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# Criminología moderna y la despenalización de las infracciones en Vietnam: una evaluación de políticas y recomendaciones

BaoKhanh Nguyen Huynh<sup>1</sup>, Van Vu Hong<sup>2\*</sup>

<sup>1</sup>Ho Chi Minh City University of Law, Ho Chi Minh City, Vietnam.

Email: [nhbkhanh@hcmulaw.edu.vn](mailto:nhbkhanh@hcmulaw.edu.vn); ORCID ID: <https://orcid.org/0009-0003-3955-2873>

<sup>2</sup>Center of Political Sciences VNU-HCM; Vietnam National University, HoChiMinh City, Vietnam. Corresponding author: Email: [vhvan.cps@vnuhcm.edu.vn](mailto:vhvan.cps@vnuhcm.edu.vn)

Email: [vhvan.cps@vnuhcm.edu.vn](mailto:vhvan.cps@vnuhcm.edu.vn); ORCID ID: <https://orcid.org/0000-0003-3867-1865>

**Resumen.** Este estudio analiza la tendencia a la despenalización en Vietnam en el contexto de la reforma judicial y de la construcción de un Estado de derecho socialista. Examina los fundamentos teóricos, la relevancia práctica y el valor político-criminal del paso de respuestas penales a mecanismos administrativos, civiles y educativos. La investigación utiliza métodos jurídicos tradicionales combinados con derecho comparado y análisis de políticas. Los datos provienen del Código Penal, de informes oficiales de la Fiscalía Suprema Popular y del Ministerio de Seguridad Pública, así como de estudios criminológicos internacionales. Los resultados muestran que la despenalización implica un cambio fundamental en la política criminal vietnamita, orientado a valores humanitarios, al uso eficiente de recursos y al fortalecimiento del control social mediante medidas preventivas, educativas y de rehabilitación. No obstante, persisten desafíos en la delimitación entre conductas socialmente peligrosas y conductas desviadas, además de limitaciones en la capacidad institucional y en la coherencia del sistema jurídico. El artículo sostiene que la despenalización no es solo un ajuste legislativo, sino también una herramienta estratégica para modernizar la gobernanza social, que exige el perfeccionamiento continuo de la legislación y el fortalecimiento de la aplicación durante la actual reforma judicial.

**Palabras clave:** Criminología moderna, despenalización, política penal, reforma judicial y estado de derecho vietnamita.

## Modern criminology and the decriminalization of offenses in Vietnam: policy assessment and recommendations

**Abstract.** This study aims to analyze the trend of decriminalization in Vietnam within the context of judicial reform and the building of a socialist rule of law state. Through this analysis, it clarifies the theoretical basis, practical significance, and policy value of the shift from criminal remedies to administrative, civil, and educational mechanisms. The research is conducted using traditional legal research methods combined with comparative law and policy analysis. Data is compiled from the provisions of the Penal Code, official reports of the Supreme People's Procuracy and the Ministry of Public Security, and relevant international criminological studies. The research results show that decriminalization reflects a fundamental shift in criminal policy thinking in Vietnam, moving towards humanitarian values, efficient resource utilization, and enhanced social control through preventive, educational, and rehabilitative measures. However, the study also points out challenges in defining the boundaries between socially dangerous behavior and deviant behavior, as well as limitations in institutional capacity and the consistency of the legal system. Based on this, the article asserts that decriminalization is not only a legislative adjustment but also a strategic policy tool for modernizing social governance, requiring continued improvement of legislation and enhanced enforcement capacity during the current judicial reform period.

**Keywords:** modern criminology, decriminalization, criminal policy, judicial reform vietnamese and rule of law state.

### INTRODUCTION

In the development of modern society, criminology is no longer confined to studying the causes of crime or punitive mechanisms. It has evolved into an interdisciplinary science intricately linked with law, ethics, psychology, sociology, and public policy. In Vietnam, amidst profound socio-economic and legal transformations, the study of modern criminology and the trend of decriminalization has become an imperative. This is essential not only for improving state governance but also for meeting the demands of a democratic, humane, and law-governed society.

Traditionally, criminology was considered a specialized field focused on the offender's personality, the causes and conditions of crime, and preventive measures. The research of Antonyan Ju., Kudryavcev, and Ekimov, (2004) expanded the conceptual scope of criminology, emphasizing the analysis of the "offender's personality" as a complex socio-legal entity. These scholars argued that criminal behavior cannot be understood purely as a product of individual will but rather as the outcome of interactions between psychological factors, social circumstances, and the legal environment.

