The Analysis Report of the Child Justice Legal Framework and Situation of Minors in Conflict with the Law in Viet Nam (hereinafter, the SITAN or 2019 Child Justice SITAN) is part of UNICEF’s support within the cooperation programme between the Government of Viet Nam and UNICEF, under the project “Strengthened Access to Justice and Protection of Minors in Contact with the Law, 2018-2021”, managed by the Ministry of Justice.

THE RESEARCH TEAM
1. Ms. Nguyen Thi Kim Thoa, former Director, Criminal and Administrative Law Dept., MOJ
2. Mr. Tran Van Dung, Director, Technical Dept. No. 3. Civil Judgment Execution Dept., MOJ
3. Ms. Le Thi Van Anh, Deputy Director, Criminal and Administrative Law Dept., MOJ
4. Mr. Nguyen Van Hoan, former Deputy Director, Criminal and Administrative Law Dept., MOJ
5. Ms. Le Thi Hoa, Head of Criminal Law Section, Criminal and Administrative Law Dept., MOJ
6. Ms. Bui Thi Nam, Deputy Head of Administrative Law Section, Criminal and Administrative Law Dept., MOJ
7. Ms. Nguyen To Nga, Deputy Head of Criminal Law Section, Criminal and Administrative Law Dept., MOJ

SUPPORTING TEAM
1. Ms. Le Kim Dung, Expert, Criminal and Administrative Law Dept., MOJ
4. Ms. Hoang Thu Trang, Expert, Criminal and Administrative Law Dept., MOJ

Disclaimer
The viewpoints expressed in this publication are those of the writers and do not necessarily represent those of the Ministry of Justice, any other competent authorities of the Government of Viet Nam, or UNICEF.

Attribution
ANALYSIS REPORT
OF THE CHILD JUSTICE LEGAL FRAMEWORK
AND SITUATION OF MINORS IN CONFLICT WITH THE LAW
IN VIET NAM

Ha Noi, 2019
# CONTENTS

<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABBREVIATIONS AND ACRONYMS</td>
<td>8</td>
</tr>
<tr>
<td>ACKNOWLEDGEMENT</td>
<td>9</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td>10</td>
</tr>
<tr>
<td>PART I. OVERVIEW</td>
<td>15</td>
</tr>
<tr>
<td>1. Scope and Objectives</td>
<td>16</td>
</tr>
<tr>
<td>2. Methodology</td>
<td>17</td>
</tr>
<tr>
<td>PART II. CHILD JUSTICE INTERNATIONAL STANDARDS</td>
<td>19</td>
</tr>
<tr>
<td>2.1. Prevention of Offences Committed by Minors</td>
<td>21</td>
</tr>
<tr>
<td>2.2. Handling Offences Committed by Minors</td>
<td>22</td>
</tr>
<tr>
<td>2.3. Rehabilitation and Reintegration of Minor Offenders</td>
<td>23</td>
</tr>
<tr>
<td>PART III. LEGAL FRAMEWORK ON PREVENTION, HANDLING, AND REHABILITATION OF MINOR IN CONFLICT WITH THE LAW</td>
<td>26</td>
</tr>
<tr>
<td>1. Overview</td>
<td>26</td>
</tr>
<tr>
<td>2. Key Principles</td>
<td>30</td>
</tr>
<tr>
<td>3. Prevention of Offences Committed by Minors</td>
<td>32</td>
</tr>
<tr>
<td>4. Grassroots Conciliation, Alternatives to Administrative and Criminal Liabilities</td>
<td>33</td>
</tr>
<tr>
<td>4.1. Grassroots Conciliation</td>
<td>33</td>
</tr>
<tr>
<td>4.2. Alternatives to Administrative Liability</td>
<td>35</td>
</tr>
<tr>
<td>4.3. Exemption of Criminal Liability</td>
<td>35</td>
</tr>
<tr>
<td>5. Handling Administrative Violations of MICWL</td>
<td>37</td>
</tr>
<tr>
<td>5.1. Principles of Handling Administrative Violations Applicable to Minors</td>
<td>37</td>
</tr>
<tr>
<td>5.2. Administrative Sanctioning</td>
<td>38</td>
</tr>
<tr>
<td>5.3. Administrative Handling Measures Applicable to Minors</td>
<td>40</td>
</tr>
<tr>
<td>5.4. Measures to Prevent Administrative Violations and to Ensure the Handling of Administrative Violations</td>
<td>44</td>
</tr>
<tr>
<td>6. Criminal Handling of Minor Offenders</td>
<td>44</td>
</tr>
<tr>
<td>6.1. Scope of Criminal Liability of Minors</td>
<td>44</td>
</tr>
<tr>
<td>6.2. Criminal Policies Applicable to Minor Offenders</td>
<td>45</td>
</tr>
<tr>
<td>6.3. Penalties and Judicial Measures Applicable to Minor Offenders</td>
<td>45</td>
</tr>
<tr>
<td>6.4. Procedures for Handling Minor Offenders</td>
<td>47</td>
</tr>
</tbody>
</table>
LIST OF FIGURES

Figure 1. Measures for Handling Offences Committed by Minors .................................................................28
Figure 2. Procedure for Rehabilitation in Communes, Wards or District Towns ........................................41
Figure 3. Number of Offences Committed by Minors and MICWL (2006-2018) ....................................................64
Figure 4. Offences by Minors in the Administrative and Criminal Systems (2006-2018) ..............................66
Figure 5. Minors Accused by Four Most Common Crimes and Other Crimes (2011-2015) ..............................67
Figure 6. Minors Accused by the Six Second Most Common Crimes (2011-2015) ............................................67
Figure 7. Rate of Minor Offenders per 100,000 under-18 Population by Regions, in Comparison to National Rate (2017) ........................................................................................................68
Figure 8. Minors Accused by Regions (2011-2018) .........................................................................................70
Figure 9. Rate of Minors Accused per 100,000 under 18 Population, Compared with National Rate (2017) ........71
Figure 10. MICWL by Gender (2006-2018) ......................................................................................................72
Figure 11. MICWL by Age Groups (2006-2018) .............................................................................................73
Figure 12. Minor Accused by Age Groups (2011-2018) ..................................................................................73
Figure 13. Minors Accused by Ethnicity Groups (2014-2018) .......................................................................74
Figure 14. Minors Accused by Ethnic Groups and Type of Crimes (2014-2015) ..............................................75
Figure 15. Minor Offenders by Education (2011-2018) ..................................................................................76
Figure 16. Minors Accused by Education and Regions (2018) .....................................................................76
Figure 17. Drop-out Minors by Regions (2011-2013) .....................................................................................77
Figure 18. MICWL Placed under Family Supervision (2014-2017) .................................................................79
Figure 19. Imposition of Administrative Handling Measures on MICWL (2006-2010) .................................81
Figure 20. Terms of Placement in Reformatories (2014) .................................................................................82
Figure 21. Imposition of Administrative Handling Measures on MICWL (2014-2017) ...............................83
Figure 22. Penalty Imposed on Minor Offenders (2011-2015) .......................................................................84
Figure 23. Penalty Imposed on Minor Offenders (2016-2018) .......................................................................85
Figure 24. MICWL in Reformatories (2006-2010) .........................................................................................88
Figure 25. MICWL in Reformatories by Age Groups (2016-2018) ..............................................................89
Figure 26. Minor Offenders in Prisons by Gender (2006-2010) ....................................................................92
Figure 27. Minor Offenders in Prisons by Gender (2016-2018) ....................................................................92
Figure 28. Minor Offenders in Prisons by Crimes (2016-2018) .................................................................93
LIST OF TABLES

Table 1. Key Child Justice International Instruments .........................................................................................19
Table 2. Comparison of Temporary Detention Duration under the PPC 2003 and PPC 2015 .................................49
Table 3. Minors Accused by Regions (2011-2018) ..................................................................................................69
Table 3. Minors Accused by Regions (2011-2018) ..................................................................................................69
Table 5. Penalties Imposed on Minor Offenders (2011-2018) (%) .........................................................................85
## ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>MICWL</td>
<td>Minors in conflict with the law</td>
</tr>
<tr>
<td>LGC</td>
<td>Law on Grassroots Conciliation</td>
</tr>
<tr>
<td>LHAV</td>
<td>Law on Handling of Administrative Violations</td>
</tr>
<tr>
<td>LOPC</td>
<td>Law on Organization of People's Courts</td>
</tr>
<tr>
<td>MOJ</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>MOLISA</td>
<td>Ministry of Labour, Invalids and Social Affairs</td>
</tr>
<tr>
<td>MPS</td>
<td>Ministry of Public Security</td>
</tr>
<tr>
<td>PC</td>
<td>Penal Code</td>
</tr>
<tr>
<td>PPC</td>
<td>Penal Procedure Code</td>
</tr>
<tr>
<td>SPC</td>
<td>Supreme People's Court</td>
</tr>
<tr>
<td>SPP</td>
<td>Supreme People's Procuracy</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children's Fund</td>
</tr>
</tbody>
</table>
ACKNOWLEDGEMENT

The authors would like to express their gratitude to the United Nations Children’s Fund (UNICEF) for supporting this SITAN. During the compilation and completion of this SITAN, the drafting team received significant support from experts from technical departments of the Ministry of Justice, Ministry of Public Security, Supreme People’s Procuracy, Supreme People’s Court, and the Ministry of Labour, Invalids and Social Affairs, through provision of data and information as well as valuable feedback.

The authors would like to express their sincere appreciation to the experts and colleagues who contributed to the success of this SITAN.
EXECUTIVE SUMMARY

The Analysis Report of the Child Justice Legal Framework and Situation of Minors in Conflict with the Law in Viet Nam (2019) was conducted to assess changes to child justice laws and policies, the situation of minors in conflict with the law (MICWL), and implementation of the law between 2006-2018 (hereinafter, law implementation). This report will also propose recommendations for strengthening measures aimed at prevention, handling, rehabilitation and reintegration of MICWL in the coming years. Key findings are summarized below.

Laws and Policies on Prevention, Handling, Rehabilitation, and Reintegration of MICWL

Viet Nam has made radical improvements in strengthening the legal framework for prevention, handling, rehabilitation, and reintegration of MICWL in the past 15 years. These achievements have continued to bring Viet Nam’s legal system closer to international standards on child rights in general and child justice in particular.

Achievements

The Law on Children, the Penal Code (PC), the Penal Procedure Code (PPC), and the Law on Handling of Administrative Violations (LHAV) set out guiding child justice principles as basic requirements for prevention, handling, rehabilitation, and reintegration of MICWL.

The Law on Children requires the proactive prevention of children offending and recidivism through provision of support and intervention in a safe, timely, continuous, flexible, individualized, appropriate, and participatory manner to address the circumstances that cause and lead to offending behaviours, as well as to promote the rehabilitation and community reintegration of MICWL.

As per the aforementioned legal documents, application of informal measures should be given priority as an alternative to administrative and criminal handling measures (diversion). The Law on Grassroots Conciliation (LGC) and the LHAV provide clearer guidance on the scope and application of alternative measures for juveniles committing minor administrative violations.

The LHAV and PC promote minimum use of deprivation of liberty on MICWL, especially placement in reformatories and termed imprisonment. The PPC 2015 significantly reduces the length of pre-trial detention time limits applicable to minor alleged offenders. For example, the maximum time limit for pre-trial detention applicable to a minor charged with a particularly serious crime was shortened by 45 per cent, from 22 months to 12 months.

Another outstanding achievement is the recognition of the family and juvenile courts in the People’s Courts system as specialist courts for handling family and minors matters under the Law on Organization of People’s Court (LOPC) 2014. It is a robust step towards the specialisation of child justice institutions based on the recommendations of the United Nations Committee on the Rights of the Child.

The aforementioned legal documents provide the legal foundation for the enhancement of prevention, assistance, rehabilitation and reintegration services tailored to the age, living condition and personal background of the minor, aiming to address causes and risk factors contributing to offending behaviours. Notably, the Law on Legal Aid expands its coverage to all children and MICWL aged 16 to under 18. Decree 111/2013/ND-CP and Decree 37/2018/ND-CP provides detailed guidance for the application of alternative measures to administrative and criminal proceedings, and the administrative handling measures of education at commune, ward, district towns levels.

In this report, children are persons under 16 years of age, in accordance with the 2016 Law on Children (Article 1), juveniles or minors are persons under 18 years of age, in accordance with the 2015 Civil Code (Article 21). However, in the sections referring to international standards, the term “children” will be used to refer to persons under 18, as defined by the CRC.
For the first time, the Law on Children defines **roles and responsibilities of a commune-level child protection officer** in judicial proceedings, and handling administrative violations, rehabilitation, and community reintegration of MICWL. Decree No.37/2018/ND-CP defines the roles of semi-professional child justice officers in providing minor offenders, who are exempted from criminal liability, with case management services for community-based education and rehabilitation.

The PPC, LHAV, and several sub-law documents adopt new provisions with a view to **enhancing legal protection for MICWL and implement minor-friendly procedures** such as enabling improved participation of MICWL and their families in handling procedures and better protection of their privacy. Remarkably, the LHAV transferred the power to order placement of MICWL in reformatories from administrative bodies to judicial bodies, reflecting a major reform towards ensuring safeguards and procedural rights MICWL.

The **MICWL data management and reporting system** has improved with the issuance of Joint Circular No. 02/2013/TTLT/BLD'TBXH-BCA-VKSNDTC-TANDTC, which provides guidance on MICWL data collection, management, provision and usage, and Circular No. 16/2018/TT-BTP dated December 14, 2018 on reporting on handling of administrative violations and law implementation.

**Challenges**

Despite the above achievements, Viet Nam's legal and policy framework still contains numerous limitations that need to be addressed.

There is a **lack of effective child justice strategies and interdisciplinary coordination and cooperation mechanisms.** Therefore, whilst much has been achieved, an overall strategic vision for a comprehensive and coherent child justice system is still missing. Newly introduced regulations are implemented vertically in each sector without a common coordination mechanism.

**Numerous gaps remain in the child justice legal and policy framework.** A comprehensive child justice law is not in place to provide a solid foundation for a separate and distinct child justice system. Instead, the handling of MICWL abides by two independent legal systems, the administrative and the criminal, leading to inconsistencies in handling policies. Despite the improvements recently introduced by the new/amended legislation, significant gaps remain.

Viet Nam is building a network of professional social workers and social work collaborators to support vulnerable people in the society. However, there is an **absence of a framework law defining roles and functions of social workers in different areas, including justice.** There are no professional workers trained and paid to support the rehabilitation of MICWL in the community.

There is also a **lack of specialised handling of MICWL.** The introduction of family and juvenile courts in the People's Court system is a step in the right direction in promoting a specialized approach to handling minor cases. However, specialized staff equipped with essential knowledge and skills for effectively working with minors in public security, procuracy, attorney authorities are still lacking.

**Situation of Minors in Conflict with the Law**

There is no integrated data system with reliable statistics on MICWL in place, covering both the administrative or criminal systems which would enable accurate assessment of the situation of MICWL. The statistics provided by the Criminal Police Department of the Ministry of Public Security (MPS) is the main source of data used to analyse the general situation of MICWL. These statistics have been consistently collected since 2006 and provided to the Ministry of Labour, Invalids and Social Affairs (MOLISA) for publication in its ‘Children Indicators’ published almost every year. According to this data source, during the past 15 years, there were approximately 13,000 MICWL who were processed through the administrative and criminal systems each year. Administrative offences account for 63 per cent of offences committed by minors on average.
The number of MICWL, both in the administrative and criminal systems, has decreased by more than 60 per cent, from 16,446 in 2006 to 6,632 in 2018, signifying an improvement. However, while the number of administrative violations by minors has dropped substantially by 66 per cent, criminal offences decreased at a slower rate (35 per cent). As a result, the proportion of criminal offences to the total offences committed by minors has been growing.

However, it should be noted that this statistics has not fully reflected the situation of MICWL in the administrative system. Since 2014, the handling of administrative violations has been better monitored. If adding the data recently provided by the Department for Management of Handling of Administrative Violations and Law Implementation Monitoring of the MOJ to the current public statistics, the average number of minor offenders might be as high as 18,000 in a year. In the coming years, this source of statistics needs to be officially integrated into the data reporting system pertaining to MICWL to provide a more accurate assessment of the situation.

Property offences made up the largest proportion of offences committed by minors (nearly 46 per cent), especially theft (38 per cent). Infringements upon another person's life, health, honour, and dignity constituted more than 18 per cent of the total offences committed by minors. Zooming in on the criminal system, nearly 71 per cent of minors who are criminal offenders were charged with one of the following four offences: theft (34 per cent), deliberate infliction of bodily harm upon another person (16.8 per cent), robbery (11.9 per cent), and snatching (8.1 per cent). Between the period of 2011-2015, the total number of minors accused of crimes decreased by more than 23 per cent. According to the analysis of ten most common crimes committed by minors in this period, the proportion of minors committing theft, illegal possession, transportation, trafficking and appropriating of drugs witnessed an increasing trend. Meanwhile, the figures for the remaining eight crimes fell, almost unchanged or grew insignificantly.

About 96 per cent of MICWL were male, a pattern that has remained unchanged from 2006 to 2018. Minors aged 16 to 17 years formed the largest part of MICWL. Contrary to the observations often made in media and different forums that minors offenders tend to be younger, the number of offenders under 14 years of age accounted for the smallest proportion of MICWL and has been declining - from 9 per cent in 2006 to 5 per cent in 2018.

About 85 per cent of minors accused were of Kinh people, while the other 15 per cent belonged to ethnic minorities. This, however, is not surprising given that Kinh make up nearly 86 per cent of the country's population. In the past few years, the number of accused minors from ethnic minorities has slightly increased. Approximately 24 per cent of minor offenders were either illiterate or had only attended primary school. The drop-out rate among minor offenders was nearly 48 per cent. This rate is very high in comparison to the general out-of-school rate among lower and upper secondary-school-age children, which are approximately 7.2 per cent and 27.7 per cent respectively.

The majority of minor offenders are first-time offenders. From 2011 to 2018, the numbers of minor who repeat offences decreased remarkably compared to the period 2006-2010. Many minor offenders committed an offence with adults, sometimes even with their parents. Approximately 21 per cent of minor offenders had a difficult family situation, with incarcerated, divorced, or single parents, or were living and/or working on the street.

Law Implementation

Achievements

Along with positive developments introduced by new laws, law implementation has been given more attention and has strengthened over the past years. For the first time, the Government launched a national project on innovating and enhancing the effectiveness of law implementation (Decision 242/QD-TTg dated February 26, 2018 of the Prime Minister). Law implementation monitoring has also been strengthened, including MICWL-related law, with the promulgation of Decree No. 59/2012/ND-CP. The MOJ is charged with the responsibility to lead the monitoring of law implementation nationwide. Especially, in addition to areas under its scope of management, MOJ also assumes the task of monitoring
law implementation in cross-sectoral areas, and areas that present many difficulties and obstacles and inadequacies in execution.

Between 2013-2018 more than 20 sub-law documents have been issued to guide the implementation of new laws related to the prevention, handling, education and rehabilitation of MICWL.

*Training and capacity building for effective and coherent implementation of new child justice legal documents have also been promoted*, especially through the use of information technology to organize online trainings nation-wide.²

One of the most significant achievements is the establishment of family and juvenile courts in the people’s court system, with the first two courts in Ho Chi Minh City (2014) and Dong Thap (2016), and 34 other courts currently under progress in other provinces and cities.

The Report also shows a strong downward trend in the imposition of placement in reformatories on MICWL. In the period 2006-2017, the number of minors subjected to confinement in reformatories reduced by nearly eight times. As a result, one out of four reformatories is no longer in operation and only three reformatories remain throughout the country.

Thanks to the implementation of the Law on Special Amnesty 2007, more prisoners, including minor prisoners, have been released on parole. From 2010 to 2018, the number of minor prisoners dropped by 84 per cent.

**Challenges**

Since 2016, the provisions of the PC 2015 that promote exemption of criminal liability for minor offenders to divert them to community-based supervision and rehabilitation, and minimum use of termed imprisonment penalty has taken effect. However, the rate of minor offenders who were subjected to criminal liability exemption or judicial measures remains low (less than one per cent). At the same time, termed imprisonment was still widely applied (more than 91 per cent), though this rate has decreased as compared to the 2011-2015 period.

Community-based education and rehabilitation services for MICWL, such as counselling, life skills training, and vocational training, are still limited, both in quality and quantity, challenging the effectiveness of supervision and support provided to children subjected to management in the community to address causes and risk factors contributing to offending behaviours. In addition, meaningful participation of families, relevant authorities, and organizations in rehabilitation of MICWL remains limited. Minor offenders in reformatories and detention facilities are entitled to education, vocational training, and assistance in reintegration. Yet, quality and diversity of such programs in some facilities are limited.

Lack of complete and systemic MICWL data collection, report and analysis despite progress made. Evidence-based policymaking and planning were challenged due to the lack of a comprehensive data collection and management system on MICWL and qualitative researches on other relevant topics, including risk factors contributing to minor’s violations, the most effective measures for MICWL rehabilitation and recidivism prevention.

**Recommendations**

Upon analysing the recent MICWL situation, improvements and challenges in law and policy development, as well as current legal practices, the SITAN puts forward recommendations for short and medium-term directions for strengthened prevention, handling, rehabilitation and social reintegration of MICWL as follows:

**A master plan for building a comprehensive child justice system** should be in place with detailed directions, feasible and

---

² For example, on April 17, 2019, Supreme People's Procuracy held an online conference in the entire procuratorial sector to implement the Joint Circulars guiding the implementation of the PPC, including Joint Circular No. 06/2018/TTLT-VKSNDTC-TANDTC-BCA-BTP-BLDTBXH dated December 21, 2018 of the SPP, SPC, MPS, MOJ, and MOLISA on coordinated implementation of the provisions of the PPC on procedural procedures for people under 18 years old.
appropriate timelines for effective and consistent prevention of and response to offences committed by minors.

**Enhanced cross-sectoral coordination and cooperation on child justice.** A designated lead agency for child justice is recommended. This agency will be responsible for coordinating and promoting consistent law reform and a comprehensive approach to child justice. This agency should also be responsible for enhanced close intersectional cooperation and collaboration between law enforcement, justice agencies, and welfare, education, health and other stakeholders in prevention, handling, rehabilitation, and reintegration of MICWL. In addition, this agency will also be in charge of monitoring the overall effectiveness of the child justice system and the implementation of child justice laws and policies.

**Continued reform of the legal and policy framework for child justice.** This includes research and proposal for a comprehensive child justice law.

**Capacity building for professionals working in child justice.** National roll-out of family and juvenile courts should be prioritized, especially at district level. A feasibility study is needed for specialised investigation teams/units for minors.

**Involvement of social workers in the child justice system.** The implementation of the National Project on Social Work Profession Development for the period of 2011-2020 is underway. It is recommended to stipulate roles, functions, and responsibilities of social workers in prevention, handling, education, rehabilitation, and social reintegration of MICWL in the Law on Children, the PC, the PPC, the LHAV, and sub-law documents.

**Increased use of community-based rehabilitation measures and restorative justice, in place of administrative and criminal liability.** It is recommended to gradually diversify and enhance the quality of community-based rehabilitation programs for MICWL, with active and meaningful participation of families, schools, communities, private sectors, service providers and other stakeholders.

Along with the implementation of community-based education and rehabilitation measures, it is necessary to reduce the application of custody sanctions, especially limiting the scope of termed imprisonment and shortening the maximum period of termed imprisonment for juvenile offenders. This includes research and proposal for elimination of placement in reformatories as an administrative handling measure and permit reformatory placement only as a criminal sanction.

An **integrated child justice database system** should be developed to enable collection, analysis, and management of data on a centralized basis, systematically, stably and supported by periodic studies to better understand the trends of offences committed by minors in both criminal and administrative system, and measure the effectiveness of various measures. Regular monitoring and evaluation of the applied measures and programs are essential to ensure effective use of resources and continuous improvement of intervention measures.

