

Therefore, we recommend reforming the legal system to incorporate clear directives for defining the duration of reformatory placement measures. It's crucial to apply shorter timeframes for cases where juveniles warrant leniency. Such reforms are imperative to prevent judges from arbitrarily extending detention periods, thus avoiding prolonged deprivation of liberty for juveniles.

³⁷ PHAN, Minh Duy. Some issues about measures of sending to reformatories. *The People's Court Journal*, 2020, (10), 22-26.

³⁸ DANG, Thanh Son. *Understanding the law on administrative handling measures*, Ha Noi: Judicial Publishing House, 2017.

Establishing a Legal Framework for Information Access Rights of Juveniles in Reformatory Placement

According to international law, the right of access to information is recognized as one of the basic human rights, belonging to the set of civil - political rights. These are the rights to freedom of information recognized in two international legal documents of the United Nations, the Universal Declaration of Human Rights in 1948 and the International Covenant on Civil and Political Rights in 1966. In accordance with the United Nations Human Rights Council, all people have the right to access the information stored by authorities organizations, this information includes types of records such as storage form, source and date of establishment. The right of access to information includes the media's right to access information on public affairs, the right of the public to receive media products, the right of individuals to know which public authorities, individuals or organizations control, or can control their personal data (paragraph 18)³⁹.

In Vietnam, the right of access to information of citizens is recognized in art 25 of the Constitution 2013: "*Citizens have the right to freedom of speech and freedom of the press, and have the right of access to information, the right to assembly, the right to association, and the right to demonstrate. The exercise of those rights shall be prescribed by law*". Article 3 of the Law on Access to Information 2016 also stipulates that all citizens are equal, without discrimination in exercising the right to access information; the information provided must be accurate and sufficient manner; the provision of information must be made in a timely and transparent manner, convenient for citizens to access and in conformity with procedures regulated by the law.

Although the right of citizens to access information was recognized in the Constitution 2013 and the Law on Access to Information 2016, Vietnamese law has not specified the right of access to information in the process of applying for the measure of sending to reformatories. Practically, juveniles, their parents or their legal representatives have faced many difficulties when exercising their right to access information related to the application file for the measure of sending to reformatories. The authorities often give different reasons to limit or disable the right to access information of these subjects.

³⁹ DU'ONG, V.Quy. Right to access information about the Covid-19 epidemic. *Journal of Legislative Studies*, 2020, (9), 50-58.

We strongly recommend the establishment of a clear legal framework outlining the right to access information for juveniles subjected to reformatory placement. This framework should explicitly define the rights and responsibilities of the juveniles and the relevant authorities regarding information dissemination and access. Furthermore, guidelines should be provided to ensure that information is communicated in an understandable and age-appropriate manner to facilitate effective participation and decision-making by the juveniles. By establishing such a framework, transparency and accountability can be enhanced, thereby better protecting the rights and interests of juveniles undergoing reformatory placement.

Develop a robust legal framework to ensure juveniles placed in reformatories have the right to appeal their placement

Both the Beijing Rules and the International Convention on the Rights of the Child (Article 37.4) affirm the fundamental right of every child to appeal against decisions concerning the deprivation of their liberty. However, the 2022 Ordinance on Order and Procedures for Considering and Deciding on the Application of Administrative Handling Measures at the People's Court fails to acknowledge the right of juveniles proposed for reformatory placement to appeal against such measures. As there is no inherent right to appeal, a juvenile facing a recommendation for reformatory placement can only resort to this avenue. However, the procedures for lodging and resolving complaints regarding the decision for reformatory placement do not adhere to the regulations governing complaint resolution in legal proceedings. Consequently, juveniles are only allowed to lodge an initial complaint and are not granted the opportunity for a subsequent complaint. This regulation contradicts the principle of "ensuring both the right to initial and subsequent complaints" for individuals, as outlined in the 2015 Law on Administrative Procedures and the 2011 Law on Complaints.

Reforming the legal framework is essential to incorporate provisions enabling juveniles subjected to reformatory placement the right to appeal, given the potential deprivation of their freedom. This adjustment would provide juveniles with essential avenues for recourse and legal protection, ensuring fairness and justice in their treatment.

Ensuring Religious Freedom in Reformatories

The International Covenant on Civil and Political Rights states that everyone has the right to freedom of religion. The right to freedom of religion may be limited

only by law and where such limitation is necessary to protect public security, order, health or morals, or to protect the rights and fundamental freedoms of others (art 18). During a state of emergency that threatens the survival of the nation and has been officially declared, member nations may take measures to restrict the rights set forth in this Covenant but shall not be taken to restrict freedom of religion (art 4). Juveniles deprived of their liberty should also have their religious freedom guaranteed. The Havana Rules states that juveniles should be allowed to satisfy their spiritual and religious needs, namely to attend ceremonies or meetings held in detention facilities, or perform their own religious rites, have the necessary books or supplies related to their religion and the instructions of their sect.