In Vietnam, this evolution in legislative thinking is clearly demonstrated in the 2015 Criminal Code, as amended and supplemented in 2017 (Law No. 12/2017/QH14). This legislation represents a significant step in institutionalizing the judicial reform agenda of the Party and the State. The Code not only restructures the system of offenses but also distinctly shows a trend

toward decriminalizing certain acts. Provisions such as reducing the criminalization of minor property offenses, adding administrative sanctions as alternatives to criminal penalties in some cases, and expanding the application of non-custodial sentences like warnings and non-custodial rehabilitation are clear manifestations of a shift from a punitive to a preventive and restorative philosophy. This trend reflects a humane spirit and upholds the principles of fairness, reasonableness, and human rights in Vietnamese criminal law.

From a domestic theoretical standpoint, Trinh (2008) asserts that crime prevention is the core content of modern criminology. Vo & Vo (2025) emphasize that Vietnamese criminology is in a transitional phase of development, where international integration and the rise of technology and the digital economy have altered social structures and human behavior.

In practice, the decriminalization trend is evident in recent Vietnamese legal policies. Certain socially disruptive but not highly dangerous acts have been shifted to administrative sanctions, such as minor public order disturbances, insignificant property infringements, or traffic violations causing minor damage. This policy not only alleviates the burden on the criminal justice system but also allows resources to be focused on serious crimes, thereby improving the quality of investigation, prosecution, and adjudication. Furthermore, this trend fosters a humane legal environment where offenders have the opportunity to reform and reintegrate into society without being permanently labeled as “criminals”.

However, alongside its clear benefits, the decriminalization process in Vietnam faces several challenges. The primary issue is the ambiguous definition of a “socially dangerous act”; the boundary between conduct requiring administrative versus criminal sanctions remains unclear. This ambiguity can lead to the discretionary application of the law, causing inconsistency among law enforcement agencies. A second issue is the social impact of decriminalization, as a segment of the public still holds the view that “only criminal punishment is severe enough,” leading to skepticism about the effectiveness of non-criminal measures. Finally, the capacity for monitoring and enforcement is a concern; without robust control mechanisms, decriminalization could be exploited to conceal violations or weaken the deterrent effect of the law.

From a public policy perspective, decriminalization is part of a broader judicial reform process aimed at building a justice system that is public-serving, fair, transparent, and effective. Implementing this trend requires synergy between the legal system, the capacity of judicial officers, and public awareness. Legal reform cannot be detached from human resource reform, which is a decisive factor for the sustainability of decriminalization.

This article aims to analyze the theoretical and practical foundations of modern criminology, clarify the nature and trend of decriminalizing violations in Vietnam, and assess the policy’s impact on the legal system and society. Based on this analysis, the article proposes solutions to refine the legal framework, enhance preventive efficacy, and ensure human rights in judicial activities. This research not only contributes to legal scholarship but also provides practical insights for shaping a humane criminal policy that aligns to build a socialist rule-of-law state in Vietnam in the new era.

## LITERATURE REVIEW

Modern criminology is the result of a long developmental process in criminal science, where research has shifted from a traditional offense-oriented approach to a socio-legal perspective that emphasizes the offender's personality, social context, cultural environment, and mechanisms for controlling deviant behavior. The emergence of new criminological schools in the West, such as critical criminology, criminal sociology, and humanistic criminology, has laid the theoretical groundwork for decriminalization, a trend adopted by many countries to reduce the burden on their criminal justice systems, enhance social governance, and protect human rights. In Vietnam, this trend has been received, adapted, and applied in a manner consistent with the political, legal, and social characteristics of its socialist rule-of-law state.

### **Academic foundations of modern criminology**

According to Rob White and Fiona Haines (2000), modern criminology is a synthesis of various scientific disciplines, reflecting a change in the perception of the nature of crime. They argue that crime is not merely an act that harms social interests but is also a phenomenon linked to structural inequality, value conflicts, and social labeling processes. This fundamentally alters the understanding of "social dangerousness," a key element in determining whether an act should be criminalized or decriminalized. White and Haines' approach emphasizes that society can control deviant behavior not only through punishment but also through educational, economic, and cultural mechanisms.

From a philosophical and policy standpoint, Schichor (1980) in "The New Criminology: Some Critical Issues" contends that the development of new criminology was a reaction to rigid models of criminalization that focused solely on the act while ignoring the social context. He argues that over-criminalization not only burdens the justice system but can also lead to injustice, as marginalized groups in society bear disproportionately severe legal consequences. This perspective provides a scientific basis for decriminalization, shifting the focus from retribution to prevention and reintegration.