**Strengthened communication and awareness raising** to promote the support and participation of numerous agencies, organizations, and people in implementing effective measures in prevention, handling, education and rehabilitation for MICWL, and at the same time pave the way for continued reform of policies and laws on child justice.
The UN Convention on the Rights of the Child (CRC), which was ratified by Viet Nam in 1990, requires State Parties to promote the establishment of laws, procedures, authorities, and institutions specifically applicable to children in conflict with the law. The system must ensure that the treatment of the child is based on respect for his or her dignity and self-esteem, suitable for each child’s age and maturity, and facilitate their successful community reintegration.

The establishment of such a system requires State Parties to continuously review their legal and policy system on child justice, the current situation of MICWL prevention, handling, rehabilitation, and community reintegration, identify compatibilities and incompatibilities with the CRC, and other international standards on child justice.

With support from UNICEF, in 2005 the Report on the Situation Analysis of Child Justice in Viet Nam and Evaluation of the Contemporary Child Justice System was developed and published by the Legal Research Institute, MOJ (hereinafter, 2005 Child Justice SITAN). Analysing the minor offender situation for the period of 2000-2005 and legal and policy system on child justice, the report offers effective recommendations for law and policy reform and implementation within the field. Until now, this is the only report that provides a comprehensive analysis of the situation of MICWL and related laws and policies. Other studies only focus on specific thematic issues in prevention and handling of MICWL (see Appendix III).

Nearly 15 years after the report’s delivery, Viet Nam has undertaken remarkable efforts to improve protection, care, and education of minors. The hard work has given rise to several outstanding achievements, including the improved MICWL situation. Annual reports reveal a downward trend in the number of cases and MICWL in recent years. Nonetheless, media and several forums continue to raise concerns that the number of offences committed by minors, young offenders tend to be younger, cases where minors’ gathering and causing public disorder has increased in both quantity and level severity in several localities, especially those of a particularly serious nature.

Moreover, in 2005, Viet Nam embarked on the implementation of the Strategy for the Development and Improvement of Viet Nam's Legal System until 2010 with a Vision to 2020, and the Judicial Reform Strategy until 2020. One of the main objectives of the two Strategies is to strengthen fulfilment of human rights, rights to democracy and freedom through the implementation of numerous key solutions, especially “maximizing the use of internal resources and proactive international engagement”, selectively learning from international good practice on law development and implementation within the context of Viet Nam. In particular, the Judicial Reform Strategy requires “organising judicial organs and judicial support institutions in a proper and scientific manner, with modern organisational structures and working conditions and facilities, of which the court sector

---

3 CRC, Art. 40 (3).
is placed at the centre and adjudication plays the key role. It also demands “great attention to the improvement of criminal policy and judicial procedures, (and) improving the effectiveness of crime prevention efforts and the educational effects of adjudication”. In addition, the Strategy points out clear direction towards reducing the application of custodial measures such as detention and termed imprisonment and increasing the application of financial penalties and non-custodial re-education measures for some crimes. Furthermore, the Strategy calls for enhancing the proactiveness, independence, and accountability of investigators, prosecutors, and judges when performing their tasks; promoting transparency in adjudication activities through the publication of court judgments, except those cases involving crimes against national security, social morality, or traditional ethical values.

During the implementation of the overall strategies, several core legal documents, ranging from the Constitution, laws governing the organisation of the State and other legal documents in different fields, have been re-issued or fundamentally and comprehensively amended and supplemented. Many of these discuss prevention, handling and rehabilitation of MICWL, including the LHAV 2012, Law on Organisation of People’s Court 2014, PC 2015 (amended in 2017), PPC 2015, Law on Execution of Custody and Temporary Detention Order 2015, Law on Children 2016, Law on Legal Aid 2017, Law on Special Amnesty 2018, and other laws and sub-laws. These legal documents introduced numerous reforms for strengthened prevention, handling, rehabilitation, and community reintegration of MICWL.

In this context, it is necessary to compile a new report to provide comprehensive and up-to-date information on the situation of MICWL and analyse changes of the child justice system in the last 15 years.

1. Scope and Objectives

The objective of this SITAN is to assess changes in the law and policy framework related to child justice, the situation of MICWL, and implementation of laws in the period 2006-2018. It will offer recommendations to enhance the effectiveness of prevention, handling, recovery, and reintegration of MICWL in the coming times.

In addition to an overview of key international child justice standards, this SITAN covers the following contents:

- Policy and legal framework for prevention, handling, rehabilitation and reintegration of MICWL, especially new legal regulations;
- MICWL situation between 2006 and 2018, including prevalence, trend, most common types of violations, and some profile characteristics of juvenile offenders;
- Implementation of laws and policies; and
- Assessment of the strengths, weaknesses, and recommendations for refining legal and policy systems and improving law implementation with a view to enhancing MICWL prevention, education and rehabilitation in line with the Constitution 2013, the CRC and Viet Nam’s other relevant child justice international standards.

---

Built on and together with the 2005 Child Justice SITAN, the 2019 Child Justice SITAN provides an overall picture of MICWL situation as well as legal and policy framework on child justice since 2001 to date.

2. Methodology

This SITAN is conducted by a team of experts with the support of UNICEF international experts. This report mainly adopts desk research methodology, in which available data on MICWL and handling practices of competent authorities from MPS, SPP, SPC and MOLISA from 2006 to present were collected and analysed. The introduction and evaluation of the legal framework and policies pertaining to MICWL are conducted by reviewing and analysing current legal documents governing the prevention, handling, rehabilitation, and reintegration of MICWL with special focus on new regulations in legal documents promulgated from 2006 to present. The research team also studied reports and research papers related to child justice established from 2006 to present and reports issued by relevant ministries and agencies. The draft analysis report was presented in consultation workshops to seek feedback from representatives of relevant organisations, namely the police, procuracies, courts, labour, invalids and social affairs, Viet Nam Lawyers Association, the Central Committee of the Ho Chi Minh Communist Youth Union, Viet Nam Women’s Union and other relevant authorities and organisations. The final draft was also sent to line ministries for formal feedback and evaluated by an Appraisal Council formed by the Legal Research Institute, MOJ.

This SITAN has some limitations, especially in relation to the use of different sources of data pertaining to minors in conflict with the law. In Viet Nam, there is no integrated data system with reliable statistics on MICWL in place - neither in the administrative nor criminal systems. Instead, authorities involved in the handling of MICWL collect data based on their functions and report in accordance with their systems. To conduct this SITAN, the research team has made use of different data sources to provide a thorough picture of MICWL. The statistics provided by the Criminal Police Department, MPS, is the main source of data used to analyse the general situations of MICWL, as it is the only integrated and open source of MICWL, both in the criminal and administrative systems, and the statistics have been collected consistently since 2006 to present. However, this source of data only covers statistics on offences committed by minors and offenders processed by the criminal police. To overcome this limitation, the research team also use statistics on administrative handling of minor offenders collected by the Department of Management of Handling of Administrative Violations and Law Implementation Monitoring, MOJ to provide a more comprehensive view of MICWL situation. The data provided by the SPP and SPC were employed to analyse MICWL subjected to criminal sanctions. Data provided by The Police Department of Management of Prisons, Compulsory Education Centres and Reformatories were used in the section on education, rehabilitation of MICWL in reformatories and prisons. However, as each agency employs different data collection protocol, with different criteria for data disaggregation as well as reporting timelines, the data provided by different sources are often inconsistent, with some data for the period 2006-2018 not being available either.

Furthermore, as the SITAN was carried out as a desk study, information on law enforcement practices, especially the enforcement of administrative measures, was mainly collected through available reports and research papers. As a result, the analysis and assessments in this Report might not be as comprehensive and in-depth as expected. The SITAN also does not cover the causes of offences committed by minors.
It is necessary to note that numerous laws pertaining to child justice have been revised or newly promulgated during the judicial reform process. Several of them only came into effect from 2016 to present namely the PPC, the PC, the LGC, and the Law on Children, thus a preliminary report on the implementation of these laws are not yet available. With the available data, the Report has focused on analysing practices on the implementation of the law in the period before 2016 and from 2016 onwards. Nevertheless, these analyses only captured some highlighted issues and are not yet comprehensive.
The United Nations Convention on the Rights of the Child (CRC) is the key international legal document on children’s rights, including the rights of children in conflict with the law. Viet Nam signed the CRC in 1989 and ratified it in 1990. In addition, other international conventions governing adults and MICWL are also applicable, namely the International Covenant on Civil and Political Rights\(^6\) and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\(^7\).

Besides binding international treaties, there are a set of non-binding principles and guidelines on child justice that were developed on the ground of international laws and recognized by various countries in the world. These documents provide guidance on prevention, early intervention, handling, conditions in detention centres, and reintegration of MICWL, thus are highly acknowledged and serve as references for countries to ensure compliance with the CRC and other binding international treaties. Together with the CRC, these principles and guidelines form a comprehensive international framework on child justice.

Table 1. Key Child Justice International Instruments

<table>
<thead>
<tr>
<th>Child Justice International Standards</th>
<th>General International Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>• United Nations Convention on the Rights of the Child</td>
<td>• International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>• United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)</td>
<td>• United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>• United Nations Guidelines for Action on Children in the Criminal Justice System</td>
<td>• United Nations Standard Minimum Rules for the Treatment of Prisoners</td>
</tr>
<tr>
<td>• United Nations Approach to Justice for Children</td>
<td>• United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters</td>
</tr>
</tbody>
</table>

6 Viet Nam joined on September 24, 1982.

7 Viet Nam signed on November 7, 2013 and ratified on February 5, 2015.
The CRC requires State Parties to promote the establishment of laws, procedures, authorities, and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) set out minimum and comprehensive standards for applying the law on minors. These rules guide member states in developing their own judicial systems for minors under the obligations set out in Article 40 of the CRC. The content of this Article acts as the basis for Member States to develop and enact laws, rules, and institutions to apply exclusively to minors in conflict with the law, and to protect their fundamental rights. The Beijing Rules stipulate that the judicial system on minors should focus on the rights and benefits of minors and ensure that all decisions pertaining to minors are appropriate for the circumstances and commensurate with the nature and extent of the violation. Under these guidelines, an effective judicial system for minors shall include the following core components:

- **A comprehensive legal framework**: Laws and sub-law documents shall provide principles and special procedures to handle MICWL to ensure children can enjoy the fair treatment that is appropriate to their ages and with the aim of rehabilitation and reintegration rather than punishment.

- **Coordination and cooperation among key agencies**: A child justice system requires coordinated intervention measures implemented by several agencies and organizations, including police officers, procurators, judges, social workers, judicial officers, correctional officers, and social organizations. To ensure the system’s effectiveness and seamless coordination between different sectors, functions and responsibilities of all key organizations and coordination mechanism shall be clearly defined.

- **Specialized organizational structure and officers**: Specialized courts, police forces and/or specialized officers who are trained to effectively handle children in conflict with the law (police officers, prosecutors, judges, lawyers, and social workers) shall be established or assigned to ensure children receive appropriate treatment and be kept separate from adult offenders.

- **Alternatives to administrative and criminal liability (diversion)**: Alternative and diversionary measures to administrative and criminal liabilities, such as conciliation or other community-based education mechanisms, shall be available in the child justice system to respond to crimes or delinquencies committed by minors.

- **Rehabilitation and reintegration support services for MICWL**: An effective judicial system for minors shall ensure that any reactions to children should be proportionate and with the aim of addressing the root causes of child delinquency. This requires effective services and adequate resources to supervise, rehabilitate and reintegrate the child for the sake of the child assuming a constructive role in society.

- **Emphasis on prevention**: Preventive measures shall be adopted to minimize the instances of delinquency of minor. There should be a comprehensive strategy to address social risk factors contributing to delinquency of minor and to support families at risk.

- **Evidence-based planning and policy making**: Laws, policies and programmes related to child justice shall be based on comprehensive data as well as continuous, quality research on both effective and ineffective measures on the prevention and handling of MICWL.

---

8 CRC, Art. 40(3).
The CRC regulates general principles applied to all actions involving children. These principles must be followed in prevention, handling, education, rehabilitation, and reintegration for minor offenders. These principles include:

- Article 3(1): the best interests of the child shall be a primary consideration;
- Article 2: non-discrimination;
- Article 6: children have the right to survival and development; and
- Article 12: children have the right to freedom of expression; their views shall be given due weight in any decisions concerning them.

Besides these general principles, the CRC and other international standards also provide specific requirements and guidelines on prevention, handling, education, rehabilitation, and reintegration for minor offenders.

2.1. Prevention of Offences Committed by Minors

The most important objectives of the child justice system and the handling of MICWL are to prevent offence committed by minor and to promote the child’s rehabilitation and reintegration. To realize these objectives, any reaction to minor offenders shall be made in proportion to both the personal circumstances of the offender and the harm caused by the offence, which means that the response to young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstance and the circumstances under which the offence is committed. By the same token, reactions to a minor offender should be based on the consideration of the welfare of the young offender at all times, including his or her special needs and vulnerabilities.

The UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) provided a positive and comprehensive approach to crime prevention, which focuses on minors. This approach aims to address basic social causes of offences committed by minors. Prevention is not merely about resolving negative conditions by authorities and social control mechanisms but should instead promote the development and health of minors from early childhood. The best strategy to prevent delinquency of minor is to promote children’s rights and enhance community development, to address poverty and children’s isolation from society. To do this, it is necessary to invest in education, vocational training, and create jobs for adolescents in a way that is suitable to the market economy and minors’ personal interests. This also requires cooperation between state agencies and non-state organizations, including agencies operating in the field of social welfare, health care, education and employment, judicial, non-governmental organizations, and other social establishments.

The Riyadh Guidelines recommend prevention of delinquency of minor needs to be instituted at every level of Government. Preventive activities include in-depth analyses of the problem, well-defined responsibilities for the involved agencies, appropriate coordination between governmental and non-governmental agencies, community involvement through a wide range of services and programmes, close interdisciplinary cooperation between state agencies and non-state agencies, and minors’ participation in the process of developing all crime prevention policies. Crime prevention programmes should be developed based on reliable and scientific research findings and must be monitored, evaluated and adjusted periodically. Attention should be paid to prevention policies.

---

9 CRC, Article 40(1).
10 Beijing Rules, Rule No.5.
aiming at promoting socialization and successful reintegration for all children through families, communities, peer groups, schools, vocational and employment activities.

2.2. Handling Offences Committed by Minors

Article 40 of the CRC requires all State Parties to recognize “the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child assuming a constructive role in society.”

To ensure that minors will not be handled under criminal justice system unless in cases of absolute necessity, Article 40.3 also requires State Parties to establish “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law” and to establish “measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.” These measures may include care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programs and other alternatives to institutional care to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 40 also requires State Parties to ensure the rights of MICWL, including the rights:

- To be presumed innocent until proven guilty according to law;
- To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, factoring in his or her age or situation, his or her parents or legal guardians;
- Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- To have his or her privacy fully respected at all stages of the proceedings.

Article 37 of the CRC clearly prohibits the torture or other cruel, inhuman or degrading treatment or punishment against children, and requires that “neither capital punishment nor life imprisonment

1 CRC, Article 40(1).
2 CRC, Article 40(3)(b).
without possibility of release shall be imposed for offences committed by persons below eighteen years of age.” Article 37 also provides specific requirements for handling minor’s deprived of their liberty as follows:

- No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

- Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that considers the needs of persons of his or her age. Every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so, shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

- Every child being deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

General comment No. 10 of the UN Committee on the Rights of the Child recommends that any child arrested and deprived of freedom should be brought to court or a competent authority to consider the legality of deprivation within 24 hours of being arrested. The Committee also recommends that necessary provisions should be included in the law of State Parties to ensure that within 6 months of being brought to court or competent authority as mentioned above, the court or such competent authority will make a final decision on such offence committed by minor.

2.3. Rehabilitation and Reintegration of Minor Offenders

2.3.1. Community-based Rehabilitation of Minor Offenders

The United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), applicable to both minor and adult offenders, provide guidance for rehabilitation for minors in the community. These rules require protection of dignity of offenders who are subject to non-custodial measures at all times.

Under the Tokyo Rules, in the implementation of non-custodial measures, the offender’s rights shall not be restricted further than those authorized by the competent authority.

If a non-custody measure entails supervision, it shall be carried out by a competent authority under specified conditions. The purpose of supervision is to reduce reoffending and to assist the offender’s integration into society. The supervision duration shall not exceed the period established by the competent authority in accordance with the law. Provision may be made for early termination of the measure if the offender has responded favourably to it.

If the competent authority shall determine the conditions to be observed by the offender, considerations should be given to both the needs of society and the needs and rights of the offender and the victim. These conditions shall be practical, precise and as few as possible, with the goal of reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender’s chances of social integration. In the process of enforcing non-custodial measures, the

13 CRC, Article 37(a).
conditions may be modified by the competent authority in accordance with the progress made by the offender.

Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively. Treatment should be conducted by professionals who have suitable training and practical experience. When it is decided that treatment is necessary, efforts should be made to understand the offender’s background, personality, opinions, perceptions, values and, above all, the circumstances leading to the commission of the offence.

Competent authorities can mobilize community participation and social support systems in this process. Case-load assignments to each supervising officer shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes. For each offender, a case record shall be established and maintained by the competent authority.

A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure by the competent authority; this shall be done only after careful examination of the facts adduced by both the supervising officer and the offender. In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

2.3.2. Rehabilitation and Preparation for Reintegration of MICWL in Detention Centres

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDL) provides broad and comprehensive guidelines on the conditions and treatment of minors deprived of their liberty. These rules apply to all minors placed in centralized educational facilities (prisons, re-education camps, or education, protection or rehabilitation centres) on any order of any judicial, administrative or public agency.

The focus of the JDL is to ensure that deprivation of liberty does not result in violation or deprivation of other rights enjoyed by people under the age of 18 under the CRC. These rules emphasize:

- Minors deprived of their liberty have the right to utilize facilities and services that meet all the requirements of health and human dignity;
- Minors have the right to be provided with adequate food, clean water, clean sleeping areas, clothing suitable for the climate, as well as preventive and curative care;
- Minors have the right to gain access to meaningful recreational programmes and activities that are meaningful for their recovery, reintegration, and development;
- Every minor has the right to education and vocational training to prepare him or her for future employment. Such education should be provided outside the detention facility in community schools wherever possible. In any case, minors have the right to choose their field
of study, and vocational training needs to prepare the minors for jobs that the community is in need of;

- Personnel at centralized educational facilities should receive suitable training in dealing with minors. The use of force or forms of punishment, prosecution and humiliation are strictly prohibited. Officers and staff should protect minors from all forms of abuse or exploitation;

- All minors should benefit from arrangements designed to assist them in returning to society, family life, education or employment after the completion of educational measures. Reducing or exempting term at detention facilities should be applied as well as supporting and monitoring minors in the community afterward. Competent authorities should provide or ensure services to assist minors in re-establishing themselves in society and to lessen prejudice against such minors. The representatives of agencies providing such services should be consulted and should have access to minors while detained, with a view to assisting them in their return to the community. According to the Beijing Rules, minors, after completing serving time at centralized educational facilities, need to be fully supported by appropriate authorities and the community in the process of reintegration.

In addition, the UN International Guidelines on HIV/AIDS highlight the need for centralized educational facilities to take measures in preventing the spread of HIV/AIDS and to provide treatment for HIV-positive minors. The guideline emphasizes the prohibition of compulsory HIV testing for minors in reformatory schools, prisons, treatment centres or detoxification centres. All minors should have the right to access voluntary testing and consultations and be informed of test results; no tests shall be conducted without consent of the minors. Authorities of centralized educational institutions should provide minors with access to HIV-related prevention information, education, voluntary testing and counselling, and preventive, treatment and care measures. Confidentiality of information needs to be ensured and the isolation of HIV-positive offenders is prohibited.

The guidelines also state that officers in centralized detention facilities need to take all necessary measures such as adequate staffing, appropriate disciplinary measures, and effective monitoring to protect minors from rape, sexual violence and coercion.
PART III. LEGAL FRAMEWORK ON PREVENTION, HANDLING, AND REHABILITATION OF MINOR IN CONFLICT WITH THE LAW

1. Overview

A minor who has committed an act that violates the law, depending on the offence’s nature and extent of harm caused to society, as well as the background of the minor and the necessity of violation deterrence, would be subject to either administrative or criminal measures.

According to the LHAV, administrative handling measures are applied to minors aged 14 and above who have committed administrative offences and to minors aged 12 and above who have violated the law on security, social order and safety, but the violation does not constitute a crime. Minors aged 14 and older committing a crime specified in the PC will be charged with criminal liability.

Vietnamese law requires that administrative or criminal measures be resorted to only in cases of necessity. For administrative minor offenders, ‘admonition’ or ‘family supervision’ should be considered as an alternative to administrative handling measures. Minor offenders should also be exempted from criminal prosecution and be diverted to other community-based monitoring and educational measures such as admonition, community conciliation or education in communes, wards and district towns. If the offence does not amount to criminal charge or administrative measure, or the violation constituted a crime, but the offender is not prosecuted under the law, conciliation could be proceeded with at the grassroots level in accordance with the regulations on grassroots conciliation14.

There is no specialised law on child justice in place in Viet Nam. Instead, regulations pertaining to prevention, treatment, education, rehabilitation and community reintegration for MICWL are scattered across various legal documents, namely the Law on Children, the LHAV, the PC, the PPC, and the Law on Legal Aid. Excluding the Law on Children, which is a specialized law for children, these laws are generally applicable to both adults and minors, and in some cases, there may be a separate chapter or specific provisions governing measures or procedures particularly applicable to MICWL.

Major laws directly related to prevention, monitoring, education, rehabilitation and community reintegration for minor offenders include:

The Law on Children 2016: Defines children as those below the age of 16 years. It provides children’s rights and obligations, principles, and measures to ensure the exertion of children’s rights and fulfilment of responsibilities of relevant agencies, organizations and individuals. Moreover, the Law on Children regulates the protection of children’s rights during proceedings and handling of administrative violations. The law also stipulates the basic requirements for prevention, handling, education, rehabilitation and community reintegration for children in conflict with the law.

---

14 See Art. 5, Decree 15/2014/ND-CP dated 27 Feb 2014 Detailing some articles and measures for implementation of the Law on Grassroots Conciliation.
The Law on Grassroots Conciliation 2015: Prescribes grassroots conciliation for conflicts, disputes, and law violations, including violations committed by minors.

The Law on Handling of Administrative Violations 2012: Prescribes the minimum age of administrative liability, penalties and administrative handling measures, jurisdiction, processes, and procedures for applying penalties and administrative measures. This law replaces the Ordinance on Handling of Administrative Violations 2002. It also stipulates specialised principles and procedures applicable to administrative minor offenders. The law also stipulates two alternative measures for handling administrative violations applied to minors, which are ‘Admonitions’ and ‘Family Supervision’.

The Penal Code 2015 (amended in 2017): Prescribes the minimum age of criminal liability, crimes, and punishment. The Code stipulates specialised handling principles applicable to minor offenders. The PC 2015, which replaced the PC 1999, introduces numerous new regulations to minimize the imposition of criminal penalties and termed imprisonment and to prioritise community-based education and rehabilitation for MICWL.

The Penal Procedure Code 2015: Prescribes the order and procedures of receiving and resolving information on crimes, investigation, prosecution, adjudication and procedures for enforcement of criminal sentences, persons conducting criminal proceedings and participants in the proceedings. The PPC also stipulates special procedures applicable to minors when they come in contact with the criminal justice system either as the accused, as victims or as witnesses.

The Law on Legal Aid 2017: Prescribes the provision of free legal aid services to beneficiaries, including children and minors accused aged from 16 to 18 and victims in criminal cases aged from 16 to 18 with financial difficulties.

The Law on Organisation of People’s Courts 2014: Prescribes the establishment of family and juvenile courts as a specialised court for minors and family law matters in the people’s court system.

The Law on Enforcement of Custody and Temporary Detention 2015: Prescribes the principles, order, and procedures for enforcement of custody and temporary detention; the organization, tasks and powers of custody and temporary detention management and enforcement agencies; rights and obligations of persons held in custody or temporary detention. This law requires separate detention for minor offenders.

The Law on the Execution of Criminal Judgement 2010: Prescribes the principles, order, procedures, organisations, obligations, and powers of competent agencies in the execution of penalties and judicial measures in criminal judgments and decisions, including the enforcement of penalties and judicial measures applied to minor offenders.