As a member of the International Covenant on Civil and Political Rights, Vietnam also recognizes the right to religious freedom and restricts the right to religious freedom in specific cases. Article 14 of the 2013 Constitution provides for cases where human rights are limited: "*Human rights and citizens' rights may be restricted only in accordance with the law in necessary cases for reasons of national defense, security, social order and safety, social ethics, or health of the people in the community*". This is an important legal basis for building and perfecting the legal system to concretize people's right to religious freedom and a mechanism to ensure the exercise of religious freedom.

Studying Article 14 of the 2013 Constitution, it can be seen that the restriction of religious freedom can only be done in case of necessity for reasons of national defense and security, order, social safety, social ethics, public health and the restriction of this right must be stated in the law. Juveniles subject to the measure of sending to reformatories do not fall into the above cases, so their right to freedom of religion is not restricted. However, there is no direct regulation to affirm that a person subject to the measure of sending to reformatories may attend religious ceremonies or perform religious rites in the reformatories. The teaching, as well as the library and reading corner in the reformatories, are not equipped with books or necessary items related to religion. In addition, the activities of juveniles subject to the measure of sending to reformatories are carried out in a strict schedule without time and space for religious activities.

Implementing reforms that facilitate educational opportunities and religious activities for juveniles in juvenile rehabilitation facilities is imperative. In addition to adhering to the strict schedule of the facility, juveniles should have the right to

a designated timeframe for religious activities by their freedom of religion. These reforms foster holistic development and uphold fundamental human rights, ensuring that juveniles receive comprehensive support during their rehabilitation journey.

Strengthening Family Participation Rights: Funerals and Visits for Seriously Ill Relatives of Juveniles in Juvenile Rehabilitation Facilities

The Havana Rules provides “Juveniles should be given the opportunity to attend the funeral of the deceased or visit a seriously ill family member”. Vietnam has internalized this regulation for juveniles who are subject to the measure of sending to reformatories. Accordingly, when there is a bereavement of a family member or there is another urgent case and there is an application for family guarantee certified by the commune-level People’s Committee, the principal of reformatories may consider sending a student home within 5 days, excluding travel time. Family time is included in the decision execution time. Hence, a juvenile who is subject to the measure of sending to reformatories may be allowed to leave the reformatories to attend the funeral of his relative or in other urgent cases (such as visiting a seriously ill family member). To be entitled to this right, two conditions must be satisfied: i. have a family guarantee; ii. certified by the People’s Committee of the commune. However, even if both conditions are satisfied, the juvenile subject to the measure of sending to reformatories may not be allowed to leave the reformatory institution to attend the funeral of the deceased because the final decision belongs to the principal of the reformatories. On a case-by-case basis, the principal of the reformatories shall decide to accept or refuse the proposal of the juvenile. Of course, this decision is at the discretion of the reformatory principal.

It is imperative to establish mechanisms to safeguard juveniles, enabling them to attend funerals or visit seriously ill relatives without solely relying on decisions from the local People’s Committee. This would limit instances of arbitrary decision-making, thus reducing undue hardship for juveniles.

Legal Procedures for Handling Juveniles’ Deaths in Juvenile Rehabilitation Facilities

Based on the Havana Rules, juveniles passed away during the period of deprivation of liberty can have their closest family member to check the death certificate and remains and have the right to decide how the remains shall be treated. When the juvenile passed away during the arresting time, the

independent investigation for the death reason shall be required, and the closest family member needs to have the right to check this investigation. Within 6 months from the time the juvenile being released from the arresting place, if passed away, and with a reason to believe that the death is related to the arresting period, it is needed to carry out the same investigation operation.