In Russia, Antonyan Ju, Kudryavcev and Ekimov (2004) developed a line of research on the "offender's personality," placing the individual at the center of all criminological analysis. According to these authors, a deep understanding of the offender's personal characteristics, living conditions, psychological factors, and social relationships is crucial for formulating rational criminal policy. This theory helped form the basis for modern legal thinking, which posits that legislators should not only focus on the act but also consider the offender's potential for education, reform, and rehabilitation. From this viewpoint, decriminalization is seen as an expression of a humane and progressive criminal policy.

Luneev (1997), in *Crime in the 20th Century: A World Criminological Analysis*, stressed that the rise of crime in the context of globalization stems not only from economic causes but also from shifts in social perceptions of legal and moral values. He pointed out that during the 20th century, many countries reviewed their criminal systems to remove acts that no longer aligned with social norms while developing non-criminal mechanisms such as mediation, administrative sanctions, and community education. This is a crucial direction for balancing the need to protect social order with the safeguarding of individual freedoms.

### **Domestic research and approaches**

In Vietnam, criminology developed later than in many other countries but has established a relatively comprehensive theoretical system. Le Cam (2008), in “The Doctrine of Crime - Fundamental Issues,” argues that the doctrine of crime should be approached as a dynamic construct that reflects changes in society and legal policy. He emphasizes that a core principle of criminal law is to criminalize only genuinely dangerous acts and to consider decriminalization as a tool to balance the protection of social interests and human rights.

Trinh (2008) made a significant contribution by establishing the theoretical basis for crime prevention from a criminological perspective. The author posits that prevention is not just the work of state agencies but a combination of legal, educational, economic, and cultural policies aimed at eliminating the causes and conditions of crime. From this perspective, decriminalization can be understood as an indirect preventive method, shifting violations from the punitive sphere to a more constructive, social-regulatory sphere.

Research by Dao (2021) on the internationalization of Vietnamese criminal law indicates that global integration and the implementation of international human rights treaties have strongly promoted a legal mindset geared towards decriminalization. The author asserts that in the context of globalization, Vietnam needs to continue reviewing and narrowing the scope of criminalization, eliminating obsolete offenses, and transitioning to non-criminal measures such as administrative sanctions, mediation, or education.

A study by Nguyen (2024) on the criminalization of gender-based violence reveals an inverse relationship between criminalization and decriminalization, with the author stressing that criminalization must be selective and connected to social reality and moral norms. Consequently, decriminalization must also have clear limits to avoid the risk of failing to prosecute acts that harm society or infringe upon the rights of vulnerable groups. This argument is further confirmed and affirmed by Huynh & Vuhong (2025) that, in the context of digital transformation in Vietnam, for adolescents, there is a need to decriminalize by innovating school education through early legal dissemination.

The Ministry of Justice (2017), in its report “Crime Prevention and Control in Our Country Today – Current Situation and Some Recommendations,” pointed out that although the number of criminal cases has decreased, many violations that do not meet the elements of a crime still exist, posing challenges for law enforcement. The report recommended studying mechanisms to convert these acts into administrative sanctions or educational measures, while enhancing prevention and reintegration capacities. This provides practical evidence of the decriminalization trend being reflected in the policies of the Vietnamese state.

### **Legal framework and international approaches**

The 2015 Criminal Code, amended in 2017 (Law No. 12/2017/QH14), represents a major step forward in institutionalizing the decriminalization trend. Several offenses involving property and social order of a minor or non-dangerous nature have been moved to administrative handling. The Code also expands the application of non-custodial rehabilitation, grants criminal exemption in special cases, and strengthens the use of warnings and mediation. These

changes reflect modern legislative thinking, consistent with humanistic criminology and international trends.

Internationally, the study “The legal nature of the violations” (2024), published in the journal *Law and World*, argues that decriminalization must be based on a comprehensive assessment of social consequences, public perception, and the effectiveness of alternative legal instruments. The author recommends that legislators develop a multi-tiered legal framework where minor violations are handled by administrative or civil tools, while criminal law is reserved for acts of high danger that seriously infringe upon public interests.

Another example comes from the field of social health. A report by the American College of Obstetrics and Gynecologists (ACOG, 2017) on opioid use disorder in pregnancy affirmed that criminalizing pregnant women who use substances is ineffective and hinders treatment and recovery. The report recommended shifting from criminal prosecution to a public health model, treating it as a health issue rather than a crime. Although this study is in the medical field, it exemplifies the principle of decriminalization: shifting the perspective from punishment to support and rehabilitation.