The Law on Special Amnesty 2017: This law was issued to replace of the Law on Special Amnesty 2007. It stipulates conditions, orders and procedures for special amnesty under the State President’s decision for persons sentenced to termed imprisonment or life imprisonment in important events, and national holidays or in special cases. Under the provisions of the law, offenders who complete good rehabilitation and have served imprisonment penalties for a specific duration are considered for special amnesty. Regarding minor offenders, the imprisonment penalty term for special amnesty is shorter than for adult offenders.

In addition to these laws, there are numerous sub-law documents providing specific regulations on prevention, handling, education, and rehabilitation of MICWL (please refer to Appendix II).

These laws and codes have been issued since 2010, replacing many legal documents enacted in the previous decade. These laws have introduced many new regulations to improve prevention, treatment, rehabilitation and community reintegration for MICWL, demonstrating drastic reform and establishing a comprehensive, effective, and friendly child justice system that is more responsive to the needs of MICWL.
This Figure only provides a simplified description of different measures for handling offences committed by minors. For a more detailed and thorough understanding, see sections 4-6 under this Part. The arrow between admonition and warning indicates that the former could be used as an alternative to the latter. The two-way arrow between family supervision and rehabilitation at commune/wards/district town indicate that former is an alternative to the latter. However, the order of family supervision could be revoked and the MICWL might be re-subjected to rehabilitation at commune/wards/district town if he or she breaches the conditions of family supervision or commits a new violation.
The child justice system in Viet Nam involves various agencies and organizations. Below are key authorities responsible for the prevention, treatment, education, and rehabilitation of MICWL. Each authority has its own functions, tasks, and powers, and they are required to cooperate with each other to ensure effective prevention, treatment, education and rehabilitation for MICWL. The laws do not specify the agency in charge or the coordinating agency in this area.

The competence to handle administrative violations is entrusted to numerous organisations and individuals, namely chairpersons of people’s committees at different levels, police at different levels and other State administrative agencies. Meanwhile, the competence to impose custodial administrative violation handling measures, including placement into reformatories, is granted to people’s courts only. In the criminal system, key agencies involving in the criminal handling of MICWL include investigation agencies, people’s procuracies, and people’s courts.

- **MPS:** Responsible for the prevention, deterrence, management, and education of MICWL; participating in handling administrative offences committed by minors, investigating and prosecuting criminal cases with minors accused; participating in community-based education and rehabilitation of MICWL, and managing MICWL education and rehabilitation in reformatories and prisons.

- **People’s Procuracy:** Exercises the right to prosecute and supervise the compliance with the law in criminal proceedings, including cases involving accused and defendant minors.

- **People’s Court:** Adjudicates criminal cases with minor defendants and conducts hearings to impose the administrative handling measure of placement in reformatories. The family and juvenile court is a specialized court in the people’s court system, which has jurisdiction over those cases.

- **MOJ:** Performs state management functions on law-making and enforcement; providing guidance and supervising the provision of lawyer and legal counsel services and the implementation of grassroots conciliation; managing and directing the provision of legal aid for children, parents, caregivers and guardians on matters pertaining to children; and disseminating and educating people on legal issues. In addition, since 2013, the MOJ has been tasked with managing the implementation of laws pertaining to administrative violation handling, including collecting data, setting up and managing a national database on the handling of administrative violations.

- **MOLISA:** Performs state management functions related to children, coordinates the implementation of children’s rights and takes the lead on care and protection of children with special circumstances, including children in conflict with the law.

- **People’s Committee at various levels:** Performs state management functions on protection, care and education of children in their jurisdiction; implements national policies, programs, plans and goals related to children, including the prevention, education, and reintegration for MICWL; imposes administrative measures on MICWL within its jurisdiction.

- **Viet Nam Fatherland Front, socio-political organizations and social organizations:** Participate in programs and provide services for children, including prevention, education, and reintegration for MICWL.
2. Key Principles

The handling of MICWL shall comply with the 2013 Constitution’s provisions on protection of human rights, especially the following:

• Everyone is entitled to the inviolability of his or her body and to protection by law of his or her health, honour and dignity; no one shall be subjected to torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health or offending his or her honour and dignity.

• No one may be arrested without a decision of a People’s Court, or a decision or approval of a People’s Procuracy, except in case of a flagrant offense.

• A person charged with a criminal offence shall be presumed innocent until proven guilty according to a legally established procedure and the sentence of the court takes legal effect.

• A person charged with a criminal offence shall be promptly tried in an impartial and public manner by a court within a legally established time limit. In case of a closed trial in accordance with law, the verdict must be publicly pronounced.

• No one may be tried twice for the same offence.

• A person who is arrested, held in custody, temporarily detained, charged with a criminal offence, investigated, prosecuted or brought to trial has the right to defend himself or herself in person or choose a defence counsel or another person to defend him or her.

The general principles of ensuring children’s rights are stipulated in the Law on Children, Article 5, including:

• Non-discrimination against children (Clause 2)

• Ensuring the best interest of the child in any decisions related to children (Clause 3); and

• Children’s opinions and aspirations are respected, listened to, considered and responded to (Clause 4)

The prevention, treatment, rehabilitation and community reintegration for MICWL shall comply with the above principles. The rights to protection during legal proceedings (including criminal, civil, and administrative proceedings) and handling of administrative violations are stipulated in Article 30, Law on Children. Accordingly, children are entitled to protection during legal proceedings and handling of administrative violations, to defend themselves or be defending and have their lawful rights and interests protected. Children are also entitled to legal aid, and to express their opinions. They have the right not to be subjected to unlawful deprivation of liberty, torture, coercion, corporal punishment, infringement of honour, dignity, body harm, psychological stress and other forms of infringement.

Article 70 of the Law on Children also sets out 10 requirements to protect all children in the proceedings, administrative violations handling, rehabilitation and community reintegration. These requirements are:

16 Including children in conflict with the law, children involved in the proceedings as victims, witnesses or for other reasons such as child care and support, among others.
1. Children shall be respected and treated in a fair and equal manner in proportion to their age and maturity level.

2. Cases relating to children affairs shall be handled promptly to minimize mental and physical harm to children.

3. Ensure the active participation of parents, guardians and other legal representatives for children during the course of proceeding and taking of actions against administrative violations for protecting children's lawful rights and interests.

4. Officers conducting legal proceedings or persons competent to handle administrative violations, lawyers and legal aid officers shall have necessary knowledge of child psychology and educational science. Their language must be friendly and understandable to children.

5. Ensure the children's rights to defence and legal assistance are adhered to.

6. Proactively prevent children's illegal acts and recidivism by providing timely support and intervention to correct justifications and factors surrounding illegal acts and assisting children with rehabilitation or recovery and social inclusion.

7. Provide safe, continuous, sufficient and flexible prevention, support and intervention measures in a timely manner and in response to the demands, background, age level and psychological and physiological features of each child, taking into account and giving due importance to their opinions, expectations, feelings, and attitudes.

8. Ensure the close and timely connection between agencies, organizations, child protective service providers, families, educational establishments and presiding authorities, and competent authorities for taking action against administrative violations.

9. Prioritize the imposition of prevention, support and intervention measures, or of Rehabilitation in Communes, Wards or District Towns, or of measures substituting administrative penalties on children violating the law. Coercive and custodial actions shall be resorted to only when other prevention and education measures are not appropriate.

10. Ensure children's privacy and apply necessary measures for limiting the children's appearance in public during the proceedings.

The provision of general principles and requirements for children in contact with the law is a significant advancement of the Law on Children 2016 with an aim to ensure children committing administrative or criminal offences, as well as all other children in contact with the law, are granted with most essential protection. However, this law is only applicable to children who are under 16 years of age; hence these principles are not applied to minor offenders aged between 16 to 18.

In addition to the above-mentioned principles and requirements, specialised principles for handling minors in the administrative and criminal systems are also stipulated in the LHAV, the PC and the PPC. These principles will be discussed in more detail below.
3. Prevention of Offences Committed by Minors

The Law on Children requires competent authorities to proactively prevent children offending and minimize recidivism through the provision of timely support and intervention, to address the causes of and circumstances in which offences are committed, and to facilitate the rehabilitation and community reintegration of children. The Law also requires competent agencies to provide measures to prevent minors from violating the law in a timely, continuous, comprehensive and flexible manner.

According to the Law on Children, child offenders are one of the groups under special circumstances. The law regulates the application of child protection measures in three levels of prevention, support, and intervention to minimize the risk of children under special circumstances violating the law, to mitigate the potentially harmful consequences, and to help children with rehabilitation and community reintegration.

Preventive protection measures are applicable to community, families and all children to prevent them from violating the law by raising awareness, providing information, equipping them with knowledge, skills on child protection and life skills education and creating a safe and suitable environment for children.

Supportive protective measures are applicable to children with risk factors to promptly detect, minimize or eliminate the violation risk to children. These measures may include: warnings of law violation risks, providing consultation of knowledge, skills, and remedies for causes and violation conditions, receiving information, assessing violation risks, and applying necessary supportive measures to address law violation causes and conditions, including facilitation of access to social assistance, education and vocational training.

Preventive protection measures are applied to children violating the law and their families to address the causes and offending circumstances, rehabilitate and avoid recidivism. These measures include medical care, psychotherapy, physical and mental recovery, search, family reunion, consulting and providing legal knowledge, legal aid and access to support policies for children with special circumstances, including social assistance policies.

Decision No. 623/QD-TTg of the Prime Minister dated April 14, 2017, approving the National Strategy on Preventing and Combating Crimes for 2016-2025 with an orientation towards 2030, calls for proactive prevention of crimes by combining social (community- or family-based) preventive measures and those undertaken by the police. This Strategy requires identification of the causes and conditions of crimes, and strengthening communications and dissemination of legal knowledge, with an aim to raise public awareness and increase compliance and proactive engagement of the public in preventing and combating crimes.

The MPS's project on Preventing and Combating Child Abuse, Delinquency of Minor, Domestic Violence and Human Trafficking between 2018 and 2020 also emphasised the need for improving prevention of delinquency of minor. The Project introduces various measures to strengthen prevention of offences committed by minors, including social preventive measures such as creating a safe and healthy living environment for children and supporting children at risk. The project promotes the development and implementation of community-based prevention models, with the target of developing and implementing the model of community-based MICWL support and prevention of offences committed by minors in over 80 per cent of districts and 20 per cent of key communes and wards across the country. The Project also emphasizes the need for strengthening interdisciplinary coordination to prevent offences committed by minors and mobilize the participation
of social organizations, businesses, national and international non-governmental organizations, and individuals. More importantly, the project aims to conduct research and establish a task force against child abuse, offences committed by minors, domestic violence and human trafficking at central level and in hotspot provinces.

In order to prevent offences in general and minor offences in particular, education and dissemination of legal knowledge is one of the measures aimed at awareness raising, knowledge enhancement, and behavioural change. The Strategy on educating and disseminating legal knowledge for the 2016-2025 period sets out a requirement for strengthening education and dissemination of legal knowledge, focusing on hotspot provinces where offences are most prevalent. The Strategy also requires applying diversified methods to disseminate and educate legal knowledge and engage multiple resources from society in doing so.

4. Grassroots Conciliation, Alternatives to Administrative and Criminal Liabilities

The Convention on the Rights of the Child requires Member States to promote, “whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.” To meet this requirement, many countries in the world develop and apply community-based measures to deal with minor law violations in the family, at school or in the community without resorting to judicial authorities. Diversionary measures are also developed to divert MICWL away from the official judicial proceedings and support them to acknowledge, be responsible for their wrongdoings, and rehabilitate in the community.

Under Vietnamese law, offences committed by minors which are not serious enough to be prosecuted for criminal liability or to be imposed with administrative measures, or even those which have constituted a crime but are not prosecuted under the provision of law, would be reconciled at the grassroots level under the LGC. In principle, Vietnamese law encourages authorities to refrain from resorting to administrative or criminal liability unless it is unavoidable. The LHAV states “administrative measures shall be applied to minor offenders only in cases of necessity to educate and help them redress their wrongdoings, develop healthy lifestyles, and become constructive citizens to the society” (Article 134, Clause 1). The PC also stipulates “criminal prosecution of people aged below 18 years shall be applied only in case of necessity and must be based on their personal background, the danger of such offences exposed to society and the need of crime prevention” (Article 91, Clause 3).

4.1. Grassroots Conciliation

Conciliation at the grassroots level is conducted with the involvement of a facilitator who guides and helps relevant parties reach an agreement to voluntarily resolve their conflicts, disputes and law violations. Grassroots conciliation is conducted to resolve conflicts, disputes, and law violations, except in the following cases: contradictions and disputes over the interests of the State and public interests; violations on marriage and family law which are not subject to conciliation according to the civil procedure legislation; and law violations that must be prosecuted for criminal liability or handled with administrative measures according to regulations. Grassroots conciliation activities are mainly governed by the LGC 2013 and Decree No. 15/2014/ND-CP.

17 CRC, Art. 40(3).
18 This includes, for example, cases, which can be prosecuted only at the request of the victims as prescribed by law, but the victim does not so request, and which are not administratively handled by competence agencies either. See Art. 5, Decree 15/2014/ND-CP dated 27 Feb 2014 detailing some provisions and measures for implementation of the Law on Grassroots Conciliation.
Grassroots conciliation is applied to MICWL in the following cases:

- The violation committed is minor and does not amount to a criminal charge or administrative measures.

- The criminal offence is committed but is neither prosecuted under the PPC nor imposed with administrative measures by competent authorities. For instance, the offender is below the minimum age of criminal liability, or the criminal prosecution period has expired.

- A criminal offence is committed but falls in the category of being prosecuted only at the request of the victim and the victim does not make such request or has withdrawn the request; thus, the offender is not imposed with administrative measures according to regulations.

- The offender is exempt from criminal liability or the offender is no longer a danger to society due to a change of circumstance and is not imposed with administrative measures by competent authorities in accordance with the law.

- The offender is exempt from criminal liability because before the offence was detected, the offender confessed and clarified the incident, which facilitates crime detection and investigation, and made efforts to remedy the crime consequences, so is not handled with administrative measures by competent authorities according to the law.

- The offender is exempt from criminal liability due to amnesty and not handled with administrative measures by competent authorities in accordance with the law.

- The offender is exempt from criminal liability because the committed offence is less serious or is serious but does not cause significant harm. The offender is monitored and educated by family and organizations and is not handled with administrative measures by competent agencies according to the law.

In addition, grassroots conciliation may also be applied for offenders who are subjected to education measures in communes, wards or towns or are eligible to be applied with diversionary measures as an alternative to administrative measures.

The LGC regulates the establishment of a grassroots conciliation organizations network in villages, hamlets and residential groups. Facilitators must be permanent residents and voted for by the households in those villages, hamlets and residential groups. The facilitators shall have good moral qualities, a good reputation in the community, good ability to persuade and engage people, and possess legal knowledge. The budget for grassroots conciliation activities is funded by the government and covers office supplies, team meetings and remuneration for facilitators on a case-by-case basis.

When conducting conciliation activities, it is necessary to ensure that the parties' willingness is respected; it is conducted in an objective, fair, timely, and reasonable manner; the privacy, legitimate rights and interests of the parties, and legitimate rights and interests of others shall be respected; the state or public interests shall not be compromised; gender equality is ensured and other principles set by the LGC are followed.

Particularly, the LGC requires that legitimate rights and interests of children shall be considered in grassroots conciliation activities. However, there are no specific regulations in conciliation law.
to guarantee that the specific needs and vulnerabilities of MICWL are recognized and met in the conciliation process.

4.2. Alternatives to Administrative Liability

The LHAV provides two new measures introduced by law for the first time as alternatives to administrative liability for juveniles - Admonition and Family Supervision. Minors in conflict with the law imposed with these measures will not be considered as having been handled for administrative violations.

1) Admonition is an alternative measure to a warning, applied to minors who have voluntarily declared and sincerely apologized for their offences. This measure is decided by an individual with sanctioning authority during the decision-making process to handle an administrative violation and is made verbally and on the spot.

2) Family Supervision is an alternative to education in communes, wards, and towns, and is applied to those between 14 to 18 years of age who have committed theft, fraud, gambling or public order disturbance at least twice in six months but whose offences have not amounted to criminal charges. This measure is applied to juveniles when all the following conditions are met:

- Having declared and sincerely apologized for their offences;
- Having a living environment suitable for this measure; and
- Parents or guardians are eligible to monitor and voluntarily take responsibility for monitoring at home.

The Chairman of the Commune People's Committee shall decide to apply the Family Supervision measure in a period of between three to six months. The family is responsible for monitoring minors under this measure; organizations and individuals close to the juvenile's residence are assigned to coordinate with the family to monitor minors and supervise the implementation. During the period in which this measure is enforced, minors are permitted to go to school or to attend other academic or vocational programmes and participate in counselling and life skills development programmes in the community.

4.3. Exemption of Criminal Liability

It is stipulated in the PC that criminal prosecution is applied to minors only if necessary and criminal liability exemption is applicable to minor offenders if the three following conditions are met:

- There are many extenuating circumstances of criminal liability;
- Minors voluntarily remedy the majority of the consequences caused by the criminal offences; and
- Minors committed the crime in one of the circumstances below:

  - People aged 16 to 18 years committing a less serious offence; committing a serious offence except for the following eight crimes: deliberate infliction of bodily harm upon another person, rape, snatching, illegal production of drugs, illegal possession of drugs, illegal transportation of drugs, illegal trade of drugs, and appropriation of drugs;
People aged 14 to 16 years committing very serious crimes\(^\text{19}\), except for murder, deliberate infliction of bodily harm upon another person, rape, rape of a child under 16 years, forcible intercourse of a child aged 13 to below 16 years, human trafficking, trafficking in children under 16 years, robbery, illegal production of drugs, illegal possession of drugs, illegal transportation of drugs, illegal trading of drugs, and appropriation of drugs; or

Being an accomplice with a minor role.

Along with the exemption from criminal liability, the investigation agencies, procuracy or court will impose one of three measures: (1) admonition; (2) conciliation in the community; or (3) education in communes, wards, and towns for minor offenders. The PC also stipulates that a minor is only exempted from criminal liability if he/she or his/her legal representative agrees with the application of one of the said measures.

Before the introduction of the PC 2015, the PC 1999 regulated the exemption from criminal liability for minor offenders who committed less serious or serious offenses, causing inconsiderable harm, and were supervised and educated by their families, agencies or organizations. This did not apply to minor offenders aged 14 to below 16 years, who are found to be criminally liable for very serious crimes or particularly serious crimes. The PC 2015 has extended the scope of application for both the cases of very serious offences and accomplice in crime with a minor role, so offenders aged between 14 and 16 years are also eligible for this regulation.

The exemption from criminal liability and the application of supervisory and educational measures could be taken at any time during the proceedings of the case, including investigation, prosecution or adjudication stage, and by the procedure-conducting agency.

In addition to the above-mentioned three circumstances, the PC allows exemption of offenders, including minors, from criminal liability in the following cases to encourage them to actively contribute to crime detection and investigation, repair the damage caused by the crime or otherwise make up for the wrongdoing, as well as promoting conciliation between victims and offenders:

- Offender voluntarily confesses, clarifies the incident, effectively contributes to the crime detection and investigation, tries to minimize the consequences of the crime and achieves success or has special dedication recognized by the state and society.

- Offender commits less serious crimes or serious crimes by accident unintentionally causing harm on someone’s life, health, reputation, dignity or property and is voluntarily reconciled and requested for exemption from criminal liability by the victim or a representative of the victim.

Furthermore, an offender might be exempt from criminal liability if, during the process of investigation, prosecution, or adjudication, she or he is no longer considered a danger to society due to various

---

\(^{19}\) It should be noted that under the PC 2015, minors aged 14 to below 16 years are only criminally liable if they have committed a very serious crime with intention or particularly serious crime prescribed in one of the 28 crimes listed in Art. 12(2). Excluding the above-mentioned crimes, minors in this age group will be exempt from criminal liability if they have committed a very serious crime with intention or a particularly serious crime prescribed in one of the following articles: Art. 143 (Forcible intercourse), Art. 169 (Kidnapping for ransom), Art. 170 (Extortion), Art. 265 (Organizing illegal street races), Art. 266 (Illegal street racing), Art. 286 (Spreading software programs harmful to computer networks, telecommunications network or electronic devices); Art. 287 (Obstruction or disruption of computer network, telecommunications network or electronic devices); Art. 289 (Illegal access to others’ computer network, telecommunications network or electronic devices); Art. 290 (Appropriation of property by computer network, telecommunications network or electronic devices); Art. 299 (Terrorism); Art. 303 (Destruction of works, facilities or vehicles important to national security); and Art. 304 (Illegal fabrication, possession, trafficking, use, trading or appropriation of military weapons or military equipment).
reasons, or in case of general amnesty.  

5. Handling Administrative Violations of MICWL

Minors in conflict with the law may be subjected to forms of penalties for administrative violation such as administrative violation fine or administrative sanction depending on the level of violation. Before the LHAV came into force, the handling of administrative violations was implemented in accordance with the Ordinance on Handling of Administrative Violations 2002 (amended in 2008). The LHAV 2012 was adopted to replace this Ordinance, reserving a separate section with specific rules on handling principles, measures and remedies, and administrative handling measures applicable to minors.

Administrative sanctions, including warning, fine, and confiscation of material evidence and means used for administrative violations, shall be applied to minors committing administrative violations stipulated in decrees on administrative sanctions against violations in state management areas. The sanctioning powers, orders, and procedures follow the LHAV and relevant decrees detailing its articles. Administrative handling measures applied to minors include reformatory schools or commune, ward and township-based education. The competence and procedure for imposing those measures are stipulated in the LHAV; the Ordinance on the order and procedure of applying administrative handling measures at the People's Courts; Decree 111/3013/ND-CP providing guidance for commune, ward and township-based education; Decree 56/2016/ND-CP; and Decree 02 details measures of reformatory schools or compulsory educational establishments (please refer to Appendix 1).

5.1. Principles of Handling Administrative Violations Applicable to Minors

The handling of administrative violations applicable to minors must first comply with the general principles on handling administrative violations prescribed in Article 3 of the LHAV, including principles to ensure legal protection for violators, such as:

- Administrative sanctioning shall be applied on administrative violations as prescribed by law; administrative handling measures shall be applied to subjects prescribed by law;
- Each administrative violation shall be sanctioned only once;
- The sanctioning of administrative violations shall be based on the nature, severity and consequences of these violations, violators’ circumstances, and extenuating and aggravating factors;
- Persons with sanctioning competence shall bear the burden of proving administrative violations. Sanctioned individuals and organizations have the right to prove, on their own or through their lawful representatives, that they have not committed any administrative violation.

In addition to the above-mentioned principles, the LHAV stipulates unique and special principles for the competent authority to consider and apply during the process of handling administrative violations committed by minors. Under these principles, administrative measures shall be applied to minor offenders only in cases of necessity to educate and help them redress their wrongdoings, develop healthy lifestyles, and become constructive citizens in society. The law also requires the best interests for minors shall be considered in the handling process of administrative violations. More importantly, the law limits the imposition of placement in reformatories by requiring that this measure only be resorted

20 Art. 29 of the PC (2015).
to in cases where there are no other appropriate measures. The principle of proportionality in handling MICWL is also recognized; it requires that the person handling an administrative violation consider the person's awareness of the danger to society, and the cause and the circumstances of the violation in order to decide the sanctioning or application of appropriate administrative handling measures. The law requires that the application of sanctions and decisions on penalties for minors committing administrative violations must be lighter than for adults with the same administrative violations. A fine shall not apply to individuals between the ages of 14 and under 16 violating administrative regulations. The fine which does not exceed one half of the fine applicable to adults shall apply to individuals between the ages of 16 to under 18 years of age. In cases where minors do not have the ability to pay the fine or take remedial actions, their parents or guardians must pay it instead. In the process of handling minors committing administrative violations, that person's privacy must be respected and protected in accordance with the law.

5.2. Administrative Sanctioning

a. Minors Subject to Administrative Sanctions

Administrative sanctions are imposed on persons aged 14 or older, and persons aged between 14 and 16 shall only be sanctioned when they commit intentional administrative violations. Persons aged 16 or older shall be sanctioned for administrative violations of all types.

b. Forms of Sanctions and Remedies

The LHAV stipulates 3 forms of administrative sanctions applied to minors - a warning, a fine, and confiscation of material evidence and means used for commission of administrative violations.