According to Article 25 of Decree No. 140/2021/ND-CP stipulating the application, taking the measure of sending to reformatories, when juvenile dies, the reformatory principal must immediately notify the investigating police agency, the People's Procuracy of the district, the People's Committee of the commune where the reformatories are located, shall make a record to determine the cause of death and carry the death declaration procedures. Then, the principal of the reformatories sends the death certificate to the relative of the juvenile. Within 24 hours after completing the above procedures, the principal of the reformatories is responsible for organizing the burial of the remains. Hence, compared to the Havana Rules, Vietnamese law has some similarities such as relatives of juveniles who pass away during the period of deprivation of liberty have the right to know the cause of death and receive the death certificate. However, different from Havana Rules, Vietnamese Law does not allow relatives of juveniles who pass away during the deprivation of liberty to examine the remains and decide how the remains shall be treated. Vietnamese Law also does not allow an independent investigation of the death of a juvenile within a period of six months from the date of release. That means that Vietnamese law automatically recognizes that when the time limit has expired and the juvenile is released, the juvenile is no longer under the management of the reformatory institutions. Hence, in case the juvenile passed away, it will proceed according to the usual procedure of death without regard to the reformatories.

It is essential to establish a separate legal framework for procedures in the event of a minor's death within juvenile rehabilitation facilities. Special attention must be given to adhering to international standards that allow for the examination of the deceased by relatives, decisions on handling the remains, and the right to request investigations into the circumstances of the death when suspicions arise. This framework ensures transparency, accountability, and respect for the rights of the deceased minor and their family members.

Conclusion

The findings of this study underscore significant deficiencies within Vietnam's legal framework concerning trial procedures and the implementation of measures for juveniles sent to reform schools. These deficiencies not only lack scientific basis but also fail to meet international standards for safeguarding juveniles and contravene human rights provisions enshrined in the Vietnamese Constitution. From both a legal and practical standpoint, several rights of juveniles are egregiously violated. They are denied public trials, with no clear regulations stipulating the duration of their deprivation of liberty, leaving such determinations entirely at the judges' discretion. Moreover, juveniles are deprived of the right to appeal judicial decisions. Within reformatories, fundamental rights such as freedom of religion and access to information are not guaranteed. In the unfortunate event of a death within these facilities, the law prohibits relatives from examining the body or making decisions regarding its disposal, and requests for investigations into such deaths are disregarded. A robust mechanism is lacking to guarantee their entitlement to leave the reformatory to attend funerals in the event of a relative's passing or to visit sick family members, free from obstruction by authorities. Vietnam's legal provisions regarding the sentencing of individuals to reform schools are unduly harsh, at times even surpassing the severity of adult prison sentences.

The study's subsequent findings offer several recommendations to mitigate and rectify the prevailing deficiencies within Vietnamese legal regulations. These recommendations are grounded in international legal standards pertaining to the protection of the rights of juveniles deprived of liberty due to legal transgressions.

It is important to highlight that the outcomes of this study only encompass some remaining shortcomings in Vietnamese law concerning the protection of the rights of juveniles assigned to reformatories. The research has focused solely on specific aspects. Consequently, this study sets forth recommendations and lays the groundwork for future endeavours aimed at providing the Vietnamese government with guidance on reforming legislation to uphold the rights of juveniles in accordance with international standards.

References

ABRAMS, Laura, JORDAN, Sid and MONTERO, Laura. What is a Juvenile? A Cross National Comparison of Youth Justice Systems [online]. *Youth Justice*, 2018, 18 (2), 1-20. Available from: <https://doi.org/10.1177/1473225418779850>.