### **Research gaps and new approaches**

While domestic and international studies have clarified the theoretical foundations and benefits of decriminalization, several research gaps remain. First, there is no systematic study in Vietnam that analyzes the relationship between modern criminology and decriminalization policy from an interdisciplinary perspective, particularly integrating law, sociology, and public governance. Second, the evaluation of the effectiveness of decriminalization measures in practice is limited due to a lack of statistical data and specific measurement criteria. Third, few studies have explored the correlation between decriminalization and the internationalization of Vietnamese criminal law, a point raised.

Therefore, the novel approach of this article is to combine an analysis of modern criminology with a public policy assessment to establish a scientific and practical basis for expanding the scope of decriminalization in Vietnam. This approach not only contributes to the development of criminological theory under new conditions but also helps guide criminal legislation toward a humane, fair, and modern direction, consistent with global trends and the characteristics of Vietnam’s socialist rule-of-law state.

### **METHODOLOGY**

The study of modern criminology and the decriminalization trend in Vietnam is a highly interdisciplinary topic that requires a combination of legal analysis, sociological methods, public policy analysis, and comparative criminology. Consequently, this article employs a synthesis of multiple research methods to ensure the comprehensiveness, objectivity, and scientific validity of its findings. The primary methods include analysis and synthesis, comparative legal analysis, the historical-logical method, qualitative methods, and public policy analysis.

First, the methods of analysis and synthesis are used to systematize concepts, theories, and perspectives on modern criminology and decriminalization. By analyzing the content of legal

documents, research works, and reports from state agencies, the article identifies the fundamental principles of current criminal policy. Synthesizing research findings from domestic and international sources, such as Antonyan, Kudryavcev, Ekimov (2004) and Rob White and Fiona Haines (2000), help to form a theoretical foundation for interpreting specific legal phenomena in Vietnam.

Comparative legal analysis is employed to contrast the provisions of Vietnam's Criminal Code with advanced legal systems such as those of Russia, the United Kingdom, the United States, and several European countries. This approach allows for the identification of similarities and differences in criminal policy, particularly regarding the criteria for determining social dangerousness, conditions for criminal exemption, and mechanisms for replacing punishment with educational or administrative measures. Through comparison, the article draws legislative lessons suitable for Vietnam's political, legal, and cultural conditions, while clarifying the global factors influencing the decriminalization trend.

The historical-logical method is used to trace the origins of criminalization and decriminalization in Vietnamese law, from the 1985 Criminal Code to the 2015 Criminal Code (amended 2017). This method helps analyze the evolution of criminal policy over different periods, reflecting the impact of political, economic, and social contexts on the conception of criminal behavior. It also reveals the logical connection between shifts in legislative thinking and developments in criminological theory.

Additionally, qualitative methods are used to collect and analyze data from reports by the Ministry of Justice, the Supreme People's Procuracy, the Ministry of Public Security, academic articles, and practical documents. This method allows for an in-depth exploration of the psychological, social, and community perception factors related to the decriminalization process. The views and assessments of experts and scholars, as well as public reactions, are considered to evaluate the social effectiveness of current policies.

Finally, public policy analysis is applied to assess the impact of the decriminalization trend on Vietnam's legal system and judicial apparatus. The article analyzes the components of the policy, including its objectives, tools, effectiveness, and impact, thereby identifying the achievements and limitations of its practical implementation. This method links theoretical research with the practicalities of state management of crime prevention, while offering evidence-based policy recommendations consistent with current judicial reform directives.

The combination of these methods ensures that the research does not merely describe legal phenomena but delves into the nature, causes, and consequences of the decriminalization trend. This multidimensional approach ensures that the conclusions drawn are both theoretically valuable and practically significant, contributing to the refinement of Vietnam's criminal policy in a humane, effective, and internationally aligned direction.

## **Findings**

### **The evolution of modern criminology in a global context**

Modern criminology emerged as human societies transitioned from coercive control models to governance models based on humanistic, person-centered values. Throughout the 20th and

early 21st centuries, the development of the knowledge economy, social sciences, and information technology changed human perceptions of crime. From viewing crime as a malicious act to be eliminated through punishment, scholars and policymakers gradually recognized that criminal behavior is the result of multiple constituent factors, including social, psychological, and environmental causes.

According to Luneev V. V. (1997), modern criminology studies not only the criminal act itself but also the entire social structure in which it occurs. Luneev pointed out that as nations developed modern legal systems, they faced the reality that not all deviant behaviors could be criminalized, as doing so would not only burden the judiciary but also contravene international human rights trends. Instead, countries opted for a more flexible approach, shifting from a “punish to deter” mindset to an “educate to prevent” one.