Warning

The LHAV regulates that warnings are the main handling form applied to all administrative violations committed by minors aged 14 to 16. As mentioned above, minors subject to a warning would be diverted to Admonition - an alternative to administrative sanctions, if they have voluntarily declared and sincerely showed remorse for their offences. By way of promoting the application of diversionary measures, Decree No. 81/2013/ND-CP stipulates that people with administrative handling authority shall only issue a warning to minors when there are insufficient conditions for the application of Admonition.

Fine

Issuing a fine is also a key measure applicable to minors aged 16 years or older. When a fine is applied in accordance with relevant decrees on handling administrative violations in fields on state management, authorized persons must determine the amount of the fine applicable to the minor, which shall not exceed half of the amount applicable to adults for the same violation; the event that the offender is not able to pay, the fine shall be paid by their parent or guardian.

Confiscation of material evidence and means used for administrative violations

Confiscation of material evidence and means used for administrative violations is the forfeiture into the state budget of supplies, money, goods, and means directly related to the administrative violation and is applicable to serious administrative violations intentionally committed by minors. This sanction can be applied independently as a main sanction or accompanied by a warning or fine as an additional sanction.
Confiscation of material evidence and means shall only apply if such penalties are stipulated for MICWL in the decree on administrative sanctioning in state management areas.

The law also prescribes that in cases where it is impossible to tell the exact age of a minor offender, persons who have the power to issue penalties shall select a penalty that most benefits the offender.\(^{21}\)

**Remedies**

In addition to the abovementioned sanctions, MICWL could also be imposed with one or more of the following remedies:

- Forced restoration to the original state;
- Forced execution of measures to remedy environmental pollution and epidemic spreading;
- Forced destruction of goods and articles harmful to human health, livestock, plants, and environment; cultural products with harmful content;
- Forcible refund of illicit profits earned through the commission of administrative violations or money amounts equivalent to the value of administrative violation, material evidence or of goods that have been illegally sold, dispersed or destroyed.

Regarding these remedial measures, the LHAV stipulates that if minors are not capable of implementing such measures, their parents or guardians shall carry them out.

**c. Sanctioning Procedures, Sanction Execution and Coercive Execution of Sanctioning Order**

Administrative sanctions for minors are enforced in accordance with the general sanction procedures stipulated in the LHAV.

In case of a warning or a fine of up to VND 250,000, the person with sanctioning authority shall issue a decision to sanction administrative violations on the spot. A warning decision or a fine to minors must be sent to their parents or guardian.

In other cases, the sanctioning for administrative violations are conducted through the following steps:

1. Prepare minutes of the administrative violation. The minutes must be sent to the minor and their parents or guardians;
2. Clarify the administrative violation details, including the value of the violating evidence material;
3. Provide an explanation;
4. Decide on whether to impose sanctions, or not proceed with sanctioning administrative violations or transfer dossiers for criminal prosecution. Sanction decisions must be sent to the minor and their parents or guardians;
5. Enforce the decision on sanctioning.

In principle, if a minor cannot afford the fine or is not capable of executing the remedies, his or her parent(s) or guardian(s) will do so on his or her behalf. If they fail to comply with the decision on

\(^{21}\) Art. 14, Decree 81/2013/ND-CP detailing a number of articles in LHAV and enforcement measures.
sanctioning, they shall be forced to execute the measures. The law does not prescribe any separate procedure of executing the decision on MICWL sanctioning.

5.3. Administrative Handling Measures Applicable to Minors

Administrative handling measures can be imposed on minors who conduct acts showing signs of crime but are under the minimum age of criminal liability or minors who repeatedly commit acts of violation interfering with the society’s order and safety. The LHAV stipulates two administrative handling measures applicable to MICWL, including Rehabilitation in Communes, Wards or District Towns and placement in reformatories.

It is necessary to note that prior to the issuance of the LHAV in 2012, in accordance with the Ordinance on Handling Administrative Violations, sex workers aged between 16 and 18 were also liable for placement in treatment units, in addition to the two aforementioned administrative handling measures. However, the LHAV abrogated placement in treatment units for sex workers, including people aged between 16 and 18.

a. Rehabilitation in Communes, Wards or District Towns

Rehabilitation in Communes, Wards or District Towns is the administrative handling measure imposed on people in conflict with the law in order to educate and monitor them at a place of residence in cases where isolation from the community is considered unnecessary.

Minors Subject to Rehabilitation in Communes, Wards or District Towns

Minors subject to this measure are:

- A minor aged between 12 and 14 who has intentionally committed an act of violation that contains elements of a very serious crime as prescribed by the PC;
- A minor aged between 14 and 16 who has intentionally committed an act of violation that contains elements of a serious crime as prescribed in the PC;
- A minor aged between 14 and 18 who has, twice or more, within a six-month period, committed larceny, swindling, gambling or caused public disorder but which charges do not amount to criminal charge. However, in this case, a minor aged between 14 and 18 could be subject to the diversionary measure of Family Supervision.

Minors falling into above-mentioned criteria who have no permanent place of residence will be referred to social welfare, or agencies for child support to monitor and educate in the period of execution of education in communes, wards, or district towns. This is in lieu of placing them in reformatories as provided in the previous Ordinance of Handling Administrative Violations.

Time Limit

The period of education in communes, wards, or district towns is within 3 to 6 months, depending on the severity of the violation and the individual’s behavior.
on the characteristics, level of seriousness and consequences, circumstances of the minor, and aggravating and extenuating circumstances.

**Competence to Impose Rehabilitation in Communes, Wards or District Towns**

The Chair of the Commune People's Committee considers and makes decisions on imposing education in communes, wards, and district towns.

**Procedures**

The imposition of education in communes, wards, and district towns to MICWL is carried out through five steps.

**Figure 2. Procedure for Rehabilitation in Communes, Wards or District Towns**

<table>
<thead>
<tr>
<th>STEP 1 - PREPARE THE CASE FILE</th>
</tr>
</thead>
<tbody>
<tr>
<td>The police prepare the case by: collecting information on the violation and background of the minor; seeking comments from the parents, school, unit, or organization which the minor works for and officer in charge of child affairs. Contents in the case file are kept confidential.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 2 – REFER THE CASE FILE AND INFORM ON THE RECOMMENDATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>The case file is referred to The Chair of Commune People’s Committee. The preparation for the case file recommending education in communes, wards, and district towns shall be notified to parents or guardians of the minor</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 3 – REVIEW THE LEGAL ASPECTS OF THE CASE FILE</th>
</tr>
</thead>
<tbody>
<tr>
<td>The officer of civil justice status reviews the legal aspects of the case file. Parents or guardians of the minor are allowed to get access to, take note and make copies of necessary contents in the case file.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 4 – ORGANIZE A HEARING</th>
</tr>
</thead>
<tbody>
<tr>
<td>A hearing is organized to discuss whether it is necessary to impose education in communes, wards, and district towns, as well as the possibility of applying home management measures as an alternative. The meeting is led by the Chair of Commune People’s Committee, with participation of the police, representatives of social organizations, child affairs collaborator, the minor and his or her parents.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 5 – MAKE DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Chair of Commune’s People Committee makes a decision on the imposing the measure and assigns competent agencies to monitor and educate the minor.</td>
</tr>
</tbody>
</table>
Compared to the Ordinance on Handling of Administrative measures (2002), the procedures on imposition of education in communes, wards, and district towns under the regulation of the LHAV have proved a significant improvement toward greater transparency, democracy and openness with the full participation of minors and their parents. Representatives of schools, social organisations, and child protection officers are engaged in this process to provide more information on the child, thereby ensuring the review and decision-making processes consider the needs of the child.

**b. Placement in Reformatories**

Placement in reformatories is the administrative handling measure applied to minors in conflict with the law, which serves the purpose of helping them acquire basic literacy, vocational training, working, living under the management of the reformatory.

**Minors Subject to Placement in Reformatories**

Minors subject to this measure include:

- A minor aged between 12 and 14 who has intentionally committed an act of violation that contains elements of an especially serious crime as prescribed in the PC;

- A minor aged between 14 and 16 who has unintentionally committed an act of violation that contains elements of a serious crime as prescribed in the PC;\(^{23}\)

- A minor aged between 14 and 16 who has intentionally committed an act of violation that contains elements of a serious crime as prescribed in the PC and who has previously been educated at a commune, ward or district town; \(^{24}\)

- A minor aged between 14 and 18 who has, twice or more within six months, committed larceny, swindling, gambling or causing public disorder, but not seriously enough for criminal prosecution and has previously been educated at communes, wards or district towns.

The LHAV requires that the imposition of placement in reformatories shall be used as the last resort when there is no other appropriate measure, in order to ensure the best interests of minors. In comparison with the Ordinance on Handling Administrative Violations, the LHAV has considerably narrowed the scope of imposing of placement in a reformatory. For example, according to the Ordinance of Handling Administrative Violation, MICWL with no permanent place of residence could be placed in a reformatory when after committing a violation for which the person with a permanent place of residence may only be educated in communes, wards, and district towns. The Law on Handling of Administrative Violations has removed this regulation. Accordingly, minors with no permanent place of residence will only be educated at communes, wards, and district towns; they will also be provided accommodation at a social welfare facility while executing this measure.

**Time Limit**

The period for imposing placement in reformatories lasts from 6 months to 24 months depending on the nature, severity and consequences of the administrative violation, circumstance of the minor, as

\(^{23}\) Under the old Ordinance on Handling of Administrative Violations, minors aged 12 and above, if committed the above-mentioned violation, shall be placed in reformatories.

\(^{24}\) Similarly, under the old Ordinance on Handling of Administrative Violations, minors aged 12 and above, if committed the above-mentioned violation shall be subjected to placement in reformatories.
well as aggravating and extenuating circumstances.

**Competence to Place MICWL in a Reformatory**

The District People’s Court is the competent authority to impose the placement in reformatory. Judges for handling these cases are the ones who have an adequate understanding of psychology, educational science and precautionary activities against law violations of minors. From 11 March 2016, the family courts and the District people’s courts are entrusted to consider and decide imposition of placement in reformatory.

It is necessary to note that before the LHAV was adopted, the competence to impose the placement in reformatories lay with the Chair of the District’s People Committee. The transfer of authority for imposing this measure from an administrative organ to a judicial agency is a major institutional change with a view to strengthening legal protection for MICWL, in alignment with the CRC and international norms on child rights.

**Procedures**

The imposition of placement in reformatory to MICWL is carried out through 5 steps, including (1) prepare the case file, (2) notify the preparation of the case file and review the legal aspects of the case file, (3) transfer the case file to the commune-level people’s court, and (4) decide on imposing placement in reformatory.

In comparison with the last Ordinance of Handling Administrative Violations, the procedure for placement in reformatory as provided by the LHAV shows improvement in its attempt to ensure the rights of minors and enhance the publicity and transparency in imposing this measure.

According to the provision of this Law, parents or legal representative of the minor are eligible for full participation in this process. Parents or legal representatives of the minor are also to be invited to attend the hearing meeting of District People’s Court and deliver opinions for consideration and imposition of this measure.

In order for the judge to have necessary information about the minor during decision-making and for the imposition of placement in reformatory, the law requires gathering of comments from the school where the minor attends, or the unit or organization where he works, as well as the attendance of the representative from District Department of Labour, Invalids and Social Affairs, the interpreter, the experts on healthcare, education, and psychology in the meeting.

The case file transferred to the reformatory must be reviewed by the District justice organ on legal aspects for ensuring that documents are sufficient and that the subject, statute of limitations, authority, order, and procedure of case file preparation are in strict conformity with the law.

Consideration and decision-making at the District People’s Court follow the rule stipulated in the Ordinance Number 09/2014/UBTVQH13. The minor or the parents or guardian of the alleged minor are able to defend the minor or to have a lawyer to protect the legitimate rights and interests of the minor. If that person does not have a protector of legitimate rights and interests, the court requests a lawyer

---

25 Circular 01/2016/TT-CA dated 21/1/2016 of SPC stipulates organizing specialized courts at people’s courts in central-level provinces and cities, people’s courts of communes, towns of provincial level and equivalences. However, on completion of this report, the court of family and juveniles has only been established at provincial level in several provinces and cities across the country.
team to assign a lawyer to protect the alleged minor’s legitimate rights and interests.

5.4. Measures to Prevent Administrative Violations and to Ensure the Handling of Administrative Violations

In the process of considering and making decisions for handling administrative violations, a juvenile could be handled with one or a number of measures to prevent administrative violations and to ensure the handling of administrative violations, such as 1) detention; 2) escort; 3) custody of material evidence and or means of the administrative offences; 4) physical search; 5) inspection of means of transport and objects; 6) searches of places where material evidence and or means of administrative offences might be hidden; 7) management of foreigners who have violated Vietnamese law while expulsion procedures are carried out (this measure shall only be applied to foreigners having administrative violations); 8) refer to family, organization for monitoring people proposed for imposition of administrative handling measures during the period of finishing procedure of administrative handling measures; 9) search for subjects who have to serve decisions on their placement in reformatory, if they have escaped.

Basically, the imposition of these measures is not different for minor and adult offenders, except the detention measure. It is required by the LHAV to clearly write the full name of father, mother, or guardian of the person in custody. In cases where the detainee is a minor and is detained at night or for more than 6 hours, the person issuing the decision shall inform the detainee’s parents or guardian immediately. If it is impossible to identify the parents or guardians, or it is impossible to notify them due to an objective cause, immediate notification must be sent to a detainee, and the cause needs to be written clearly in the book for monitoring administrative detainees. The law also requires minors to be kept separated from adults and be protected by specialized officers.

6. Criminal Handling of Minor Offenders

The criminal handling of minor offenders is mainly stipulated in the PC, PPC, Law on Execution of Criminal Judgments, Law on Execution of Civil Judgments (related to the enforcement of fines) and other sub-law documents (see Appendix II).

Since the previous reporting period, the laws related to criminal penalties applicable to minors have had important changes. In particular, the PC 2015 (amended in 2017), PPC 2015, LOPC 2014, and the Law on Legal Aid 2017, have prioritised measures of education and rehabilitation within the community in place of detention, and enhanced the protection and support for minor offenders through friendly proceedings and support services.

6.1. Scope of Criminal Liability of Minors

Under the provisions of the PC, minors are criminally handled in the following cases:

- Minors aged between 14 and under 16 years who deliberately commit very serious crimes or commit particularly serious crimes;

- To limit the number of criminal handling of minors, the PC 2015 has significantly narrowed down the scope of criminal liability of people from 14 to under 16 years. Specifically, minor offenders belonging to this age group shall only be subject to criminal liability for 28 out
of the 314 offences specified in the PC, which belong to four groups of criminal offences: (1) crimes infringing upon human life, health, honour, and dignity; (2) crimes on ownership infringement; (3) drug-related crimes; and (4) crimes infringing upon public safety.

- Minors aged 16 years or older who commit any crimes specified in the PC.
- The PC 2015 also narrowed down the scope of criminal liability for minors on preparation to commit crimes - minors are only subject to criminal liability for preparation to commit the offenses of murder and robbery. Persons aged 16 to under 18 shall be liable for preparing for a criminal act, which is one of the 25 crimes stipulated in Clause 2, Article 14, PC.

6.2. Criminal Policies Applicable to Minor Offenders

The handling of minor offenders is regulated in a separate chapter in the PC. The PC stipulates that the purpose of dealing with minor offenders is to educate and help them redress their wrongdoings, develop healthy lifestyles, and become constructive citizens of the society. The PC requires ensuring the best interest of minor offenders in the process of handling along with specific criminal policies as follows:

- The handling of minor offenders shall be in proportion to the minor’s age and their awareness of the danger of the criminal acts to society, the causes and conditions of their crimes;
- The criminal liability examination of minor offenders shall be conducted only in cases of necessity, based on the minors’ personal background, the nature of danger to the society of criminal acts, and the need for crime preventions.

The PC also stipulates the exemption from criminal liability and application of supervision and education measures for people below 18 years who commit crimes. In particular, compared with the PC 1999, the PC (2015) has: i) expanded the scope of application of criminal liability exemption measures for people from 14 to below 16 years; ii) more clearly defined conditions for criminal liability exemption; iii) specified three monitoring and education measures including admonition, conciliation in the community and education at communes, wards and district towns for people exempted from criminal liability.

- Life imprisonment or death penalty shall not be applicable to minor offenders;
- Penalties shall not be applied for minor offenders if exemption of criminal liability and application of monitoring and education measures within the community or judicial education measures at reformatories are deemed not effective enough for education or prevention. In the event of a penalty required, a termed imprisonment penalty must be the last resort with the shortest appropriate period of time;
- No additional penalties shall be applied to minor offenders;
- Sentences to people below 16 years are not taken into account for determining recidivism or dangerous recidivism.

6.3. Penalties and Judicial Measures Applicable to Minor Offenders

According to the PC, sanctions applied to minor offenders have several unique points compared to
those applicable to adult offenders. The PC stipulates that minor offenders will be subject to one of the following penalties or judicial measures:

- **Punishments**: The PC prescribes four types of penalties that can be applied to minor offenders: (1) a warning; (2) a fine; (3) non-custodial reform; and (4) termed imprisonment. Of the four penalties, only termed imprisonments are custodial penalties.

- **Judicial measures**: Education at reformatory schools.

### 6.3.1. Penalties

Based on personal profile, age, awareness of the dangerous nature of behaviour, the severity of crimes, aggravating and extenuating circumstances and requirements for crime prevention, minor offenders would be subject to one of the following penalties:

**Warning**: applied to offenders who have committed less serious crimes and with many extenuating circumstances, but not to the extent of penalty exemption. As minors aged between 14 and below 16 are not criminally responsible for less serious offenses, this penalty applies only to minors aged between 16 and under 18 years.

**Fine**: applied as the principal penalty for minors aged between 16 and below 18 who have committed less serious offenses, serious offenses or very serious offences that violate economic and environment management orders, public orders, public safety and some other crimes prescribed by the PC, if the offender has income or private property. The Court, depending on the nature and severity of the crime, shall decide the level of the fine. The fine level applicable for minors must not exceed half of the fine level prescribed by the legal provisions for adults and shall at the same time take into account the property situation of minor offenders.

**Non-custodial reform**: applied to minors aged between 16 and under 18 who commit less serious crimes, serious crimes or unintentionally commit very serious crimes, or children from 14 to below 16 years who commit very serious crimes but have a stable place of work or residence and it is deemed unnecessary to isolate him or her from the society. In comparison to the provisions of the PC (1999), the PC (2015) has expanded the scope of applying non-custodial reform penalties to people from 16 to under 18 years who unintentionally commit very serious offences and people from 14 to below 16 who commit very serious crimes which are listed among 28 crimes in the PC (2015), Article 12, Clause 2. The period of non-custodial reform for minor offenders shall not exceed one-half of the term prescribed by the law for an adult (a maximum of 18 months). When applying this penalty, the Court assigns minor offenders to an agency or organization where she or he works or to the local authorities where she or he permanently resides to supervise and educate, in close coordination with the minor’s family. Minors must perform certain prescribed obligations, including strict adherence to State policies and laws; active participation in public labour and learning activities; no violations of the school’s rules and regulations; regular report and self-assessment of the learning process submitted to the agency or organization responsible for supervision and education. Minors are not subject to any partial deduction of income when this penalty is imposed.

**Termed Imprisonment**: is the most serious penalty for minor offenders. The PC states that the term of imprisonment must be lighter than that applicable to an adult. In comparison to the PC (1999), the PC (2015) includes the principles of applying imprisonment penalties only when other penalties and educational measures are deemed ineffective for deterrence and prevention. Specific terms are decided based on the age of the minor and the nature of the crime complying with the following principles:
• For persons aged between 16 and under 18: The highest penalty shall not exceed 18 years of imprisonment (if the applicable law stipulates life imprisonment or death penalty), or no more than three-fourths of the imprisonment term prescribed by the law;

• For persons from 14 years to under 16: the highest penalty applied is no more than twelve years of imprisonment (if the applicable law stipulates life imprisonment or death penalty) or not more than one-half of the imprisonment term prescribed by the law.

Suspended Sentence: A suspended sentence is not a penalty but a conditional exemption (from the execution of a termed imprisonment). The Court may grant the juvenile a suspension for the prison sentence of no more than three years and set a test period of one to five years if the minor has good profile, with two or more extenuating circumstances, has a stable workplace and place of residence, and if giving them a suspended sentence will not endanger the society or adversely affect security, social order and safety. During the test period, the Court assigns the minor offender to the agency or organization where she or he works or the local authority where she or he permanently resides to supervise and educate.

The PC 2015 also stipulates the conditional termination before due term of imprisonment (Articles 66 and 106) in order to provide minors under imprisonment an opportunity to return and reform within the community. A minor who is serving a prison sentence could be released by the Court before due term when all the following conditions are satisfied: (a) crimes committed for the first time; b) great progress with a good reform attitude; c) one-third of the imprisonment term served; and d) a stable residence.

6.3.2. Judicial Measures

The PC stipulates that when judging minors, the Court must give priority to the application of criminal liability exemption or judicial measures - with the nature of an educational and preventive measure instead of a penalty.

The PC 2015 stipulates educational measure at reformatory schools as one judicial measure for minor offenders. This measure is imposed to minors aged 14 to below 18 if it is deemed necessary to bring that minor to a disciplined educational institution due to the serious nature of the offence, and the minor’s personal profile and living environment (Article 96). The term of this measure is from one to two years. Minors imposed with the educational judicial measure at reformatories shall not have a criminal record.

6.4. Procedures for Handling Minor Offenders

The PPC 2015 sets aside a separate chapter regulating special criminal procedures for minors, including minor offenders (Chapter 32). These regulations have been specified in Joint Circular No. 06/2018/TTLT-VKSNDTC-TANDTC-BCA-BTP-BLDTBXH (Joint Circular 06/2018).

The initiation, investigation, prosecution, and adjudication of minor offenders must comply with fundamental procedural principles stipulated by the PPC, including the principles of respect and protection of human rights, legitimate rights and interests of individuals, equality before the law, inviolability of the body, protection of individuals’ life, health, honour, dignity and property of...
individuals, presumption of innocence, double jeopardy, and other legal safeguards of people under arrest, accused, and defendants. In addition to the general criminal procedural principles, the handling of minor offenders must comply with the following specific procedural principles:

- Ensuring friendly proceedings which are appropriate to minor psychology, age, maturity, and cognitive capability;
- Ensuring the best legal rights and interests of the minor;
- Ensuring privacy and confidentiality;
- Ensuring the right to participate in the proceedings of the minor’s representative, school, the youth union, experienced people with psychological and social knowledge and other organizations where the minor studies, works, and lives;
- Respecting the minor’s right to participate and express their opinions;
- Ensuring the minor’s right to defence and legal aid;
- Quickly and promptly resolving cases related to the minor.

**Persons conducting criminal proceedings**

According to the PPC, investigators or investigation officials, prosecutors, and judges assigned to conduct proceedings against minor offenders must be trained or experienced in investigation, prosecution and adjudication of cases involving minors, along with necessary knowledge about minor psychology and pedagogy. The CPC requires that the trial panel include a juror who is a teacher or a member of the Ho Chi Minh Communist Youth Union or experienced people with minor psychological knowledge.

**Issues to be identified during the proceedings**

In the course of an investigation, prosecution, and adjudication the PPC requires the following to be specified: 1) minor’s age, physical and mental development level, awareness of criminal acts; 2) living and educational conditions; 3) with or without incitement from an adult; 4) causes and conditions of crime.

**Application of deterrent measures**

The 2015 PPC provides for numerous deterrent measures that can be applied to prevent offenders from commission of crimes, fleeing or obstruction of justice. These include freedom-restricting measures such as arrest, custody, and detention, as well as non-freedom-restricting measures, such as bail, surety, and ban from travel outside of the residence.