- AIZER, Anna and DOYLE, Joseph. Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges. *Quarterly Journal of Economics*, 2015, 130(2), 759-803.
- CAO, Vu Minh. New points of the Law on Handling of Administrative Violations in ensuring human rights and citizens' rights. *The People's Court Journal*, 2014, (13), 1-5.
- CAO, Vu Minh. Completing the legislation on measures sending to reformatories in order to protect the rights of juveniles. *The Legislative Studies Review*, 2015, (20), 3-10.
- CAO, Vu Minh and NGUYEN, Hoang Yen. Discussing the decision to apply administrative sanctions against people who commit acts of violating the law. *Journal of Legal Sciences*, 2015, (6), 12-18.
- CHRISTIANI, Theresia Anita. Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object. *GATR Global Journal of Business Social Sciences Review*, 2015, 3(4), 16-22.
- COUNCIL OF JUDGES OF THE SUPREME PEOPLE'S COURT. Resolution No. 04/2015/NQ-HĐTP dated December 24, 2015, on direction leading the implementation of a number of provisions of law on consideration and decision on application of administrative handling measures at the people's court, art 12.
- CUNNEEN, Chris, GOLDSOHN, Barry and RUSSELL, Sophie. Juvenile Justice, Young People and Human Rights in Australia. *Current Issues in Criminal Justice*, 2016, 28 (2), 173-188.
- DANDURAND, Yvon. *Introducing the United Nation Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice: A New Tool for Policymakers, Criminal Justice Officials and Practitioners*. New York: United Nations, 2015.
- DANG, Thanh Son. *Understanding the law on administrative handling measures*, Ha Noi: Judicial Publishing House, 2017.
- DAO, T.T.An. Completing the law on the measure of sending to reformatories for juveniles who violate the law. *The Journal of Inspection*, 2019, (5), 29-33.
- ĐU'ÔNG, V.Quy. Right to access information about the Covid-19 epidemic. *Journal of Legislative Studies*, 2020, (9), 50-58.
- HAMMARBERG, Thomas. A Juvenile Justice Approach Built on Human Rights Principles. *Youth Justice*, December 2008, 8(3), 193-196.
- HOANG, Minh Khoi. *Administrative Measures Against Juvenile Violators of the Law*, Ho Chi Minh City: The United Publishing House of Hochiminh City, 2017.
- HUYNH, Le Duy Tan and DANDURAND, Yvon. Alignment of Vietnamese Law on the Treatment of Juvenile Prisoners With International Standards and Norms [online]. *Youth Justice*, 2021, 22(1). Available from: <https://doi.org/10.1177/1473225421995266>.
- LORENS, Cheryl Jenna. Detention of children under vietnamese administrative law: is it criminal? Master Thesis, University of Oslo, 2011.
- MINISTRY OF JUSTICE. Report No 29/BC-BTP dated February 23, 2021, on law enforcement and handling of administrative violations in 2020.
- MINISTRY OF JUSTICE. Report No: 51/BC-BTP dated March 6, 2020, on law enforcement and handling of administrative violations in 2019.
- MINISTRY OF JUSTICE. Report No. 51/BC-BTC dated March 15, 2022, on law enforcement and handling of administrative violations in 2021.
- MINISTRY OF JUSTICE. Report No. 62/BC-BTC dated March 1, 2023, on law enforcement and handling of administrative violations in 2022.
- NGO, Huu Phuoc. Gender Equality in Education – Comparative Perspective between International Law and the Legal System, its Practice in Vietnam. *Journal of Human Rights and Peace Studies*, 2021, 7 (2), 202 – 243.
- NGUYEN, Canh Hop. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: Hong Duc, 2017.
- NGUYEN, Cuu Viet. Some issues of reforming the law on administrative violations in our country. *The Legislative Studies Review*, 2009, (1), 18-27.

- NGUYEN, Cuu Viet. *Vietnamese Administrative Law Curriculum*. Ho Chi Minh City: National Political Publisher, 2013.
- PHAM, Quang Cong. The debate on administrative handling measures to send to reformatory schools and some solutions to improve application efficiency. *The Journal of People Court*, 2019, (18), 36-42.
- PHAN, Minh Duy. Some issues about measures of sending to reformatories. *The People's Court Journal*, 2020, (10), 22-26.
- SHEEHAN, Rosemary and BOROWSKI, Allan. *Australian Children's Courts Today and Tomorrow*. Springer, 2013.
- THE CRIMINAL POLICE DEPARTMENT OF THE MINISTRY OF PUBLIC SECURITY. Report No. 357/C02(P2) dated July 19, 2019, on the summary of 5 years of implementing the measure of sending to reformatories
- THE GENERAL DEPARTMENT OF PUBLIC SECURITY VIII OF THE MINISTRY OF PUBLIC SECURITY. Report No. 2787/BC-C81 (C86) dated September 11, 2013, on the law enforcement work on the application of administrative handling measures for sending to reformatories.
- THE RESEARCH CENTER FOR HUMAN AND CITIZEN'S RIGHTS UNDER THE SCHOOL OF LAW, VIETNAM NATIONAL UNIVERSITY. *International law on Human Rights - A basic foundation*. Ha Noi: Hanoi National University Publishing House, 2011.
- THE SUPREME PEOPLE'S COURT. Report No. 284/TANDTC-KHXX dated December 19, 2013, on summarizing the practical implementation of the provisions of the law on the application of administrative handling measures sent to reformatories from 2003 to 2013.
- TRINH, Tam. Obstacles and shortcomings in the practice of implementing Ordinance No. 09 on the application of administrative handling measures at the People's Court. *Procuracy Magazine*, 2016, (14), 16-20.

Research funding: This research is funded by University of Economics and Law, Ho Chi Minh City, Vietnam and Vietnam National University, Ho Chi Minh City, Vietnam

Data de submissão do artigo: 12/10/2024

Data de aprovação do artigo: 24/12/2024

Edição e propriedade:

Universidade Portucalense Cooperativa de Ensino Superior, CRL

Rua Dr. António Bernardino de Almeida, 541 - 4200-072 Porto

Email: upt@upt.pt