This shift is clearly reflected in the views of Rob White and Fiona Haines (2000), who asserted that modern criminology is the science of social reaction to deviant behavior. Accordingly, the state’s response to wrongful acts should be harmonized between justice, human rights, and social efficiency. Criminalization should be limited to avoid turning criminal law into an extreme tool of social control, while decriminalization becomes a sign of progress, allowing individuals the opportunity to reform and reintegrate.

On this theoretical foundation, many countries have implemented decriminalization policies for low-level offenses. In Europe, acts such as personal drug use, administrative environmental violations, and minor public order disturbances have been shifted to civil or administrative sanctions. In the US and Canada, policies of sentence reduction and replacing incarceration with educational or community service measures are widely implemented. In Nordic countries, mediation between offenders and victims is encouraged to restore social balance. All these trends reflect the development of modern criminology, where law is not just a coercive tool but also a mechanism for promoting justice and social peace.

### **Vietnamese criminology and the transformation of criminal legislative awareness**

Vietnamese criminology was formed in the context of the country building a socialist-oriented market economy, with the dual goals of protecting social order and ensuring individual freedom. Since the 1980s, Vietnam’s criminal legislative thinking has undergone significant changes. The 1985 Criminal Code was a starting point for Vietnam’s modern criminal system, but it was still heavily dogmatic and punitive. By the 1999 Criminal Code, humanitarian elements began to be emphasized, reflected in the expansion of criminal exemption and the application of non-custodial rehabilitation.

Notably, the 2015 Criminal Code (amended 2017) marks a maturation in legislative thinking, demonstrating an embrace of modern criminology. The law more clearly delineates between criminal offenses and administrative violations, defining the threshold of “social dangerousness” with specific criteria. Concurrently, many acts previously considered crimes have been moved to the administrative sphere, such as minor public order disturbances, property infringements of small value, or business regulation violations that do not cause serious consequences. These amendments not only reflect the humanity of Vietnamese law but are also an expression of the global trend of decriminalization.

In the view of Le Cam (2008), correctly assessing the level of social dangerousness of an act is a prerequisite for deciding whether to criminalize or decriminalize it. If an act causes only low-level harm and can be prevented and remedied through education or administrative fines, criminal prosecution is unnecessary. This is also the theoretical basis that has enabled Vietnam to gradually transform its criminal policy in line with its socio-economic development and international integration requirements.

The Ministry of Justice (2017), in its assessment of crime prevention in Vietnam, pointed out that excessive criminalization in some areas has overloaded the justice system. Minor criminal cases with low property values accounted for a significant proportion of total cases but did not yield a commensurate deterrent effect. The report recommended strengthening non-criminal measures, especially administrative sanctions, community-based education, and mediation. This is practical evidence affirming the correctness of the decriminalization trend in Vietnam.

### **Theoretical and practical basis of decriminalization in Vietnamese criminal policy**

The theoretical basis of decriminalization in Vietnam stems from two fundamental principles of the socialist rule-of-law state: the principle of humanitarianism and the principle of rationality in criminal policy. Accordingly, criminalization should only be applied when no other measure is more effective in protecting public interests and social order. Trinh Tien Viet (2008) affirmed that the goal of crime prevention is to minimize the causes of criminal behavior, not to increase punitive measures. Therefore, decriminalization is not unconditional leniency but a rationalization of criminal policy based on the principles of penal economy and social efficiency.

In practice, Vietnam's decriminalization process has been implemented in two ways. The first is to remove from the Criminal Code acts that are no longer consistent with social norms, such as usury in civil relations or business regulation violations that do not cause significant damage. The second is to shift from imprisonment to alternative measures, such as fines, non-custodial rehabilitation, or warnings. This approach aligns with the humane spirit of Vietnamese law and creates opportunities for offenders to reform and reintegrate into the community.

Dao Le Thu (2021) notes that the internationalization of Vietnamese criminal law is driving the decriminalization process more vigorously. International human rights commitments, such as the International Covenant on Civil and Political Rights (ICCPR), require member states to limit arbitrary detention and expand non-custodial sanctions. Vietnam has institutionalized this in many legal provisions, helping to affirm its image as a nation that respects human rights and adheres to international legal standards.