Under the new PPC, deterrent and police escort measures will only be applied to minors in cases of absolute necessity. Freedom-restricting deterrent measures are reserved for cases in which there is reason to believe that supervisory or other non-freedom-restricting measures would be ineffective. The PPC also requires the individual who issues the arrest, custody, or detention order to inform the minor’s parents or guardians within 24 hours after arrest, custody or detention. Under the Law on

27 Chapter 2, PPC.
Execution of Custody and Detention, minor offenders shall be kept in a separate area from adults when under custody or detention.

The previous PPC 2003 was criticized for stipulating lengthy detention durations, which were applicable to both adult and minor offenders. Furthermore, detention durations could be extended throughout the criminal proceedings, even up to three times during the investigation stage. Thus, a minor offender who was charged with a particularly serious crime could be detained pending trial for up to 22 months. To address this shortcoming, significant reform was introduced by the PPC 2015 to reduce the length of detention by minimising the scope of extension of detention and limiting detention duration applicable to minors to two-thirds of that applicable to adults. As a result, the duration of detention for minor offenders was shortened substantially. Specifically, the maximum detention durations applicable to minors who committed a less serious crime, serious crime, very serious crime, and particularly serious crime were cut down by 33 per cent (from five months and 15 days to three months and 20 days), 41 per cent (from nine months to five months and 10 days), 43 per cent (from 13 months and 15 days to seven months and 20 days), and 45 per cent (from 22 months to 12 months) respectively.

### Table 2. Comparison of Temporary Detention Duration under the PPC 2003 and PPC 2015

<table>
<thead>
<tr>
<th></th>
<th>Less serious</th>
<th>Serious crime</th>
<th>Very serious</th>
<th>Particularly serious crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigation stage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard duration</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>1st Extension</td>
<td>30</td>
<td>30</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>2nd Extension</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3rd Extension</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sub-total</td>
<td>90</td>
<td>90</td>
<td>60</td>
<td>180</td>
</tr>
<tr>
<td>Prosecution stage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard duration</td>
<td>20</td>
<td>20</td>
<td>14.5</td>
<td>20</td>
</tr>
<tr>
<td>Extension</td>
<td>10</td>
<td>10</td>
<td>3.5</td>
<td>10</td>
</tr>
<tr>
<td>Sub-total</td>
<td>30</td>
<td>30</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>Adjudication of the first instance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard duration</td>
<td>30</td>
<td>30</td>
<td>20</td>
<td>45</td>
</tr>
<tr>
<td>Extension</td>
<td>15</td>
<td>15</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Sub-total</td>
<td>45</td>
<td>45</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>TOTAL</td>
<td>165</td>
<td>165</td>
<td>108</td>
<td>270</td>
</tr>
</tbody>
</table>

---

28 Note that these durations include neither extension of detention in exceptional circumstances as per the order of the SPP Prosecutor General, nor detention during the appeals stage.

29 See Articles 120, 166, and 177 of the PPC 2003, and Articles 173, 241, and 278 of the PPC 2015. Under both the PPC 2003 and PPC 2015, temporary detention durations during the investigation stage are stipulated in months, whereas the durations during the prosecution and adjudication stages are set in days. To ease the comparison, the research team used days as the time unit, thus converted all durations in months into days, with one month being equal to 30 days. Under the PPC 2015, temporary detention durations applicable to minors are equal to two-thirds of the durations applicable to adult offenders. A rough estimation was made in some cases.
Involvement of Parents, Guardians, other Individuals, Agencies, and Organizations

The PPC has many provisions to promote the involvement of parents and relevant agencies and organizations to protect and support minor offenders in the proceedings. Representatives of the minors’ families, schools, the Ho Chi Minh Communist Youth Union, other agencies and organizations have rights and obligations to participate in the proceedings. The representative of minor offenders is allowed to participate in the processes of taking testimonies and conducting interrogation of minors; giving evidence, documents, objects, requests, complaints, accusations; and reading, recording and copying documents related to accused persons under 18 years in the case files after the conclusion of the investigation.

The interagency circular 06/2018 requires the Labour, Invalids and Social Affairs agency, Ho Chi Minh Communist Youth Union, Women’s Union, Viet Nam Association for Protection of Child’s Rights and relevant agencies based where a MICWL is detained, where an offence takes place or where the authority of investigation lies to designate a representative for a person under 18 engaged in legal proceedings if he or she does not have a stable residence, does not have a clear background record, or has a representative who is absent intentionally or refuses to participate in legal proceedings.

Responsibilities of child protection workers at commune level in legal proceedings are prescribed in the Law on Children, including:

- Advising, informing, and guiding children and their parents or caregivers on how to access child protection services, legal assistance, social, healthcare and education services, among others;

- Studying and providing information on the background of children and their families to persons with authority of legal proceedings and persons with authority of administrative violations handling, in order for effective handling and education measures to be applied and decisions to be made appropriately;

- Participating in child-related legal proceedings as per the law or as per the requirements of the persons with authority of the legal proceedings.

Legal defence

Minor offenders have the right to defend themselves or to seek support from a defence counsel. Defence counsel could be a lawyer, the minor’s legal representative, a people’s advocate, or a legal aid officer. In case the minor or their legal representative cannot select a defence counsel, the Bar Association or the Viet Nam Fatherland Front Committee must appoint a defence counsel for the minor. The Law on Legal Aid (2016) stipulates that minor offenders are entitled to free legal aid.

Interviewing/Interrogation

The PPC (2015) requires that prior to an interview with or interrogation of a minor offender, criminal proceeding conducting bodies shall notify the minor’s parents of the timing and location of the questioning or interrogation, as well as the rights and legal benefits of the minor offender.

When a minor is arrested in an emergency case, the presence of the minor’s defence counsel or parents or guardian is required during the interview or interrogation.
The PPC 2015 states that interviews and interrogations of minor offenders are not to be held more than twice a day and no more than two hours per day unless otherwise regulated by law.

Joint Circular 06/2018 requires persons conducting legal proceedings to have a friendly and gentle attitude and use easy-to-understand language that is suitable to the minor’s age, gender and cognitive ability when interrogating minor offenders. Persons conducting the proceedings should also consider applying appropriate measures to reduce to the lowest the duration and the number of times to take testimonies or conduct interrogations. Interrogations must be immediately suspended when the minor shows tiredness, as this affects the ability to accurately and fully provide information.

**Adjudication**

The LOPC 2014 governs the establishment of a specialized court for families and juveniles in the people's court system. Family and juvenile courts have jurisdiction to adjudicate all criminal cases where the defendants are less than 18 years old.

As stipulated by the law, most criminal cases with minor defendants will be adjudicated in a friendly courtroom of the Family and Minor court, except for some very serious and particularly serious cases of minor defendants, which are still being adjudicated in criminal courtrooms. In a friendly courtroom, persons conducting the proceedings, the participants in the proceedings and the attendees of the court sit at a round table. Minor offenders participating in the proceedings at the trial are seated next to their representatives, the defence counsel and the person protecting their legal rights and interests. For courts that do not have a friendly trial room, the courtroom must be arranged in a friendly manner to ensure the best interests of minor offenders.

As stipulated by the law, judges in cases related to minor offenders must be experienced in adjudicating cases related to minor offenders or have been trained, coached and fostered with skills of handling criminal cases involving minor participants or in minor psychology and pedagogy. The trial panel must have a juror who is a teacher, a member of the Ho Chi Minh Communist Youth Union or an experienced person with minor psychological knowledge.

The PPC (2015) requires that the interrogations and debates with minor defendants at the trial be conducted appropriately with their age and level of development. According to the instructions of the SPC, the judge will wear administrative clothing of the People’s Court instead of a robe.

The court may decide to have a closed trial if requested by the minor offenders or their representatives to keep their privacy confidential and to protect the minor offenders; however, the sentence pronouncement must be publicised. Cases with minor participants, including minor defendants, are not to be conducted in a mobile trial.

**7. Rehabilitation and Reintegration of Minors in Conflict with the Law**

**7.1. Community-based Rehabilitation of MICWL**

Minor offenders subject to rehabilitation in the community include:

30 Such cases include: (1) Criminal cases with defendants aged from 16 to under 18 years who intentionally commit very serious offences and particularly serious offences; (2) Criminal cases with defendants aged from 14 to below 16 years who commit one of the particularly serious crimes according to the law, such as murder or rape along with aggravating circumstances; (3) criminal cases with defendants aged under 18 years old and defendants aged 18 years and older (see Circular 02/2018/TT-TANDTC).
• Persons subject to alternative measures to handle administrative violations in their families;

• Persons subject to administrative and educational measures in communes, wards and district towns;

• Offenders exempted from criminal liability and applied with monitoring and educational measures in the community;

• Offenders entitled to suspended sentences or parole; and

• People sanctioned for non-custodial reform.

Monitoring, education and rehabilitation measures for minor offenders in the community are scattered across many legal documents without being consolidated into one single legal document.

Although the education and rehabilitation regimes are different for each type of subject, it is generally implemented when the Chairman of the People’s Committee assigns minor offenders to an individual for direct supervision and education. This person could be a communal police officer, an official of a local social organization such as Youth Union, Women’s Union, Veteran’s Association, or maybe a leader of a residential group. These people work in the spirit of volunteerism. They are also not equipped with the knowledge and skills necessary to work with the minors, but mainly rely on their enthusiasm, their own prestige, and experience to sensitize and educate the minors.

Minors must make a commitment to comply with the law and to correct their wrongdoings. Every month, the minor offenders must write a review and complete a self-assessment on the process of correcting their wrongdoings and present him or herself at the People’s Committee. Minors are not allowed to leave their residence without permission.

Since 2013, the legal framework for education and rehabilitation for minor offenders in the community has changed significantly, especially with the introduction of Decree 111/2013/ND-CP and Decree 37/2018/ND-CP. These two Decrees have created a legal basis to support the rehabilitation of minor offenders through applying case management methodology to provide appropriate support and intervention measures to address the causes and conditions of crime committed by each individual minor offender. The following section will focus on the introduction of monitoring, education and rehabilitation for minor offenders subjected to alternative administrative handling measures and managed at family and educational levels in communes, wards and district towns under Decree 111/2013/ND-CP and education and rehabilitation for minor offender’s subject to the exemption of criminal liability under Decree 37/2018/ND-CP.

Supervision of education and rehabilitation of minor offenders is applied as measures of family supervision and education in communes, wards, and district towns

Supervision of education and rehabilitation of minor offenders is applied as an alternative to administrative violations handling measures of family supervision and education in communes, wards and district towns in accordance with the Law on Handling Criminal Administrative Violations and Decree 111/2013/ND-CP.

For those subjected to the measure of family supervision, the responsibility for supervision and education lies with their families. The Chairman of the Commune People’s Committee will also assign
an agency or organization to coordinate with the family to manage and supervise the minor. This agency and organization will appoint a person to directly support the families to make a management and education plan including specific supporting measures which introduce the minor to take part in schooling, career guidance, vocational training, job searching, counselling, and life skill development programmes in their locality. This person also meets the minor regularly to support and encourage the minor to improve their behaviour and correct their mistakes. The minor’s family is responsible for facilitating the minor to participate in schooling, apprenticeship, counselling, life skill development and other programmes to help the minor to rehabilitate and avoid backsliding.

Regarding the measure of education in communes, wards and district towns, agencies and organizations assigned to educate and manage minors assign an officer in charge of assisting the minor. People who directly assist the minor can be social work collaborators, child collaborators, or prestigious people in the family line or the residential community. If the minor stays in sponsoring or child support facilities, the assigned persons must have experience in managing and educating children. These people must have the conditions, capabilities, and experience in educating and supporting the minor.

The assigned persons are responsible for developing a management, education and support plans, identifying specific measures to supervise, guide and support the minor, defines the time of implementation and the coordination with families, other relevant organizations and individuals.

Minors who are subject to this measure must write a commitment to strictly obey the law and correct their wrongdoings; perform the obligation of studying, self-improvement and training; participate in appropriate schooling or vocational programs; work in appropriate forms; participate in appropriate locally held programmes on consultation and life skill development. For drug addicts, there must be a commitment to participate in a registered drug detoxification program.

Decree No. 111/2013/ND-CP also stipulates that the State will provide funding from the local budget to this activity. The central budget allocates additional funds to localities that have not yet balanced their budgets for this activity.

The person assigned to the activity is entitled to a support allowance for managing, educating and supporting the minor. The minimum monthly allowance is 25 per cent of the basic salary (equivalent to 350,000 VND or $15 per month) for each minor to be supervised. Based on the practical situation in the locality, the provincial People’s Committee may decide on a higher rate.

Community-based monitoring and education for minor offenders’ subject to criminal liability exemption

Community-based monitoring and education for minor offender’s subject to criminal liability exemption are applied as stated in the provisions of Decree 37/2018/ND-CP. This decree upholds the goal of rehabilitation for the minor offenders subject to criminal liability exemption and for the prevention of recidivism based on the application of monitoring and education measures that are appropriate to the conditions, circumstances, age, gender, personal needs and best interest of the minor, ensuring the participation of the families, schools, agencies, organizations and individuals in the implementation of monitoring and education measures.

The Decree requires the Chairman of the Commune People’s Committee, based on the legal
violations of the minor, the officials’ competency, and other local conditions to choose from 3 to 5 people to appoint as supervisors responsible for educating minor offenders in their localities. This can be commune police, cultural and social workers, judicial officers, commune child protection workers, social work collaborators, representatives of social organizations in the locality, or even a prestigious person in the residential community. They must have good ethics, conditions, abilities, and experience in educating and supporting minor offenders. The Chairman of Commune People’s Committee takes the responsibility to organize trainings for selected people to perform the task.

The Chairman of the Commune People’s Committee assigns minor offenders subject to criminal liability exemption to one of the above people to supervise and educate. The supervisor and educator of the minor are responsible for collecting information about the minor’s profile, family, friends, living and learning environment, the causes and conditions of his or her legal violations and needs of support to overcome these causes. On this basis, this person will propose a supervision and education plan, clearly defining the support, supervision and education measures with an implementation schedule and specific responsibilities of related agencies, organizations, and individuals in providing support services and prevention of recidivism. In the process of plan drafting, the direct supervisor and educator must consult the opinions and aspirations of the supervised and educated person, his or her father, mother or guardian and take initiative in contacting the local service providers, discussing with the Social Work Centre, relevant agencies and organizations to ensure the suitability and feasibility of the plan. Monitoring and education plans are discussed at the interdisciplinary meetings of communes and wards and submitted to the Chairman of the Commune People’s Committee for approval.

In order to provide timely support, supervisors and educators take responsibility for meeting, educating, and motivating minor offenders in their rehabilitation on a regular basis, as well as understanding their innermost feelings, wants and difficulties. In accordance with their predetermined plans, supervisors and educators also contact relevant service providers, engage minors in cultural activities, vocational training, suitable employment for a secured life, life skills classes, and other social, cultural and sports activities available locally. During the implementation of a supervision and education plan, a supervisor and educator will recommend the Chairman of the commune’s PPC solutions or adjustments to the plan, who will then make decisions, should she or he find any measures irrelevant or difficult to be implemented.

Under the provisions of Decree No. 37/2018/ND-CP, for each minor offender supervised, the supervisor will be provided with a monthly allowance of 25 per cent of his basic salary (equivalent to 350,000 VND or $15 per month) to carry out this task.

**Supervision and Rehabilitation of Minor Offenders under Non-Custodial Reform, Suspended Sentence, and Parole** will be implemented in accordance with the Law on Execution of Criminal Judgments (Articles 61-70 cover suspended sentence; Articles 72 to 81 stipulate supervision and rehabilitation of offenders under non-custodial reform). The joint inter-agency circular 04/2018/TTLT-BCA-BQP-TANDTC-VKSNDTC has some provisions on rehabilitation of people under parole. Under this law and sub-laws, Commune People’s Committees must manage the rehabilitation of offenders under non-custodial reform, suspended sentence and parole, including minor offenders, and must appoint a person to provide direct supervision and support for rehabilitation of the offender.

As mentioned above, in accordance with Decree 111/2013/ND-CP and Decree 37/2018/ND-CP, remuneration is awarded to supervisors and educators of MICWL who are serving administrative sentences or education measures in communes, wards or district towns, or of MICWL exempted from criminal liability who are undergoing community-based education and rehabilitation. However, this
provision does not apply to supervisors and educations of MICWL in cases of suspended sentences, non-custodial reforms or conditional releases.

7.2. Reformatories

Reformatory schools are managed and operated by the MPS under the Law on Execution of Criminal Judgments (2010) and Decree No. 02/2014/ND-CP dated January 10, 2014, which stipulates the application and enforcement regime of administrative sanctions for compulsory reformatory and education institutions, and other sub-law documents.

The Law on Execution of Criminal Judgments and Decree No. 02/2014/ND-CP stipulate that reformatory schools are responsible for organizing schooling and vocational training for students. Schooling is compulsory for students who have not yet reached the level of universal primary and secondary education. In other cases, students’ ability and actual conditions are taken into consideration for appropriate studying. The Ministry of Education and Training is responsible for coordinating with the MPS to develop educational programs for reformatory schools. Diplomas and certificates of schooling and vocational training in reformatories are of equal value as those of general schools.

In addition to general education, students must also have chances to participate in ethical, behavioural, vocational education and vocational training programmes. MOLISA shall coordinate with the MPS in building vocational education programmes, guiding and organizing vocational training, and providing necessary machinery and equipment for this activity.

After class hours, students shall participate in labour activities organized by their reformatories. Reformatories shall assign jobs suitable to the age and health of students to ensure normal physical development and may not assign heavy, dangerous or hazardous jobs. The labour time must not exceed 2 hours per day. The learning and labour time of a student must not exceed 7 hours per day and 35 hours per week. Incomes or other products generated from the students’ labour shall be used for improving their living and learning conditions.

Students in reformatory schools keep in touch with their families via visits and letters, and are allowed to send and receive letters, gifts, and money. In cases where a family member passes away or other urgent situations occur and an application for guarantee is provided by the family or guardian approved by the commune’s PPC, the minor is allowed to go back home for no more than 5 days, excluding travel time. Their stay at home is counted as part of their service in reformatories.

7.3. Detention Centres

The conditions for detention of minors sentenced to termed imprisonment are mainly stipulated in the Law on Execution of Criminal Judgments (2010) and sub-law documents. These legal documents contain numerous regulations regarding special treatment of prisoners who are minors in detention centres to promote their rehabilitation and reintegration.

- Article 51 of the Law on Execution of Criminal Judgments stipulates that detention centres are responsible for educating minor offenders in terms of culture, law and vocational training that are appropriate to their age, educational level, gender, and health. Primary schooling, universal secondary schooling, and vocational training are compulsorily implemented. Based on the requirements of management and education of offenders and the term of serving sentences, the detention centre is responsible for organizing educational programmes and
contents for prisoners in accordance with those regulated by the Ministry of Education and Training, MOJ, MPS and Ministry of Defence. Offenders are provided with information on the State’s news, policies and laws.

- Minor offenders are permitted to meet their families no more than three times per month, no more than three hours each time, and no more than 24 hours in special cases. Rewarded offenders are entitled to meet their families one more time per month. Offenders can contact their family on phone no more than four times per month at no more than 10 minutes each time. The contact is supervised by the detention centre’s officials and at the offender’s own expense.

- Two months before the end of the imprisonment term, the detention centre notifies the criminal judgment-executing agency of the district police and the Commune People’s Committee where the offender resides after completing the imprisonment sentence. On the last day of the imprisonment term, the detention centre issues a completion certificate for the imprisonment sentence, provides an amount of money from the community integration support fund and allowance for the travel fares and food to return to the place of residence, and returns all of the offender’s property. A set of clothes will be provided too, in cases where a minor has none of their own.

- Minors who are of working age, have good health and good training results, and a remaining imprisonment term of less than 36 months can enrol in higher vocational training courses if they had applied for the training. Upon the completion of the course, minors participate in exams, take skills tests and are granted with relevant certificates as regulated by law.

7.4. Reintegration of Minors Returning from Detention Institutions

To enable MICWL to rehabilitate and reintegrate as quickly as possible into the community after having served their sentences, the laws are drafted to minimize the number of cases deemed as criminal records. The PC (2015), for example, prescribes that offences are only included in criminal records of those aged 16 to under 18 if they are convicted of very serious intentional crimes or especially serious crimes. Such criminal records are then removed after a shorter period of time, contrasting this with the time period applied to adult offenders. Other convictions are not deemed as criminal records.

The Law on Children, Law on Execution of Criminal Judgments and related sub-law documents have specific provisions to promote social rehabilitation and community reintegration for minor offenders after returning from reformatory or detention centres.

The Law on Children defines the responsibilities of detention centres and reformatories, in coordination with the Commune People’s Committees, where children reside to implement the following measures in order to prepare and promote community reintegration of children in conflict with the law:

- Maintaining relationships between children and their families;
- Organizing programmes on schooling, vocational training, and life skill development for children;
- Examining and evaluating the process of studying and training of children at detention
institutions and reformatories in order to propose authorized agencies for the reduction of the imprisonment term or termination of education measures at reformatory schools as prescribed by law.

The Law on Children and Law on Execution of Criminal Judgments requires the reformatories or detention centres to inform and provide relevant information to the Commune People’s Committee where the child resides to prepare for the reception and community reintegration at least two months before the child completes their imprisonment penalty and one month before they complete the educational measures at the reformatory schools. Decree 56/2017/ND-CP stipulates a concrete and suitable procedure of support, intervention, and child protection service provision, helping MICWL reintegrate into the community.

Detailed guidance on reintegration support for minors after leaving the reformatories is provided in Decree No. 02/2014/ND-CP. According to this decree, minors who have completed the enrolment decision to reformatories are given priority for schooling, vocational training, job creation, legal aid and loan support for studying, seeking jobs and stabilizing their lives. The Law on Children prescribes the instructive responsibility of the Chairman of the Commune People’s Committee in planning the development and implementation of intervening, supporting and applying protection measures for children in conflict with the law to help them reintegrate into the community. Decree 80/2011. ND-CP requires the Chairman of the Commune People’s Committee to (i) organize the reception, management, education and support for minors returning to reintegrate into the community; (ii) assign organizations and individuals to be responsible for managing, educating and supporting minors; inspect and push the implementation and mobilization of local people in residential areas to closely coordinate with families in managing, educating and assisting minors; and (iii) mobilize and create favourable conditions for enterprises, establishments, businesses, organizations and individuals to receive and offer jobs to persons who have completed their imprisonment sentences.

Detention centres and reformatories have the responsibility to set up a community integration fund from the resources collected from offenders and reformatory students’ work, which then support community integration activities for offenders, including minor offenders, and juveniles that are students of reformatory schools when they have completed their sentence or placement in reformatories.

8. Observation and Assessments

Over the past 15 years, especially since 2012, Viet Nam has made great strides in refining its legal framework on prevention, handling, rehabilitation, and reintegration of MICWL. Together, the new legal provisions chart a clear pathway toward a comprehensive, effective, friendly child justice system, which is more responsive to special needs of MICWL.

These advances have continued to bridge the gap between national policies and laws and international ones on children’s rights in general and child justice in particular. Nevertheless, they have reached the extent needed for the development of a comprehensive justice system for Vietnamese minors. In response to Viet Nam’s report on the implementation of the CRC, the UN Committee on the Rights of the Child expressed its concern about “the lack of a comprehensive child justice system.” The Committee also expresses its concern about the “punitive system of dealing with young offenders”, “the limited alternatives to child detention, and the absence of rehabilitation and reintegration programs.”

UN Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic report of Viet Nam (2012).
The Committee recommended that Viet Nam bring its child justice system fully into line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards.

The section below summarises the most noteworthy achievements and limitations of the child justice system in Viet Nam.

Achievements

**Guiding child justice principles and basic requirements** for strengthened prevention, rehabilitation and reintegration of MICWL are prescribed in the Law on Children, the PC, the PPC and the LHAV. These principles ensure the best interest of minors, enable them to be treated equally, fairly and respectfully in an age-appropriate manner, strengthen community-based alternatives to detention, and focus on promptly handing MICWL.

In addition, the Law on Children requires competent authorities to **proactively prevent minor offending and recidivism** by providing interventions in a safe, continuous, flexible, appropriate, individualised and participative manner to tackle causes and conditions of offences as well as promote rehabilitation and community integration.

These laws also require competent authorities to **prioritise informal handling measures in place of administrative and criminal handling measures (diversion)**. The LHAV prescribes two alternative measures to administrative handling, while the PC prescribes exemption from criminal liability as well as three community-based supervision and education measures applicable to MICWL in certain cases.

Both the LHAV and PC require competent authorities to **minimise deprivation of liberty among MICWL**, especially placement in reformatory and termed imprisonment. The PPC 2015 significantly reduces the length of pre-trial detention time limits applicable to minor alleged offenders. For example, the maximum time limit for pre-trial detention applicable to a minor charged with a particularly serious crime was shortened by 45 per cent, from 22 months to 12 months.

Another outstanding achievement is the prescribed establishment of the family and minor courts in the structure of People’s Courts as **designated courts for handling family and minor affairs**. It is a robust step towards the specialisation of child justice institutions based on the recommendations of the United Nations Committee on the Rights of the Child.

The applicable laws also form a legal foundation for **strengthening, prevention, support, and rehabilitation of community integration services** tailored to the age, conditions, and personal background of the minor, to effectively address the causes and risk factors contributing to offending behaviours. Notably, the Law on Legal Aid broadens its protection to cover all children and MICWL aged 16 to under 18. Decree 111/2013/ND-CP and Decree 37/2018/ND-CP provides detailed guidance for application of alternative measures to administrative and criminal handing, and the administrative handling measure of education at commune, ward, district towns levels. The two decrees also promote case management methods in rehabilitation of MICWL. Moreover, for the first time, the Law on Children defines **roles and responsibilities of a commune-level child protection officer in proceedings, handling administrative violations, rehabilitation, and community reintegration**. Decree 37/2018/ND-CP prescribes the establishment of para-professional child justice personnel to supervise and rehabilitate MICWL who are exempted from criminal liability and sentenced to community-based education and rehabilitation. Decree 56/2017/ND-CP prescribes a concrete and appropriate procedure of support, intervention and child protection service provision,
enabling MICWL to reintegrate into the community.

The PPC, LHAV and a number of sub-law documents have included new provisions in order to strengthen the legal protection of MICWL as well as prisoners who are minor friendly procedures and handling, which further the participation and privacy of MICWL and their families in the handling procedure. The LHAV transferred the power to order placement of MICWL in reformatories from district level people's committees, i.e. administrative bodies, to people's courts, i.e. judicial bodies. This is a major reform towards ensuring safeguards and procedural rights of minors.

The reporting and data management system on MICWL has also taken a step forward with the promulgation of the interagency Circular 02/2013/ TTLT/BLĐTBXH-BCA-VKSNDTC-TANDTC and Circular 16/2018/TT-BTP dated December 14, 2018 on the law implementation reporting scheme on handling administrative violations and to monitor the state of law implementation.

Challenges

There is an absence of a strategic plan on child justice and an effective inter-sectoral coordination mechanism

As analysed above, there are various agencies and organisations involved in delivering prevention, handling, education and rehabilitation services to MICWL. However, there has not been any designated agency responsible for coordinating child justice activities or other mechanisms to ensure effective inter-sectoral coordination in the field. Therefore, although the past amendment and supplementation of MICWL related legal documents reflect a robust trend of reform, there is a lack of a holistic and strategic vision to ensure the consistency and synchronisation across all policies and laws. The implementation and enforcement of the new provisions are conducted vertically without overall coordination, leading to scattered efforts, absence of synergies and reduced effectiveness in prevention, handling, education, and rehabilitation for MICWL.

Child justice policies and laws remain scattered and full of gaps

There has not been a comprehensive law on child justice in Viet Nam as a solid legal foundation for a designated and specialised child justice system. The prevention, handling, education, rehabilitation, and community reintegration services for MICWL are prescribed in a number of different laws, ordinances, decrees, circulars, programmes, and policies. In the past decade, key legislation governing child justice have undergone amendment and supplementation one by one without a strategic orientation. That is why they do not complement each other as part of a complete legal framework governing the entire process of prevention, handling, education, rehabilitation, and community integration. For instance, while the PC restricts the criminal liability of minors aged 14 to under 16 to 28 different crimes, the LHAV and other Acts have not prescribed handling, education and rehabilitation measures applicable to minors who have committed acts beyond the 28 crimes. What's more is the independent handling of MICWL between administrative justice system and criminal justice system has led to inconsistencies in how minors are handled. For example, while the PC prescribes that the conviction declared to minors from 14 to under 16 years is not included to determine recidivism and dangerous recidivism, the LHAV has no such rules. According to LHAV, if an individual subject to an administrative handling measure, within 2 years after completely executing the decision on application of the administrative handling measure or 1 year after the expiration of the statute of limitations for executing the decision on application of the administrative handling measure, does not re-commit an administrative violation, he or she will be regarded as having never been subject to such administrative handling measures (Article 7).
Moreover, there is an overlap between administrative and criminal sanctions. Specifically, it is the overlap between administrative handling measures of placement in reformatories and judicial education measures at reformatories, between administrative handling measures in communes, wards or district towns and education measures in communes, wards or district towns as prescribed in PC.

Despite several improvements, newly issued, amended, and supplemented legal documents still contain shortcomings as follows:

• While the Civil Code prescribes minors as people who are under 18 years of age, Law on children defines children as under 16, which is not in line with CRC’s definition of a child as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier” (Article 1). Consequently, basic principles of child protection in the proceedings, recovery and reintegration process as well as prevention, support and intervention measures for children in special circumstances as prescribed in Article 70 (Law on Children) are not applicable to minor offenders from 16 to 18 years of age.

• The LHAV and PC stipulate that the custodial sanctions (taken to reformatory schools, termed imprisonment) shall only be applied as the last resort, if other education, and rehabilitation measures are ineffective in deterrence and prevention. However, both laws stipulate that an alternative to administrative liability or criminal liability exemption could only be applied in specific cases instead of giving authorized persons and judges discretion to decide based on the profile of the minor, his/her living conditions, family and school environment as well as the need to separate him/her from families and communities. The LHAV has only one alternative for education measures in wards, communes and District towns but none for liberty sanction, which is taking minors to reformatories.

• The scope of exemption from criminal liability for minors is still limited; for example, offenders aged between 16 to under 18 years are not allowed to be exempted from criminal liability even if they unintentionally commit a serious crime. Some crimes often committed by minors like deliberate infliction of bodily harm upon another person or robbery, regardless of the level of seriousness, are outside the scope of criminal liability exemption. Furthermore, the PC allows the legal representative of the minor or his/her to give consent to the application of supervision and education measures as a condition for criminal liability exemption on behalf of the minor. This is not fully in line with General Comment No. 10 of the UN Committee on the Rights of the Child, which requires the minor to consent to diversion measures.

• The pre-trial detention duration under the PPC 2015 is still long, although it has been reduced considerably. For particularly serious offences, minors might be detained up to 12 months pending trial, or even longer in exceptional cases under the decision of the Chief Prosecutor of the SPP. This is too long compared with the 6-month duration recommended by the UN Committee on the Rights of the Child in General Comment No. 10.

• The maximum time limit for imprisonment penalties for minors is 18 years for offenders of age 16 and over and 12 years for offenders from 14 to under 16 years old. This period is too long when compared to international standards.

• The PPC allows closed trial for minor offenders if there is a request from the offenders or their legal representatives with an aim to protect minors’ privacy while still requiring public sentencing. The provision is insufficient to ensure the privacy of minors under the guidelines
of the Beijing Rules, which emphasizes on the importance of not revealing the identity of minor offenders to prevent stigmatization and hindering the recovery and reintegration process.

- Although the Law on Legal Aid has significantly extended the coverage of free legal assistance to all children and minors, offenders aging from 16 to under 18 handled through the administrative system are not eligible for free legal aid, including those who are taken to reformatories, which is a type of liberty sanction.

Viet Nam is building a network of professional social workers and social work collaborators to support vulnerable people in the society. However, there is no one legislation that governs the roles and duties of social workers in different sectors, including the judicial sector. The Law on Children has defined the responsibilities of commune child protection workers in providing information about children's and family's circumstances to people who have the authorities to implement proceedings and handle administrative violations so that appropriate handling and rehabilitative measures can be made and applied. This is in line with guidelines stipulated in the the Beijing Rules, in order to make appropriate decisions, the court needs to have detailed information about family and social circumstances of minors. This information should be included in a social inquiry report prepared by a social worker then submitted to the courts. However, since the Law on Children defines children as under 16, the above provision cannot be applied to minor offenders who are 16 to 18 years of age.

The absence of professional, well-trained, remunerated officers to support the rehabilitation for minor offenders in their community may hinder the effective education and rehabilitation for minor offenders, as prescribed under the Tokyo guidelines. Decree No 111/2013/ND-CP and Decree No. 37/2018/ND-CP have stipulated the remuneration for supervisors, educators of minor offenders who serve the administrative handling measure of education in wards, communes or district towns, and of minor offenders who are exempted from criminal liability for rehabilitation in the community. This, however, is not applicable for those who monitor other offenders who are under suspended sentence, parole, who are serving the penalty of non-custodial reform.

Lack of personnel specializing in handling offences committed by minors

The formation of family and juvenile courts in the People's Court system is a considerable step in promoting a more specialized approach to handling minor-related cases. However, specialized staff equipped with essential knowledge and skills for effectively working with minors in public security, procuracy, attorney authorities are lacking. One of the recommendations of the UN Committee on the Rights of the Child after reviewing Viet Nam's report on the implementation of the CRC is to establish specialized units or groups to investigate cases involving minors.
PART IV. SITUATION OF MINORS IN CONFLICT WITH THE LAW AND LAW IMPLEMENTATION

1. Child Justice Statistics System

Viet Nam has no integrated data system with reliable statistics on minors in conflict with the law in place, neither in the administrative, nor in the criminal systems. Instead, authorities involved in the handling of MICWL collect and report on data in accordance with their individual functions and systems. Below are some key data sources in relation to MICWL.

Statistics on MICWL handled under the administrative and criminal systems collected by the Criminal Police Department, MPS

In implementation of the Project on Prevention and Combat Crimes against Children and Juvenile Crime in the period 2006–2010, under the National Programme on Crime Prevention and Combat, the Criminal Police Department, under the MPS, periodically collects and reports on data on MICWL who are handled for a criminal or administrative offence. This information is shared with MOLISA to include in the annual ‘Children Indicators in Viet Nam’ publication, together with other data about children, especially children with special circumstances. However, these data only represent MICWL who are handled by the criminal police. They do not reflect MICWL who are handled with administrative measures by other agencies. Therefore, this data source does not provide a complete picture of the situation of MICWL.

Criminal statistics collected by the Supreme People’s Procuracy

The SPP is entrusted with producing periodical statistics on crimes committed by both adults and minors. The SPP’s advanced and well-organized data collection and reporting system allows for reliable data on the number of cases being initiated, prosecuted and adjudicated. Age, gender, region and types of crimes disaggregate the data. However, these data are not publicly published.

Statistics on child justice adjudications

The SPC also maintains its own system to collect data and report on adjudications, including data related to minors. The data is not publicly published.

Statistics on MICWL handled through the administrative system

The LHAV 2012 entrusted the MOJ to collect statistics and to develop and manage a national database
on the handling of administrative violations as part of its responsibility to monitor the implementation of administrative laws. The system is being developed and refined by the Department of Management of Handling of Administrative Violations and Monitoring of Law Implementation under the MOJ. In 2018, the MOJ issued Circular No 16/2018/TT-BTP dated December 14th, 2018 providing guidance for monitoring and reporting on handling of administrative violations, in which the separation of minors’ data, disaggregated by genders, is required. Since 2014, statistics on MICWL handled through the administrative system have been collected and reported with improved quality, especially statistics on minors subjected to administrative handling measures. However, the collection and reporting of statistics on minors subjected to administrative fines and alternative measures to administrative liability remain a challenge. The disaggregation of data by gender, age group and types of offences is limited. This data source is not integrated into the database on MICWL and is not yet published publicly.

Statistics on execution of placement into reformatories and imprisonment

The Police Department on Management of Prisons, Compulsory Education Centres and Reformatories under the MPS regularly collects and reports on statistics of minor under rehabilitation in reformatories and prisons. The statistics, however, are not published.

In the year 2013, MOLISA, MPS, SPP, and SPC jointly enacted the inter-agency Circular 02/2013/TTLT/BLĐTBXH-BCA-VKSNDTC-TANDTC, providing guidance for collection, management, provision, and utilization of data on MICWL. This was done with a view to establishing a uniform child justice data collection and management system. The Circular stipulates the collection and reporting of data on MICWL, including in the administrative and criminal systems, based on 21 child justice indicators falling under the 6 categories below:

1. General statistics on minor offenders;
2. Exemption of criminal liability of MICWL for supervision by families and organizations;
3. Custody and pre-trial detention;
4. Profile of MICWL;
5. Sanctioning; and
6. Reintegration.

Under the Circular, MPS, SPP, SPC, and MOLISA shall each be responsible for specific indicators in accordance with their mandates and periodically report to MOLISA for consolidation.

However, the implementation of this circular is challenging, particularly in relation to the collection of data on reintegration of MICWL and consolidation of data collected by different agencies.
2. Situation of Minors in Conflict with the Law

This part analyses the situation of MICWL from 2006 to 2018, including those handled through the administrative and criminal systems.

Prevalence

According to the statistics provided by the Criminal Police Department, MPS, during the past decade, there were on average 8,300 annual offending cases committed by minors. Around 13,000 MICWL were dealt through the administrative and criminal systems each year. In 2017, the rate of MICWL was 26 per 100,000 of the population aged under 18. The situation of MICWL in the past decade has generally improved. The number of MICWL, both in the administrative and criminal systems, has decreased by more than 60 per cent, from 16,446 in 2006 to 6,632 in 2018. Similarly, offending cases committed by minors have fallen by more than 57 per cent, from 10,468 cases in 2006 to 4,441 cases in 2018. While the number of administrative violations by juveniles has dropped substantially by 66 per cent, criminal offences decreased at a slower pace at 35 per cent.

Figure 3: Number of Offences Committed by Minors and MICWL (2006-2018)

However, these statistics do not provide a full account of minors who are processed through the administrative system, and thus does not provide an accurate picture of MICWL in general. This is due to the fact that the authority to impose administrative handling measures is granted to various authorities and individuals ranging from chairpersons of people’s committees, police agencies at different levels and other state administrative authorities. The authority to impose administrative custodial measures, namely placement into reformatories, is granted to the People’s Courts. Due to large numbers of agencies having authority to impose administrative handling measures, this poses a challenge to the collection,

---

33 In 2017, there were 6,818 MICWL (Criminal Police Dept., MPS) out of the total of 26,224,704 under-18 population (GSO, 2017 Population Change and Housing Survey).
compilation, and reporting of data on administrative handling in a comprehensive manner. Since the LHAV has come into effect in 2014, statistics on MICWL handled through the administrative system have been collected and reported with improved quality, especially statistics on minors subjected to administrative handling measures. Statistics provided by the Department of Management of Handling of Administrative Violations and Monitoring of Law Implementation show a significantly larger number of minors subjected to administrative handling measures. Specifically, an average 12,000 minors were subjected annually to administrative handling measures of rehabilitation in communes, wards or district towns and placement in reformatories between 2014-2017. Combining this data with those provided by the Criminal Police Department, the number of MICWL is estimated to be 18,000 per year\(^{34}\).

Statistics provided by the Department of Management of Handling of Administrative Violations and Monitoring of Law Implementation also showed a sharp increase in the number of minors subjected to administrative handling measures during 2015 and 2016\(^{35}\). However, this does not necessarily mean that there were more minors committing administrative violations in this period. It is important to note that the number of administrative handling measures imposed reduced significantly in 2014 because competent authorities needed some time to become familiar with new regulations and procedures introduced by the LHAV 2012, especially the competence to impose the measure of rehabilitation in communes, wards or district towns and placement in reformatories. As a result, a large number of pending case files in 2014 were processed in subsequent years. It is necessary to observe the situation in upcoming years to obtain an accurate assessment of patterns in administrative violations committed by minors.

The above analysis shows an urgent need to have an integrated child justice statistics system in place with reliable data on MICWL, both in the administrative and criminal systems.

**Types of Offences**

The evidence covering the total number of offences committed by minors from the period of 2006 to 2018 highlights that approximately 63% of cases are administrative offences. During this period, the number of administrative violations by minors dropped substantially by 66 per cent while criminal offences also decreased yet at a much slower pace (nearly 35 per cent). As a result, the proportion of criminal offences to the total cases by minors has been growing larger. Specifically, in 2006 the ratio of administrative to criminal offences by minors was 73 to 27. Meanwhile, the 2018 ratio was 58 to 42.

---

\(^{34}\) Refer to section 2, sub-section 3.2 below for more detail.

\(^{35}\) Dang Thanh San, Director of the Department for Management of Handling of Administrative Violations and Law Implementation Monitoring (2018), Records of the Workshop on Recommendations for refining child justice system in Viet Nam organised by the MOJ in collaboration with Konrad Adenauer Stiftung.
According to the Criminal Police Department, MPS, the most common type of offences committed by minors were property offences (46 per cent), especially theft (nearly 38 per cent); Infringement on someone’s life, health, reputation, and dignity accounted for more than 18 per cent. Particularly serious acts that often attract a lot of attention from the public accounted for only a small proportion, such as murder (1.4 per cent), rape (2 per cent), robbery (3 per cent) and snatching (3.6 per cent).

A closer look at the criminal system reveals that between 2011 and 2015, nearly 71 per cent of minor offenders were charged for one of the following four offences: theft (34 per cent), deliberate infliction of bodily harm upon another person (16.8 per cent), robbery (11.9 per cent) and snatching (8.1 per cent), as shown by statistics provided by the department of criminal justice statistics and information technology of the Supreme People’s Procuracy (SPP). The following six other crimes are the second most common, but accounted for a much smaller percentage, including illegal possession, transportation, trafficking or appropriating of drugs (4.8 per cent), murder (4.6 per cent), breaching regulation on operation of road vehicle (3.2 per cent), child rape (2.6 per cent), and deliberate destruction of property (1.7 per cent).

Between these periods, Viet Nam experienced a 23 per cent decline in the number of minors’ accused of crimes. According to the analysis of ten most common crimes committed by minors in this period, the proportion of those committing theft, illegal possession, transportation, trafficking and appropriating of drugs witnessed an increasing trend. Meanwhile, the figures for the remaining eight crimes fell, almost unchanged or grew insignificantly.

Figure 5. Minors Accused by Four Most Common Crimes and Other Crimes (2011-2015)

<table>
<thead>
<tr>
<th>Year</th>
<th>Theft</th>
<th>Deliberate infliction of bodily harm upon another person</th>
<th>Robbery</th>
<th>Snatching</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>32.5</td>
<td>16.3</td>
<td>15.4</td>
<td>9.7</td>
<td>26.2</td>
</tr>
<tr>
<td>2012</td>
<td>31.3</td>
<td>16.9</td>
<td>11.8</td>
<td>8.9</td>
<td>31.1</td>
</tr>
<tr>
<td>2013</td>
<td>30.9</td>
<td>18.4</td>
<td>11.2</td>
<td>8.1</td>
<td>31.5</td>
</tr>
<tr>
<td>2014</td>
<td>38.7</td>
<td>16.7</td>
<td>10.4</td>
<td>5.6</td>
<td>29</td>
</tr>
<tr>
<td>2015</td>
<td>39.4</td>
<td>15.4</td>
<td>10.1</td>
<td>7.4</td>
<td>27.6</td>
</tr>
</tbody>
</table>

Source: SPP

Figure 6. Minors Accused by the Six Second Most Common Crimes (2011-2015)

<table>
<thead>
<tr>
<th>Year</th>
<th>Illegal possession, transportation, trafficking or appropriating of drugs</th>
<th>Breaching regulation on operation of road vehicle</th>
<th>Child rape</th>
<th>Gambling</th>
<th>Deliberate destruction of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: SPP
Geographical Regions

According to available statistics (which remain incomplete), the North and South Central Coasts have the highest number of MICWL. However, the Central Highlands is the region with the highest rate of minor offenders, with about 45 minor offenders per 100,000 under-18’s. Between 2012 and 2018, except for the Northern Midlands and Mountains, minor offenders decreased in all regions across the country, though at an uneven pace. In the Northern Midlands and Mountain regions, minor offenders increased slightly in 2013, further decreased from 2016 to 2017, and then increased again in 2018 to almost the same level as in 2012.

Figure 7. Rate of Minor Offenders per 100,000 under-18 Population by Regions, in Comparison to National Rate (2017)

Source: MPS, GSO

886 MICWL (Criminal Police Dept., MPS) over 1,963,139 people under 18 years of age in the Central Highland in 2017 (GSO, 2017 Population change and housing survey).

GSO, 2017 Population change and housing survey
Criminal statistics also showed that minors accused are highest in the North and Southern Central Coast between 2011 and 2018, followed by the Southeast. Again, the Central Highlands has the highest rate of minors accused - 29 per 100,000 under-18 population, followed by the Southeast (18 per 100,000 under-18 population). The number and rate of minors accused are lowest in the Northern Midlands and Mountains.

### Table 3. Minors Accused by Regions (2011-2018)

<table>
<thead>
<tr>
<th>Region</th>
<th>2012</th>
<th>2013</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red River Delta</td>
<td>1,606</td>
<td>1,286</td>
<td>905</td>
<td>820</td>
<td>820</td>
</tr>
<tr>
<td>Northern Midlands and Mountains</td>
<td>1,105</td>
<td>1,196</td>
<td>706</td>
<td>761</td>
<td>1,050</td>
</tr>
<tr>
<td>North and South Central Coast</td>
<td>3,394</td>
<td>2,983</td>
<td>2,576</td>
<td>2,184</td>
<td>1,998</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>1,191</td>
<td>1,039</td>
<td>967</td>
<td>886</td>
<td>673</td>
</tr>
<tr>
<td>Southeast</td>
<td>2,448</td>
<td>2,234</td>
<td>1,081</td>
<td>1,184</td>
<td>1,051</td>
</tr>
<tr>
<td>Mekong River Delta</td>
<td>1,931</td>
<td>1,865</td>
<td>1,082</td>
<td>983</td>
<td>1,040</td>
</tr>
</tbody>
</table>

**Source:** MOLISA, MPS

### Table 3. Minors Accused by Regions (2011-2018)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Red River Delta</td>
<td>1,439</td>
<td>1,376</td>
<td>1,171</td>
<td>934</td>
<td>793</td>
<td>587</td>
<td>618</td>
<td>603</td>
<td>7,521</td>
</tr>
<tr>
<td>Northern Midlands and Mountains</td>
<td>520</td>
<td>690</td>
<td>575</td>
<td>574</td>
<td>486</td>
<td>443</td>
<td>401</td>
<td>406</td>
<td>4,095</td>
</tr>
<tr>
<td>North and South Central Coasts</td>
<td>1,655</td>
<td>1,805</td>
<td>1,483</td>
<td>1,486</td>
<td>1,269</td>
<td>961</td>
<td>928</td>
<td>1,052</td>
<td>10,639</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>748</td>
<td>757</td>
<td>799</td>
<td>756</td>
<td>667</td>
<td>428</td>
<td>561</td>
<td>633</td>
<td>5,349</td>
</tr>
<tr>
<td>Southeast</td>
<td>1,392</td>
<td>2,356</td>
<td>2,053</td>
<td>927</td>
<td>1,119</td>
<td>765</td>
<td>749</td>
<td>777</td>
<td>10,138</td>
</tr>
<tr>
<td>Mekong River Delta</td>
<td>1,031</td>
<td>929</td>
<td>949</td>
<td>1,147</td>
<td>878</td>
<td>598</td>
<td>644</td>
<td>639</td>
<td>6,815</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>6,785</td>
<td>7,913</td>
<td>7,030</td>
<td>5,824</td>
<td>5,212</td>
<td>3,782</td>
<td>3,901</td>
<td>4,110</td>
<td>44,557</td>
</tr>
</tbody>
</table>

**Source:** SPP

---

39 MOLISA, Viet Nam Children Indicators 2012-2013, 2013-2014. Data on minor offenders between 2016 and 2018 were provided by the Criminal Police Dept. MPS
Provinces and cities with a consistently high number of minors accused (over 150 defendants per year on average) include Ho Chi Minh City, Hanoi, Dong Nai, Gia Lai, Dak Lak, Binh Duong, Binh Dinh, and Binh Phuoc. However, to accurately assess the situation of law violation of minors, it is necessary to look at the rate of minors accused in the under-18 population in each specific locality. For example, in the period between 2011 and 2018, among the eight provinces and cities mentioned above, Ho Chi Minh City ranked first with 3,377 minors accused (422 minors per year on average), and Gia Lai ranked fourth with 1,771 defendants (221 minors per year on average). However, in 2017, the rate of minors accused per 100,000-population aged under 18 in Gia Lai is 43, which is three times higher than the rate of 13 of Ho Chi Minh City.