However, Nguyen Kim Chi (2024) warns that decriminalization must be implemented with limits and careful consideration. If expanded excessively, this policy could lead to the failure to prosecute crimes, especially in sensitive areas like gender-based violence, child abuse, or high-tech crime. Therefore, determining the scope of decriminalization must be based on scientific research, social impact assessments, and the enforcement capacity of state agencies.

### **Areas of decriminalization application in Vietnam**

In its legal reform process, Vietnam has applied decriminalization in various fields, including economic, social, administrative, and environmental sectors. In the economic sphere,

violations of tax, accounting, or commercial regulations of a minor nature are handled with administrative measures. This not only reduces the pressure on the court system but also ensures a transparent and flexible business environment.

In the social sphere, some acts of public disorder or traffic violations are addressed with fines, license suspension, or community service orders. This approach allows offenders to recognize their wrongdoing without facing social stigma. Particularly in environmental protection, a policy of decriminalization combined with administrative sanctions and civil liability helps raise awareness of natural resource protection without resorting to imprisonment.

A notable example is the application of decriminalization in public health. The report by the American College of Obstetrics and Gynecologists (2017) on opioid use in pregnancy has been cited by Vietnamese researchers as evidence for shifting from a punitive to a restorative model. According to this report, criminalizing pregnant women who use substances is not only ineffective but also harmful to public health. Therefore, treatment, counseling, and social support measures are considered more appropriate options. This view is consistent with the humane spirit of Vietnam's criminal policy, where education, rehabilitation, and reintegration are valued more than pure punishment.

### **Limitations and challenges of the decriminalization policy**

Despite achieving many positive results, the decriminalization policy in Vietnam still has some limitations to overcome. The first is the issue of social perception. For a long time, a large portion of the population has held the belief that only criminal punishment is a sufficient deterrent. Thus, the shift to non-criminal measures is sometimes misunderstood as "leniency" or a "lack of strictness". This requires an effective communication and legal education strategy to change public perception about the humane and rational nature of decriminalization.

Second is the limitation in defining the boundary between administrative violations and criminal offenses. Because the criterion of "social dangerousness" remains qualitative, its practical application can differ among law enforcement agencies. This can result in cases being criminally prosecuted despite their trivial nature, while some serious acts are overlooked. This necessitates further refinement of legal criteria and professional guidelines to ensure uniform enforcement.

Third is the issue of enforcement and supervision capacity. When acts are decriminalized, the responsibility for handling them shifts to administrative agencies or social organizations. However, professional capacity and supervision mechanisms at this level are often limited, which can lead to incomplete resolution or the emergence of corruption. Therefore, building a robust inspection and supervision mechanism is essential to ensure that decriminalization achieves its intended goals.

Finally, there is a lack of synchronization between different areas of law. Some provisions in the Criminal Code, the Law on Handling of Administrative Violations, and related decrees still overlap, creating ambiguity in the division of jurisdiction and responsibility. This reduces the effectiveness of the decriminalization policy and creates legal risks for both citizens and enforcement officials.

## DISCUSSION

The research findings indicate that the trend of decriminalizing violations in Vietnam reflects not only the natural development of legal science but also the State's clear orientation towards building a humane, fair, and effective justice system. Modern criminology, with its approach of viewing individuals as multidimensional social entities, has helped reshape the perspectives of legislators and law enforcement agencies on the nature of crime and the handling of deviant behavior. This section will focus on three main issues: the theoretical basis of the decriminalization trend, its significance for Vietnam's judicial reform process, and future development directions.

### **The theoretical basis and inevitability of decriminalization**

Theoretically, decriminalization is an inevitable product of modern criminology. The theory of the offender's personality by Antonyan, Kudryavcev, and Ekimov (2004) suggests that individuals are not just subjects of legal responsibility but also products of their economic circumstances, social environment, and cultural interactions. Therefore, criminalizing every wrongdoing is unreasonable and can be counterproductive, as punishment does not always lead to reform. Decriminalization, on the other hand, allows society to regulate deviant behavior through more flexible mechanisms, combining education, counseling, mediation, and reintegration.

The development of modern society also places new demands on criminal policy. Rob White and Fiona Haines (2000) emphasize that criminal law cannot exist detached from the economic and cultural foundations of society; thus, reducing criminal intervention is a common trend among nations aiming for sustainable development. The shift from a retributive to a preventive and educational mechanism is seen as a sign of a mature justice system that respects human rights and social efficiency. In Vietnam, this perspective aligns with the objectives of a socialist rule-of-law state, where law is both a regulatory tool and a means of civic education. As Trinh Tien Viet (2008), Huynh & Vuhong (2025) affirmed, crime prevention must be central to criminal policy. As society develops, the overuse of imprisonment can create financial burdens and reduce opportunities for offender rehabilitation. Therefore, decriminalization is a scientific solution to balance the need to protect social order with the safeguarding of human rights.