Data of minors being prosecuted during 2016-2018, Department of criminal justice statistics and information technology, SPP.

In 2017, in HCMC, 266 minors were accused out of the 2,066,743 under-18 population; in Gia Lai, 208 minors accused out of the 487,368 under-18 population (Source: Department of criminal justice statistics and information technology, SPP and GSO, 2017 Population change and housing survey).
Gender

The majority of minor offenders are male, accounting for more than 96 per cent - a pattern that changed minimally from 2006 to 2018. In 2008, the proportion of female minor offenders increased slightly, accounting for 5 per cent. In other years, the rates fluctuated between 3 to 4 per cent.
The SPP statistics follow the same pattern, with proportion of minor girls accused accounting for about 4 per cent of the total minor defendants. The percentage of female defendants peaked at 5.3 per cent in 2014.

**Age Groups**

Most minor offenders fall in the age group of 16 to under 18. Between 2006 and 2018, the proportion of minor offenders in this age group increased from 56 to 71 per cent. Contrary to the observations often made in media and different forums that minor offenders tend to be younger, the number of offenders under 14 years of age accounted for the smallest proportion and has been gradually declining - from 9 per cent in 2006 to nearly 5 per cent in 2018. Minor offenders in the 14 to under 16 age group also decreased from 34.8 to 24 per cent.
In the criminal system, minors in the 16 to 18 age group accounted for over 90 per cent of the total number of minors accused. The rate of accused minors aged 14 to under 16 fluctuated at around 10 per cent of the total number of accused minors and is decreasing.
Ethnicities

Between 2014 and 2018, about 85 per cent of minors accused were of Kinh people; the remaining 15 per cent belonged to ethnic minorities. This, however, is not surprising given that Kinh make up nearly 86 per cent of the country’s population. The proportion of minors accused in ethnic minorities increased slightly during this period.

Figure 13. Minors Accused by Ethnicity Groups (2014-2018)

A closer look at specific crimes showed that the percentage of Kinh ethnicity minors accused is higher than the average rate for murder, snatching, and gambling. Meanwhile, the proportion of ethnic minority minors accused is higher than the average rate for child rape, deliberate destruction of property, and breaching regulation on operation of road vehicles.
Figure 14. Minors Accused by Ethnic Groups and Type of Crimes (2014-2015)

Source: SPP

Education

Nearly 24 per cent of minor offenders were illiterate or only attended primary school. The dropout rate among minor offenders is nearly 48 per cent. This rate is very high in comparison to the general out-of-school rate among lower and upper secondary-school-age children, which are approximately 7.2 per cent and 27.7 per cent respectively.

Source: SPP

Minor offenders' statistics 2011-2018, Criminal Police Dept., MPS.

Central Population and Housing Census Steering Committee, The Viet Nam Population and Housing Census of 00:00 hours on 1 April 2019: Implementation organisation and preliminary results.
Similarly, the dropout rate of accused minors was 49 per cent. The Central Highlands and the Mekong river delta regions had the country’s highest dropout rate of 59.7 per cent among accused minors. Some provinces and cities had very high rates of accused minor dropouts, such as Gia Lai (65 per cent), Dong Thap (66 per cent), Dien Bien (69 per cent), Kon Tum (70 per cent), and Daklak (71 per cent).  

![Figure 15. Minor Offenders by Education (2011-2018)](image)

**Source:** MPS

Figure 16. Minors Accused by Education and Regions (2018)

![Figure 16. Minors Accused by Education and Regions (2018)](image)

**Source:** SPP

44 Department of criminal justice statistics and information technology. SPP: Minor accused statistics in three years of 2011-2013.
Other Characteristics of Minor Offenders

- The majority of MICWL were first-time offenders. Between 2011 and 2018, the average rates of repeat minor offenders was approximately 22 per cent, which substantially decreased, compared to the 44.8 per cent rate of the period 2006-2010\(^45\). Recidivism rate among minor accused was low, accounting for only 2.2 per cent\(^46\).

- More than 34 per cent of accused minors committed an offence with an adult, sometimes even with their parents\(^47\).

- Many minor offenders came from families with difficult circumstances. According to a Report of the Management Board of the Project on Prevention and Combat Crimes against Children and Crimes by Minors from 2006-2010, reviewing the profiles of 7,861 minor offenders showed that 80 per cent came from families with financial difficulties, domestic violence, a parent or parents convicted of a crime, addicted to alcohol, gambling, divorced or a single parent\(^48\). Criminal statistics showed that in 2009, nearly 21 per cent of accused minors came from a family with difficult situations, with incarcerated (0.6 per cent), divorced (2.6 per cent), or single parent(s) (13.8 per cent), or living and/or working on the streets (3.6 per cent)\(^49\).

---

\(^{45}\) Criminal Police Dept. MPS.

\(^{46}\) Department of criminal justice statistics and information technology, SPP, minors accused during 2011-2013 statistics.

\(^{47}\) Department of criminal justice statistics and information technology, SPP, minors accused during 2011-2015 statistics.


\(^{49}\) MOLISA, Children Indicators 2009-2010.
3. Law Implementation

3.1. Implementation of Grassroots Conciliation, Alternatives to Administrative and Criminal Liabilities

Grassroots Conciliation

According to the MOJ, there were 661,183 facilitators across 111,649 teams in Viet Nam by December 2016. On average, there were 7 facilitators for every 1,000 people. More than 66 per cent of these people have been trained in legal knowledge and mediation skills; however, there is a lack of more in-depth knowledge and mediation skills for cases involving minors. From 2014 to 2016, among the total of 447,032 mediation cases, 363,440 cases were mediated successfully, accounting for 81.3 per cent. These cases are primarily involved in civil, domestic and marital matters, land issues, and conflicts arising from activities in local communities. There is no disaggregated data on mediation cases involving minors, including those in conflict with the law.

A study conducted in 2012 on diversion and restorative justice in Viet Nam indicates that conciliation mechanisms at grassroots level (which are regulated by the Ordinance on the organization and operation of conciliation mechanisms at grassroots level) are adopted particularly to handle petty offences and conflicts within the community, including crimes committed by minors. However, there are no official statistics on the number of conciliation cases related to the offences committed by minors.

According to this research, in general, when a case is assigned to local conciliation teams, the lead facilitator or head of the residential area will arrange a meeting between the two families (the minor’s, the victim’s and their families), heads of residential areas, local police officers, senior members of the community and representatives of the Youth Union, Women’s Union and other social organizations. At the meeting, the facilitator will brief stakeholders on the offending behaviour of the minor and ask him/her to admit the mistake. The elders will then advise the minor on how to correct the mistakes and try to persuade the victim to forgive the minor. Afterwards, the parties will have a discussion to decide on the compensation to the victim and will require the minor to commit refraining from offending behaviour. The two families agree to work together and cooperate with social organizations to monitor the minor. Once the session ends, all the involved parties will sign the minutes of successful conciliation.

According to the Report Reviewing the Implementation of the Law on Grassroots Conciliation by the MOJ, conciliation activities at the grassroots level have positively contributed to: preserving community cohesion; guaranteeing security, social order and safety; preventing lengthy disputes and conflicts; limiting the number of cases which need to be solved at government and judicial agencies, resulting in reduction of both the workload for these agencies and heavy burdens on the state budget. However, the conciliation activities at the grassroot level still encounter several difficulties related to the capacity of the conciliation teams due to inadequate professional training, lack of conciliation skills in cases involving minors, and insufficient financial support. Consequently, many facilitators work unenthusiastically and resign, causing internal instability for the conciliation teams.

51 MOJ, Đánh giá luật pháp và thực tiễn thi hành pháp luật về xử lý chuyển hướng, tư pháp phục hồi đối với người chưa thành niên vi phạm pháp luật (Assessment of Laws and Practice Related to Diversion and Restorative Justice in Viet Nam), 2010.
Alternative Measures to the Handling of Administrative Violations

Alternative measures to the handling of administrative violations have been regulated in the LHAV 2012. According to the statistics from the Department for Management of Handling of Administrative Violations and Law Implementation Monitoring (MOJ), between 2014 and 2017, the average number of MICWL imposed with the measure of family supervision instead of administrative and educational measures in communes, wards or district towns was 1,560 per year. According to initial information provided by the Department for Management of Handling of Administrative Violations and Law Implementation Monitoring, as the measure of Family Supervision has just recently been implemented, for many local officials, except for those who were trained in advance and have opportunities to take part in pilot projects, it is not clear how to implement this measure. Several officials are not willing to adopt this measure, claiming that they lack the required knowledge and skills. There were also concerns about the risk of misuse, resulting in the application of this measure to ineligible minors to let them avoid being educated in communes, wards or district towns.

Figure 18. MICWL Placed under Family Supervision (2014-2017)

The statistics suggest that admonition was rarely applied as an alternative to fine. Some people claim that this measure is not strict enough and ineffective in reality, thus there is little incentive to adopt it. However, there is an assumption that competent persons did not record or report on the imposition as this measure could be applied on the spot.

Source: Department for Management of Handling of Administrative Violations and Law Implementation Monitoring, MOJ

52 Dang Thanh Son- Director of the Department for Management of Handling of Administrative Violations and Law Implementation Monitoring (2018), Practices on applying administrative measures on minors – Recommendations for refining the legal framework and enhancing management effectiveness; Records of the Workshop on Recommendations for refining child justice system in Viet Nam organised by the Ministry of Justice in collaboration with Konrad Adenauer Stiftung, 2018.

53 Ibis.
Exemption from Criminal Liability and Implementation of Community-based Supervisory and Educational Measures

Prior to the issuance of the PC 2015, MICWL could be exempted from criminal liability and instead supervised by family or an agency or organization under Article 69(2) of the PC 1999. However, this is rarely been applied in practice. According to the MOJ Report on Diversion and Restorative Justice in Viet Nam (2012), between 2006 and 2009, accused minors who were exempted from criminal liability and instead supervised by family or organizations under the decisions issued by investigating agencies or procuracies accounted for 2.7 per cent and 1.4 per cent respectively. In the same period, only 0.05 per cent of minor defendants exempted from criminal liability were instead supervised by family or organizations. Most of the cases exempted from criminal liability are those who commit petty crimes such as theft, deliberate injury infliction, deliberate destruction of property, public order offence, and gambling.54

This study also suggests that the application of this measure is limited due to the lack of not only specific regulations and detailed guidelines for practical implementation, but also mechanisms for supervising and comprehensive social services for children in the community. Therefore, the procedure-conducting agencies have grounds to question the practical effectiveness of this measure and seem reluctant to adopt it. The report indicates that all cases of diversion in localities participating in the study are implemented without support services provided. There is neither adequate support or assistance for MICWL's to go back to school nor consultation and training programs to improve their knowledge, self-respect, attitude towards life and determination to overcome difficulties, except a few visits by local police officers, youth unions, women's unions, neighbourhood groups, among others.55

Many respondents of this research supported the application of diversionary measures, especially when handling first-time offenders, negligence, or in the case of less serious crimes. Most respondents agreed that the best solution for MICWL is community-based supervision and rehabilitation and that detention should only be used when it is of absolute necessity. Many believed that subjecting MICWL's to administrative or criminal measures can potentially lead to numerous negative impacts. However, some respondents claimed that according to the law, procedure-conducting agencies do not have enough decision-making power and flexibility to decide whether an administrative violation or a criminal offense can be handled by using informal measures or not. Furthermore, community services for MICWL are significantly limited in terms of both quality and diversity.56

The new provisions of the PC 2015 related to diversion came into effect since the approval of the Code. So far, no assessment has been conducted on how those provisions are implemented in practice though there was the expectation that diversion would be applied more, especially following the approval of the Government Decree No. 37/2018/ND-CP with detailed guidance for rehabilitation of MICWL in the community.

3.2. Handling Administrative Violations Committed by MICWL

Monitoring and collecting statistics on the practice of handling administrative violations in general and the cases related to minors is challenging work as there exists a wide range of agencies and persons who have the authority in handling this type of violation. Prior to the issuance of the

54 MOJ, Đánh giá luật pháp và thực tiễn thi hành pháp luật về xử lý chuyển hướng, tư pháp phục hồi đối với người chưa thành niên vi phạm pháp luật (Assessment of Laws and Practice Related to Diversion and Restorative Justice in Viet Nam), 2010.
55 Ibis.
56 Ibis.
LAHV, there were no agencies assigned to produce official statistics and release data on handling administrative violations. Under the Project on Prevention and Combat Crimes against Children and Juvenile Crimes, under the National Programme on Crime Prevention and Combat, the Criminal Police Department of the MPS periodically collect and report on data on MICWL handled by the criminal police, including those handled with administrative measures. The data are then consolidated by MOLISA and publicized in their annual Children Indicators publication. However, there are concerns that this data is still incomplete.

The LHAV has entrusted the MOJ with the task of monitoring the implementation of handling administrative violations, including producing official statistics, and setting up and monitoring national databases for handling these violations. Currently, these databases are being developed. Initially, the collection and reporting on data on the application of administrative measures, including the cases related to MICWL, have been improved. However, it is still not possible for the data on the imposition of administrative sanctions against MICWL to be collected and reported on.

The following statistics from 2006 to 2010, provided by the Criminal Police Department of the MPS reflect the implementation of rehabilitation in communes, wards or district towns. This measure is more commonly adopted than placement in reformatories as the latter is primarily applied to more serious offences, which only account for a smaller proportion of the cases related to MICWL. The chart below also indicates that the application of both measures had a downward trend during this period. Specifically, both measures witnessed a decrease by 43 per cent and 47 per cent respectively.

**Figure 19. Imposition of Administrative Handling Measures on MICWL (2006-2010)**

![Graph showing the decrease in rehabilitation and placement in reformatories from 2006 to 2010]

Source: MPS

The practical application of both measures, namely rehabilitation in communes, wards and district towns and placement in reformatories, before the issuance of the LHAV, revealed several concerns about the transparency of these measures during the implementation. Particularly, people who are subjected to these measures and their legal representatives have not had favourable opportunities to
be fully involved and express their opinions during the proceedings\textsuperscript{57}. There had been concerns that the term limit for the placement in reformatories was quite long. Despite the fact that most minors in reformatories were sanctioned for non-violent property offences, including theft (61.5 per cent) and public order offence (22.9 per cent), a study conducted by MOLISA in collaboration with the MPS and the MOJ revealed that, approximately 90 per cent of MICWL were placed in reformatories for a period of 18 to 24 months\textsuperscript{58}.

\textbf{Figure 20. Terms of Placement in reformatories (2014)}

\textit{Source: MOLISA}

Since the issuance of the LHAV, radical changes in subjects and procedures for handling administrative violations have been made, contributing considerably to positive changes in implementation of these measures. To implement the regulations of the LHAV, since 2014, statistical data collection and reports on handling administrative violations has improved, presenting a more comprehensive picture of the application of these measures with minors.

Figure 21 illustrates the implementation of handling administrative measures between 2014 and 2017, according to the statistics provided by the MOJ. The chart shows that the number of MICWL imposed with the measure of rehabilitation in communes, wards, and district towns is significantly higher than the number in the previous period. However, this may be due to improved data collection and reporting in accordance with the regulations of the LHAV concerning the data collection, and the development and management of a national database on handling administrative violations, rather than because of a notable increase in the number of MICWL or the increased imposition of rehabilitation in communes, wards and district towns. Further research is needed to confirm this assumption.

\textsuperscript{57} Department of Administrative and Criminal Law, Report No. 35/PL, HSHC dated 18/01/2010 summarising the performance of 8 years enforcing the Ordinance on Handling Administrative Violation 2002 and guiding documents.

\textsuperscript{58} MOLISA, Legal Dept. Report on the Survey of MICWL who have no permanent place of residence in reformatories (2014).
The years 2015-2016 witnessed a sharp increase in the number of minors subjected to administrative handling measures. Meanwhile, the year 2014 saw a decline in a significant number of administrative handling measures imposed by the competent authority, this is likely due to the fact that the competent authorities needed time to become familiar with new regulations and procedures introduced by the LHAV 2012, especially the ability to impose the measure of rehabilitation in communes, wards or district towns and placement in reformatories. Thus, there exist a possibility that a large number of case files pending in 2014 were then processed in 2015 and 2016 which resulted in an increased number for that period.

Figure 21. Imposition of Administrative Handling Measures on MICWL (2014-2017)

During this period, the number of minors placed in reformatories decreased significantly. On average, there were only 486 minors sent to reformatories annually; a decrease of 63 per cent compared to the number for the period 2006-2010. This decrease led to the closure of a reformatory in Long An, and now there exist only three reformatories located in Ninh Binh, Da Nang, and Dong Nai. This could be a result of the LHAV having greatly restricted the scope of minors subject to placement in reformatories, providing a more comprehensive procedure for the preparation of case files, and granting the courts the authority to impose these measures, instead of chairpersons of the district people’s committees. However, it is worth noting that the declining trend had been observed before the issuance of the LHAV. From 1995 to 2003, the number of MICWL placed in reformatories increased by nearly 10 times from 233 cases in 1995 to 2,203 cases in 2003, but from 2006 to 2017, this number decreased by nearly 8 times, representing a strong reverse trend in the imposition of custodial measures on MICWL.

3.3. Handling Criminal Violations Committed by MICWL

According to data from the SPC, from 2011 to 2015, there were 22,956 minors adjudicated in the first instance court and sentenced, an average of 4,591 minors a year. A majority of them were subjected to some form of penalty (nearly 99.6 per cent). The number of MICWL exempted from criminal liability

or handled by judicial measures only accounted for less than 0.5 per cent.

Despite the fact that three out of the four types of penalties that can be applied to MICWL in accordance with the PC 1999 are non-custodial penalties, namely warning, fines and non-custodial reform, the number of MICWL receiving non-custodial penalties only accounted for less than 6 per cent. It is required by law that termed imprisonment shall be only applied when necessary, however, more than 93 per cent of MICWL are sentenced to termed imprisonment, of which the most common term is less than three years (49 per cent). About one-third of them were entitled to suspended sentence and placed under community supervision for a probation period.

**Figure 22. Penalty Imposed on Minor Offenders (2011-2015)**

<table>
<thead>
<tr>
<th>Penalty Type</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-custodial penalties</td>
<td>947</td>
<td>4%</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>1,357</td>
<td>6%</td>
</tr>
<tr>
<td>Termed imprisonment up to 3 years</td>
<td>6,086</td>
<td>26%</td>
</tr>
<tr>
<td>Termed imprisonment of 3 years to under 7 years</td>
<td>11,123</td>
<td>49%</td>
</tr>
<tr>
<td>Termed imprisonment of 7 years to under 15 years</td>
<td>3,198</td>
<td>14%</td>
</tr>
<tr>
<td>Termed imprisonment of 15 years to under 18 years</td>
<td>144</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: SPC

The number of minor offenders sentenced by the courts peaked in 2012 and then gradually decreased to the same level as in 2011.

During the 2016-2018 period, 8,085 minors were adjudicated and sentenced by the court of the first instance, an average of 2,695 minors per year, which was a 41 per cent decrease compared to the 2011-2015 period. Since 2016, the provisions of the PC 2015 on diversion of MICWL to community-based rehabilitation through exemption of criminal liability as well as restricted application of termed imprisonment have taken legal effect. According to the statistics gathered by SPC, in this period, the rate of minor offenders who were exempted from criminal liability or applied judicial measures showed a very small increase of less than 1 per cent. Likewise, termed imprisonment was still used widely (over 91 per cent), although it did decrease compared to the 2011-2015 period.
A closer look at the penalties imposed on minor offenders throughout the 2011-2018 period showed that the rate of minor offenders sentenced to non-custodial penalties doubled from 4.7 per cent to 10 per cent. The rates of other types of penalties fluctuated and showed no clear signs of upward or downward trend.

### Table 5. Penalties Imposed on Minor Offenders (2011-2018) (%)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-custodial penalties (warning, fines, non-custodial reform)</td>
<td>4.7</td>
<td>5.2</td>
<td>5.9</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>9.7</td>
<td>10</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>27.7</td>
<td>29.5</td>
<td>26.8</td>
<td>22.8</td>
<td>25.2</td>
<td>23.9</td>
<td>25.9</td>
<td>23.4</td>
</tr>
<tr>
<td>Imprisonment up to 3 years</td>
<td>48.1</td>
<td>45</td>
<td>48.8</td>
<td>51.8</td>
<td>51.4</td>
<td>54.5</td>
<td>50.6</td>
<td>49.9</td>
</tr>
<tr>
<td>Imprisonment of 3 years to under 7 years</td>
<td>13.9</td>
<td>15.5</td>
<td>13.6</td>
<td>13.7</td>
<td>12.3</td>
<td>11.7</td>
<td>11.2</td>
<td>12.2</td>
</tr>
<tr>
<td>Imprisonment of 7 years to under 15 years</td>
<td>4.8</td>
<td>4</td>
<td>4.3</td>
<td>4.2</td>
<td>3.4</td>
<td>2.7</td>
<td>2.4</td>
<td>3.5</td>
</tr>
<tr>
<td>Imprisonment of 15 years to under 18 years</td>
<td>0.8</td>
<td>0.7</td>
<td>0.6</td>
<td>0.5</td>
<td>0.7</td>
<td>0.3</td>
<td>0.2</td>
<td>1.1</td>
</tr>
</tbody>
</table>

### Authorities and Officers Conducting Legal Proceedings

The establishment of the two first-of-its-kind family and juvenile courts in Ho Chi Minh City and Dong Thap province, as well as the on-going process of establishing family and juvenile courts in 34 other cities/provinces and localities, is the milestone in the development of the judicial system in Viet Nam. However, investigation agencies and procuracies still lack specialised units and officers to deal with minor-related cases.
Despite the law requiring officers who conduct legal proceedings involving minors to have adequate knowledge on minor development process, psychology and pedagogy and other relevant knowledge and skills necessary to effectively deal with minors, not all officers possess such skills and knowledge. Many officers conducting legal proceedings disclosed that they had participated in basic training courses on child justice but are not equipped with specialised child-friendly and gender-sensitive proceeding skills. In addition, there is high turnover rate among officials also challenges the sustainability of capacity building efforts on child justice.

**Application of Deterrent Measures**

According to the data provided by the SPC, about 35 per cent of minors accused were temporarily detained during the investigation process. These measures are only applied to MICWL when necessary and when there are sufficient conditions as prescribed by law. The minors are kept in a separate area from adults. If the minor has a clear place of residential address or legal representatives, bail is usually granted with a restriction of movement order. However, there are some cases where the minor is on bail and has their movement restricted, and fails to present themselves on request, or even worse, runs away or commits another crime. In these cases, the minor would be held in custody for the remainder of the investigation, prosecution and adjudication.

**Participation of Parents, Guardians and Other Agencies, Organizations, and Individuals**

The implementation of the PPC’s provision related to the participation of parents or guardians of the minors, representatives from their schools and other agencies and organizations during proceedings faced several challenges. A research conducted by SPP showed that it’s partly because the PPC 2003 does not clearly define the roles of representatives of schools and organizations in the proceedings and that their participation is not compulsory.

For minors who do not have a family and a place of residence, it is challenging to identify their legal representative in accordance with the law. In many cases, minors do not provide their personal information including name, family and address, as they do not want their families or schools to know about their offences. This poses significant difficulties for the authorities conducting legal proceedings regarding identifying the minors’ guardians or legal representatives and notifying their families or legal representatives after they were arrested or temporarily detained.