### **The significance of decriminalization in Vietnamese criminal policy**

Discussing the significance of decriminalization must be contextualized within Vietnam's ongoing judicial reform. The 2015 Criminal Code (amended 2017) is clear evidence of the effort to build a humane, rational, and integrated legal system. Shifting some minor violations to administrative sanctions or alternative measures like non-custodial rehabilitation, fines, or warnings has allowed offenders to rectify their mistakes without being removed from the community. This not only helps reduce the burden on the justice system but also clearly demonstrates the humane thinking of the Vietnamese legislature.

According to Dao Le Thu (2021), the internationalization of Vietnamese criminal law has brought the country's legislation closer to United Nations standards on human rights. In many areas, Vietnam has shown a strong commitment to protecting individual freedoms and minimizing the use of liberty-depriving punishments for acts that are not genuinely dangerous to society.

This policy also enhances Vietnam's image on the international stage, affirming that legal integration is not about copying foreign models but about flexible adaptation based on national values.

From a socio-legal perspective, decriminalization helps strengthen public trust in the justice system. When the law demonstrates humanity and fairness, citizens are more likely to cooperate with state agencies rather than fear or evade them. The use of educational, counseling, and restorative measures instead of harsh punishments also contributes to the long-term stability of social order.

### **Challenges and directions for refining decriminalization policy**

Although the decriminalization trend offers many benefits, its implementation in Vietnam still faces several challenges. The foremost is the boundary between administrative violations and criminal offenses. The "social dangerousness" criterion, though stipulated in the Criminal Code, remains qualitative, leading to inconsistent application among law enforcement bodies. This lack of uniformity can reduce the policy's effectiveness and create a sense of injustice in society.

Second, the enforcement capacity of officials in administrative and judicial agencies is uneven. When a violation is decriminalized, the responsibility for handling it shifts to local levels. Without adequate training, officials may apply sanctions incorrectly or unpersuasively, provoking negative public reactions. Therefore, it is essential to enhance training and foster legal knowledge and professional ethics among enforcers.

Third, communication and legal education need to be strengthened to raise public awareness of the nature of decriminalization. In the minds of many citizens, imprisonment is still seen as the symbol of justice. Changing this mindset cannot happen overnight but requires a long-term legal education process involving schools, state agencies, and the mass media.

Regarding future directions, it is first necessary to continue researching and developing a clearer set of criteria for determining the degree of an act's danger. These criteria should be based on both material and non-material factors, including the extent of damage, motive, circumstances, and the likelihood of recidivism. Second, alternative sanctions to imprisonment, such as mediation, community service, restorative justice, or vocational training, should be expanded. These measures not only help offenders reintegrate but also bring tangible benefits to society. Third, the coordination mechanism between administrative, judicial, and social organizations must be improved to ensure that the implementation of decriminalization is synchronous and transparent.

Finally, decriminalization policy must be situated within the overall development strategy of the Vietnamese rule-of-law state, where law aims to serve the people, ensure justice, and maintain social order. Modern criminology is no longer just the science of crime, but the science of balancing human rights and community interests. When implemented correctly, decriminalization will become an effective tool for building a just, humane, and sustainable society.

## **CONCLUSIONS**

Modern criminology has gone beyond the limits of traditional criminal theories to become a humanistic science, aiming to understand people in the totality of social relationships. In that development process, the trend of decriminalizing violations is considered a manifestation of

progress, reflecting the ability of the law to adapt to changes in social life. Research shows that gradually reducing the scope of criminalization and expanding non-criminal remedies does not weaken the effectiveness of the law, but on the contrary, helps the legal system operate more reasonably, more effectively and closer to social life.

In Vietnam, criminal legislative thinking has clearly changed towards approaching the values of modern criminology. The 2015 Penal Code, amended in 2017, represents a major step forward in the process of institutionalizing the Party and State's judicial reform policy. The decriminalization of some violations, the expansion of the mechanism of criminal liability exemption, and the application of measures to replace imprisonment demonstrate the development of a humane and progressive criminal policy. This trend is consistent with the requirements of international integration, and at the same time affirms the orientation of building a socialist rule-of-law state, where the law not only punishes but also educates, rehabilitates, and guides people to improve.

However, research also shows that the decriminalization process in Vietnam is still facing many challenges. The definition of the boundary between administrative violations and criminal acts is still unclear; the enforcement capacity of administrative agencies in some areas is limited; and social awareness of the human nature of decriminalization is not really widespread. These limitations, if not overcome, will affect the consistency, transparency and effectiveness of the legal system. Therefore, perfecting the legal framework and enforcement mechanism for decriminalization is an urgent task in the development process of Vietnam's current criminal policy.

## RECOMMENDATIONS

Based on the research results, the article proposes a number of recommendations to improve the effectiveness of the decriminalization policy and develop Vietnamese criminology in a modern, sustainable and international standard-compliant direction.

First, it is necessary to perfect the legal basis for decriminalization, which clearly stipulates the criteria for determining the social danger of violations, the scope of application of alternative measures and the mechanism for controlling power during the implementation process. It is necessary to establish a system of scientific criteria to distinguish between administrative and criminal acts in order to ensure consistency and transparency in the application of the law.

Second, it is necessary to strengthen training and fostering for judicial and administrative staff on modern criminological approaches, especially skills in assessing personality, motives and circumstances of crime. Enforcement officers need to be equipped with knowledge of educational, conciliation and rehabilitation measures, instead of relying solely on coercive punishment. Developing human capacity will determine the success of decriminalization policies.

Third, it is necessary to expand alternative treatment measures to imprisonment, including community education, community service, mediation between offenders and victims, as well as counseling and psychological rehabilitation programs. These measures both contribute to reducing recidivism and creating opportunities for offenders to reintegrate into society, in line with the goal of building a justice system for people.

Fourth, it is necessary to promote propaganda and legal education to change social awareness about the nature of decriminalization. People need to understand that this is not a relaxation of legal discipline, but an inevitable development of modern legal thinking, aiming at a balance between social order and human dignity.

Finally, the State needs to strengthen modern criminological research and build a national database on crimes and violations to serve policy-making. The application of scientific analysis methods, including statistics, sociology and legal psychology, will help to evaluate the effectiveness of decriminalization more objectively and comprehensively. In general, decriminalization is an irreversible trend in the process of perfecting Vietnam's criminal law. This is not only a change in legislative techniques but also a manifestation of a humanistic political-legal vision, valuing human values and aiming for a fair, civilized and sustainable society.

## BIBLIOGRAPHIC REFERENCES

- American College of Obstetrics and Gynecologists (ACOG). (2017). Committee opinion no. 711: Opioid use and opioid use disorder in pregnancy. *Obstetrics & Gynecology*, 130(2), 81–94.
- Antonyan, Ju. M., Kudryavcev, V. N. & Ekimov, V. E. (2004). *The Personality of the Offender*. Legal Center Press, Moscow (in Russian).
- Dao, L. T. (2021). “The trend of internationalization of Vietnamese criminal law and its implications for criminal legislation”. *Vietnam Lawyer E-Journal*.
- Huynh, B. N, & Vuhong, V. (2025). “Preventing school crime in the context of digital transformation in Vietnam: identifying the role of education and law”. *Online Journal of Educational Policy and Management*, 29 (esp4), e025094. <https://doi.org/10.22633/rpge.v29iesp4.20763>
- Le, C. (2008). “The Doctrine of Crime - Fundamental Issues”. *The Procuracy Review*, No. 11.
- Luneev, V. V. (1997). *Crime in the 20th Century: A World Criminological Analysis*. Norma, Moscow (in Russian).
- Ministry of Justice. (2017). *Crime Prevention and Control in Our Country Today – Current Situation and Some Recommendations*.
- National Assembly. (2017). *The 2015 Criminal Code, amended and supplemented in 2017 (Law No. 12/2017/QH14)*. Hanoi.
- Nguyen, K. C. (2024). “Criminalization of gender-based violence - Theoretical and practical issues in Vietnam”. *Journal of Law and Development*.
- Schichor, D. (1980). “The new criminology: some critical issues”. *The British Journal of Criminology*, 20(1), 1–19.
- Rob White, Fiona Haines. (2000). *Crime and Criminology: An Introduction (Second Edition)*. Oxford University Press.
- Hamdan Taher, Mohammed Ali (2024). “The legal nature of the violations”. *Law and World*, 10(29), 50-65. <https://lawandworld.ge/index.php/law/article/view/472>
- Trinh, T. V. (2008). The concept of crime prevention from a criminological perspective. *VNU Journal of Science: Economics and Law*, 24, 185-199.
- Vo, K. V. & Vo, K. L. (2025). Development trends of criminology in the new era of national development. *Vietnam Lawyer E-Journal*.