**Legal Defence**

A study conducted in 2007 on the procedure for investigating and adjudicating cases involving minors shows that all minor participants of the study had a defence counsel; a few had private lawyers, but the majority had a defence counsel appointed by the Court. However, the defence counsel supported none of them in the investigation phase. Some of them had never even met their lawyers until the trial. This is partly due to the lack of qualified lawyers who have sufficient knowledge and skills to work with minors, not to mention the fact that those lawyers who are appointed as defence counsel have a heavy workload, making them unable to participate in the proceedings at an early stage, and only participate at the final stage of the investigation when the case file is transferred.

---


61 Ibis.

to the Procuracy or in the proceedings in court. According to MOJ statistics, 5,211 minors had access to legal aid services in 2018; of these, 2,383 were minor offenders aged 16 to 18, with 79 per cent of the minors represented in the proceedings. A number of minor offenders aged 14 to 16 were also provided with legal aid services.

**Interview and Interrogation**

The above-mentioned study conducted by SPC and UNICEF in 2007 also shows that investigators did not always use child-friendly interview techniques, which caused fear in children. Under the cooperation framework between UNICEF and the Government of Viet Nam to promote child-friendly and gender-sensitive proceeding procedures, 11 child-friendly interview rooms have been set up and put into use in the following provinces: Hanoi, Hai Phong, Lao Cai, Dien Bien, Ho Chi Minh City, An Giang, Dong Thap, Gia Lai and Kon Tum. Dong Thap has three child-friendly interview rooms (one room in the provincial police office and the other two in Hong Ngu and Lai Vung districts); each of the other provinces have one interview room. In addition, one child-friendly room was set up at the People's Police Academy for training purposes.

These child-friendly interview rooms are specially designed to interview or interrogate minor offenders, victims, and witnesses and equipped with cameras and sound recording devices. Investigators have been well trained to interview minors in the room with the participation of the minors’ parents or guardians, child protection officers and legal aid officers. Based on this piloted model, the Criminal Police Department of the MPS established a technical manual on child-friendly interview procedures and a guideline on setting up a child-friendly interview room.

**Adjudication**

Prior to 2016, in terms of court proceedings, there were no juvenile court or special courtrooms for minor defendants in Viet Nam. The Research on court proceedings and investigations related to minors' shows that the environment and court procedures for minor defendants are similar to those applied to adults, except the members of the trial panel. Legal guardians, judges, prosecutors, and lawyers participating in this study shared the same view that the serious and formal atmosphere of the court negatively impacts the ability of minors to provide a truthful testimony and participate in the proceedings. Many respondents said that minors are often too scared to provide adequate and truthful answers. Minor respondents claimed that major sources of their stress are: the fear of being punished; the solemn atmosphere of the courtroom; the standing position in front of the horseshoe; the presence of many people or the public; being called “the defendant” and handcuffed. In addition, cases involving minor defendants are not always held in closed sessions and this has a negative impact on them. The 2015 PPC and especially Circular 02/2018/TT-TANDTC dated 21 September 2018 has created a necessary legal framework in order to protect the minor’s privacy in the trial process. Nevertheless, there is currently no assessment of the practical implementation of these provisions.

The establishment of family and juvenile courts is regulated under the LOPC 2014. The first two family and juvenile courts were established in Ho Chi Minh City and Dong Thap Province.

The family and juvenile court in Ho Chi Minh City has 12 judges and 17 secretaries. The selected judges are those who have essential knowledge about child psychology and educational science.
for minors as well as experiences in dealing with minor-related cases. The family and juvenile court contains one courtroom for family and marriage matters, one criminal courtroom and function rooms including children’s room, child psychological supervision room, counselling and mediation room and medical room.

According to the initial information on the activities of the family and juvenile court in Ho Chi Minh City, during the trial of minor cases, the principles of the best interest of the child, restriction on the application of custodial sanction have been enhanced to achieve the educational purposes, help minors right their wrongs and develop properly with an aim to reintegrate and become productive members of the society. The Court prioritizes criminal liability exemption and non-custodial measures such as and suspended sentences to facilitate community-based rehabilitation. The trial is organized in a child-friendly way with minors being able to interact with their parents, guardians and defenders.

In present, 34 other cities and provinces are in the process of establishing family and juvenile courts under the decision of the Chief Justice of SPC.

3. 4. Rehabilitation and Preparation for Reintegration of MICWL in Detention Centres

Reformatories

Before 2014, there were four reformatories managed by MPS, including Reformatory Number 2 in Ninh Binh, Reformatory Number 3 in Da Nang, Reformatory Number 4 in Dong Nai, and Reformatory Number 5 in Long An. As shown by the statistics of MPS, the number of minor offenders placed in reformatories dropped from 4,110 in 2006 to 2,798 in 2010. However, minors who are criminal offenders made up only 2 per cent of the total minors in reformatories.

Figure 24. MICWL in Reformatories (2006-2010)

![Figure 24. MICWL in Reformatories (2006-2010)](chart)

Source: MPS

---

65 The Reformatory Number 1 in Hanoi was closed since the previous period.
As mentioned above, the imposition of reformatories continued to decline in the following years, resulting in the closure of the Reformatory number 5 in Long An. Most of the minors in reformatories (97 per cent) are boys. More than half belong to the 14 to under 16 age group. Nearly 80 per cent of minors are sanctioned to reformatories for theft and this is also the most common offence. A small number of minors were placed in reformatories for committing more serious offences such as murder, and rape.

**Figure 25. MICWL in Reformatories by Age Groups (2016-2018)**

<table>
<thead>
<tr>
<th>Year</th>
<th>12 to under 14</th>
<th>14 to under 16</th>
<th>16 to under 18</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>40</td>
<td>144</td>
<td>113</td>
</tr>
<tr>
<td>2017</td>
<td>40</td>
<td>164</td>
<td>123</td>
</tr>
<tr>
<td>2018</td>
<td>29</td>
<td>179</td>
<td>128</td>
</tr>
</tbody>
</table>

Source: MPS

Basically, the regime of care, management and education of reformatory students is identical, almost without distinction between students placed in reformatories through the administrative or criminal system. A report on re-integration of MICWL published in 2010 by the MOJ showed that reformatories have made many efforts to educate and rehabilitate minor offenders, help them successfully reintegrate into community, and avoid recidivism after the end of their term. To maintain the bond between minor offenders and their families, reformatories have created favourable conditions that allow minors to stay in touch with families through visits, letters, phone calls, and gifts. Students with good performance are allowed to visit home for several days in the summer holidays or at New Year. Annually, reformatories organize meeting for parents to exchange information with other parents of students and support students during their rehabilitation, as well as to prepare reintegration plans for the students.

According to the MPS, there have been improvements in teaching and learning activities at reformatories in recent years. Students are provided with basic literacy, vocational training, and physical education appropriate for their ability and age. Reformatories have held classes for universal education of primary and lower secondary level in accordance with the specific conditions of each reformatory and students’ needs.

---

66 MOJ, Báo cáo tài hóa nhập cộng đồng cho NCTNVPPL (Report on Reintegration of MICWL), 2010.
In addition, from 2008 to 2010, reformatories have opened 109 vocational classes for 2,104. Juvenile Reformatory Number 2 in Ninh Binh, Reformatory Number 3 in Da Nang, Reformatory Number 4 in Dong Nai, and Reformatory Number 5 in Long An have opened 13, 21, 35, and 40 classes for 340, 413, 622, and 729 students respectively. The students are equipped with basic skills such as construction, mechanics, welding techniques, woodworking, tailoring, barbering, motorbike repair, bartending, painting, electrician courses, industrial textile, gasoline-powered and oil-powered machine repair, among others. In this period, 1,611 students have been granted a vocational training certificate.

In addition to vocational training, reformatories also allow students to participate in activities such as vegetable farming, breeding of domestic animals, and sanitary work for the school and dormitories. Several reformatories hold classes for embroidery, aluminium foil pasting, chair making, clothes-hanger making, and growing plants. The workload is appropriate to the students’ age and it mainly engages their daily lives.

The Report on Reintegration shows that reformatories have paid more attention to the physical and mental well-being of students. Reformatories hold sessions of psychological consultancy and life skills with topics on occupation, reproductive health, and family for newcomers and students soon to graduate. New students are arranged into a separate group and equipped with life skills to be able to stabilize their mental status and handle their stress effectively.

Reformatories have also established procedures that facilitate the reintegration of minor offenders after graduation. Provision of knowledge education, vocational training and life skills as mentioned above serve the sole purpose of facilitating the reintegration of minors. Furthermore, reformatories provide occupational consultancy to students before they graduate and approach enterprises to help trained minors find a job.

Despite the above efforts, reformatories continue to face numerous difficulties that negatively impact the efficiency of rehabilitation, particularly as follows:

- Despite of various improvements, conditions of minors in reformatories, including accommodation, food, and clothing, remain at a low standard compared to the average social standard.

- The provision of basic literacy and universal primary education programmes continue to face difficulties due to lack of programmes for teaching all classes and lack of books for teachers for lesson plans and preparation. These problems are accompanied by other challenges faced by teachers when preparing lessons based on standardized knowledge. The excessively intensive knowledge provided in a session does not only exceed the students’ perception level but is also not systematically organized and the unit’s content is not appropriate for student’s psychological development. Students, due to their limited study skills and negative attitudes, also encounter difficulties when using textbooks. The education programme adopted in reformatories has fewer subjects compared to the official education system. As a result, after graduation from reformatories, students are normally ineligible for mainstreaming schools, or are unable to keep up with the programme in those schools.

- Some reformatories are only able to provide education until Grade 9. After that, students move on to vocational training. After graduation from reformatories, continuing further study becomes extremely challenging as students almost always forget most of the general education knowledge that they were taught.
Vocational training activities are still ineffective with tight budget allocations. Most vocational training programs still fail to equip students with marketable job skills but focus on low-paid, simple, manual job skills. Consequently, minors leaving the school rarely pursue the profession that they were trained for, resulting in a waste of resources. The number of students attending vocational courses is unsubstantial compared to the needs of students. For example, in Reformatory Number 4, only 10 to 13 per cent of the students were enrolled in vocational training courses. In Reformatory Number 2, 25 to 30 per cent of the students had opportunities to take certified vocational training courses for professions like mechanics, construction, electricity, woodwork, tailoring, and office computer skills.

Labour work in reformatories is largely simple and for “educational” purposes, such as handicrafts, sewing, embroidery, cashew peeling, welding, vegetable farming, poultry farming, and other jobs relevant to local conditions.

Counselling is increasingly promoted and offered but still cannot meet the needs of minors, mainly due to the lack of qualified consultants. This type of service is indispensable to deal with psychological matters in order to support future community reintegration.

Prisons

Between 2006 and 2010, the minor population in prisons ranged from 4,000 to 5,300, of which approximately 97 per cent were boys. The number of minors in prisons peaked in 2008 and then decreased. Recent years witnessed a sharp decrease in the number of minor inmates; the 2018 number was reported at 662, including 640 boys and 22 girls, a sharp decrease of 84 per cent of the 2010 figure\(^\text{67}\). This downward trend of the number of minors in prisons started in concurrence with the implementation of the Law on Special Amnesty 2007. According to the MPS, between 2009 and 2016, the State President granted seven amnesties, which benefited 85,897 inmates and 1,123 other convicts who were under deferred or suspended imprisonment\(^\text{68}\). On average, more than 12,000 inmates were released on each instance of amnesty. Specific data on the number of minor offenders released due to special amnesty is not available. However, given the consistent number of minor offenders sentenced to imprisonment every year, it is logical to assume that special amnesty was the main attribution of this downward trend.

\(^{67}\) Statistics on minors in prisons provided by the General Police Department for criminal judgement execution and judicial assistance (currently dissolved), and the Police Department for management of prisons, mandatory education centres, and reformatories, MPS.

Disaggregated data by type of crime showed that minors convicted for robbery and snatching represented the biggest group, followed by those convicted for deliberate infliction of bodily harm upon another person, theft, and drug-related crimes.
No specialized prisons for minors are in place. Thus, minors sentenced to termed imprisonment are kept in the same prison as adults, although in a separate area, where they are managed and educated in compliance with special regulations suitable for their age.

Prisons have collaborated with families of minors, local authorities and other stakeholders to support minor offenders to actively participate in educational, vocational training programmes and work so that they are eligible for a commutation of sentence. They also offer support to minors in basic literacy and vocational education, as well as assisting them in preparing for their rehabilitation. Every year, prisons organize meetings with families of offenders to work together to monitor, educate and provide better occupational orientation and vocational training for minor offenders.

Following the reception of new minor offenders, the Warder Division evaluates and determines those in need of basic literacy classes, then creates a plan for primary-level universal education for minors. If there are no professional teachers in certain areas, the Warder Division takes the initiative to hold classes for offenders and assigns prison officers to manage the classes. After being equipped with teaching methodology, inmates with high educational levels are called upon to teach classes following the programme developed by the Ministry of Education and Training. In practice, 100 per cent of minor offenders who had not completed primary school before imprisonment had joined classes and were eligible for a certificate on completion of the programme developed by the Ministry of Education and Training.

Prisons are allowed to establish ‘vocational training centres’ to provide vocational training for offenders, including minors. Vocational training is compulsory, and the training period is subject to each trade and the capability of the prison. The budget for equipment and activity costs for vocational training shall follow the regulations and allocated as per the prisons’ proposal. The prisons encourage students and their families to make financial contributions for equipment for vocational education.
training. Students can make products during vocational training courses. Trade teachers are prison officers with vocational skills, other skilled people or inmates with good skills and attitudes. Teachers from vocational colleges, technical centres, and profession orientation centres are also invited to deliver vocational training. Upon completion, students are assessed and granted with certification in accordance with regulations of the Ministry of Education and Training.

Minors are also taught a code of ethics and code of conduct, and equipped with basic knowledge of HIV/AIDS, drugs and regulations related to drugs, among others. At the end of their term, they will have a training session on moral principles and conduct, such as basic rights and obligations of people who have finished imprisonment terms, basic legal regulations, and life skills, to support their reintegration.

In general, minors sentenced to termed imprisonment are entitled to more favourable conditions and better treatment compared to those applicable to adults. Various activities have been carried out to educate, train, and prepare them for becoming constructive citizens after their terms. However, the 2010 report on ‘Reintegration of Minors in Conflict with the Law’ identified the following challenges:

- Despite the fact that prisons have programs for vocational training, illiteracy eradication, citizen education, writing, arts, and sports, some prisons only offer illiteracy programmes for offenders in need on Saturdays and Sundays.

- In some cases, forms of training and working are not matched with the labour market’s demands, which fails to help minors find a job after prison release.

- Accommodation in some prisons is still of poor conditions to promote healthy development, both physically and mentally. In some prisons, minors are kept in separate rooms but are still in the same area with adult prisoners and share the same gate and yard; hence it is impossible to avoid contact between minor and adult prisoners.

- Minors in prisons have access to healthcare services but psychological services are not available to them. This service is necessary for helping minor resolve relationship matters and creates better plans for reintegration into the community in future.

- An assessment survey on preparation for social reintegration in one prison shows that minors have not adequately been psychologically prepared for social reintegration, and many of them are uncertain of what to do after their prison terms end, as well as of plans for successful reintegration. Some of them said they did not have a chance to discuss successfully resolving problems after prison release, reintegrating into the community, or how to make plans for reintegration. Some minors receive advice and encouragement from family and prison officers, yet this advice and encouragement is too general and is not enough. Many minors do not have specific plans for successful reintegration. They are not told of the necessity to have plans or they are not given guidance on how to make plans.
4. Observation and Assessments

Achievements

Along with the reforming of laws and policies, law implementation has been focused on and strengthened over the past years. For the first time, the Government has launched a national project on innovating and enhancing the effectiveness of law implementation (Decision No. 242/QD-TTg dated 26th February 2018 of the Prime Minister). Among many tasks and solutions proposed by the project are solutions to study, develop specific and quantitative criteria to determine the level of law implementation, as well as assess accurately and comprehensively the effectiveness and impacts of legal documents in practice. The project also requires the development and piloting of a framework for monitoring law implementation and data collection system for law implementation monitoring.

Law implementation monitoring has been strengthened, including MICWL-related law implementation monitoring. With the promulgation of Decree No. 59/2012/ND-CP, the MOJ is assigned the responsibility to preside over the monitoring of law implementation nationwide. In addition to areas under its scope of management, the MOJ also assumes the task of monitoring law implementation in the areas under interdisciplinary management, which presents many difficulties, obstacles, and inadequacies in practical execution.

With respect to MICWL, in order to enforce the new laws relating to the prevention, handling, education, and rehabilitation of MICWL, more than 20 sub-law documents have been issued since 2013.

Training and capacity building for effective implementation of new legal documents have also been promoted, especially through use of information technology to organize online trainings nationwide. Agencies such as the SPP and SPC have compiled training materials on the PC, PPC, including the content related to handling MICWL, posted information on the sector’s website, and organized online training for the whole sector.

One of the most significant achievements over the past years is the establishment of family and juvenile courts in the people’s court system, with the first two courts in Ho Chi Minh City (2014) and Dong Thap (2016) and in 34 other courts under progress in other provinces and cities.

The report also shows a strong downward trend in the imposition of placement of MICWL in reformatories. From the period of 2006-2017, the number of minors placed in reformatories reduced by nearly eight times. As a result, there remain only three reformatories throughout the country at present, 1 less than before.

Thanks to the implementation of the Law on Special Amnesty 2007, early release of inmates, including minor inmates has been accelerated. From 2010 to 2018, the number of minor prisoners dropped by 84 per cent.

Challenges

Termed imprisonment sanctions are still widely applied. Between 2011-2015, more than 93 per
cent of minor convicts are sentenced to termed imprisonment, of which the most common term is less than three years (49 per cent). Since 2016, the provisions of the PC 2015 on strengthening criminal liability exemption for minor offenders to supervise their education in the community, and the principle of restricting the application of termed imprisonment sanctions have taken effect. However, the rate of minor offenders who are exempt from criminal liability or judicial measures remains low (less than 1 per cent). At the same time, termed imprisonment sanctions are still widely applied (more than 91 per cent), although this rate has decreased as compared to the 2011-2015 period.

Limited and insufficient quality community-based education and rehabilitation services for MICWL: To enhance the efficiency and realization of new regulations on strengthening community-based measures applicable to minor offenders under the LHAV and the PC, it is necessary to have diversified and quality monitoring and rehabilitation services in the community. However, the current support, rehabilitation and community reintegration programs and services for minor offenders are still limited in both quality and diversity of services. There are not many supporting services that would be able to address the causes and conditions leading to legal offences, such as counselling, life skills training, and vocational education that are readily available. Additionally, families, relevant authorities and organizations have not yet had meaningful participation in the delivery of these services. Thus, the supervision and support provided for minors subjected to management in the community are not effective and systematic. Furthermore, the needs of female minor offenders were not identified as they only represent a small number; consequently, supporting services to MICWL are often gender biased.

Lack of effective supervision, education and social reintegration services for MICWL

Minors in reformatories and detention facilities are entitled to education, vocational training and assistance in reintegration; but the quality and diversity of such programmes are still limited.

Lack of complete and systemic MICWL data collection, report and analysis despite progress made. There is a lack of a comprehensive data collection and management system on MICWL in both administrative and criminal systems. Presently, each organisation involved in the handling of MICWL has its own data collection method and reporting mechanism to support their functional activities. These methods are not necessarily consistent in terms of data disaggregation, time of reporting and period of reporting; as a result, the data collected is not consistent. In addition, a lot of data is not comprehensively collected and reported. Data on MICWL has not been published periodically and systematically to obtain an accurate view of the current situation of MICWL. These limitations have posed a challenge to evidence-based policy-making and planning efforts, besides other factors such as the lack of qualitative researches on other relevant topics, including risk factors contributing to minor’s violations, the most effective measures for MICWL education and rehabilitation, and recidivism prevention.
PART V. RECOMMENDATIONS

The UN Committee on the Rights of the Child has emphasized that State Parties should adopt a comprehensive approach to child justice and determine to implement broad and necessary reforms in criminal justice as well as social responses of minor offenders. To reasonably and effectively solve the problem of minor offenders, there must be a specific and distinct approach that considers rights, needs, and likelihood to rehabilitate minors. It requires comprehensive reform of traditional criminal and administrative handling systems for adults. However, it does not mean that a separate mechanism and procedure is needed to handle minor cases. Instead, the handling of offences committed by minors should be based on separate principles, objectives, and processes with specialized services customized to minors.

Comprehensive child justice involves several different agencies, organizations, and departments, including law enforcement agencies, courts, procuracies, social welfare, education and health care agencies. It is also integral to the child protection system that provides prevention and response services to potential risk minors. Thus, strengthening comprehensive protection of the minors in the justice system requires a combination of policies, programmes, and services of all relevant agencies and handling measures of MICWL.

In the past decade, Viet Nam has undertaken strong efforts in refining the legal and policy system as well as judicial institutions regarding MICWL. In the coming future, with the intention of putting the reforms into practice and offering practical benefits to minors, while aiming at a comprehensive child justice system as a larger goal, it is necessary to adopt such short and mid-term measures as follows.

1. Development of a Master Plan on Child Justice

A master plan on child justice should be developed with detailed instructions for building a comprehensive child justice system, as well as feasible and appropriate short, mid, and long-term plans of action aimed at effective and synchronous prevention of and response to offences committed by minors.

This plan should be developed to ensure the compliance with key guiding principles in the entire child justice system, from prevention, handling, education, and rehabilitation, to community reintegration for MICWL, rather than just recognizing these principles in the administrative and criminal processes as is currently done. These include:

Best interests of the child: The child justice system shall ensure that the best interests of minors are a primary consideration in any administrative or judicial activity relating to minors.

Separate and distinct handling for MICWL: It is necessary to design a comprehensive child justice
system in such a way that minors are handled separately from adults at all stages in the handling of administrative violations or criminal proceedings given the inherent unique needs and vulnerabilities of minors.

**Rehabilitation and reintegration are the main goal:** The child justice system should primarily aim at promotion minors’ rehabilitation rather than mere punishment. International practices have indicated that the most effective way to reduce offences committed by minors and protect community safety is to implement appropriate and effective interventions helping minors be aware of their mistakes, follow the path to become a good citizen, and comply with the law. Emphasis should be placed on identifying and addressing the underlying risk factors (in the family, school, and community) behind the minor’s behaviour.

**Maximize the application of informal measures (diversionary measures):** The child justice system should stipulate informal measures to handle crimes or law violations committed by minors, including conciliation and community-based rehabilitation in place of formal handling procedures.

**Handling minors in a fair, effective and friendly way:** The child justice system should ensure that minors are treated in an age-appropriate manner and based on their special vulnerabilities at all stages of criminal and administrative proceedings. The formalities of handling procedures should be alleviated whenever possible but ought to ensure legal safeguards for minors. Handling of offences committed by minors should be completed as quickly as possible and avoid any unnecessary delays.

Deprivation or restriction of liberty shall be the last resort: The child justice system should ensure that deprivation of liberty of minors such as temporary custody or detention, placement in reformatories and termed imprisonment shall be the last resort and only applied to minors who commit serious crimes of violence or persist in committing other serious offences.

**Coordination between child justice agencies and child protection agencies:** The child justice system must ensure coordination and cooperation between judicial agencies and child protection services. International studies have shown that many minor offenders are victims of unhappy families with domestic violence (mental, physical or sexual abuse) or difficult economic circumstances. Thus, prevention and response to offences committed by minors must be closely associated with effective social welfare services to prevent and support minors and families with social risk factors. Measures to handle minor offenders are only effective when they involve and aim to strengthen the minor’s parents and family, rather than simply imposing social control measures on the minor.

### 2. Improved Cross-sectoral Coordination and Cooperation on Child Justice

The child justice system consists of many incorporated and interdependent agencies and organizations. To ensure a smooth-running system, it is necessary to clearly define the functions, duties and responsibilities of each agency, and the mechanism to effectively and consistently coordinate the operation of all parties.

Currently, prevention, handling, education and rehabilitation of minor offenders are managed by different agencies and organizations with different functions and responsibilities. These agencies require a coordinating authority to facilitate consistent strategic planning, policy and program development, and monitoring and evaluation across the system, take advantage of resources, as well

---

71 CRC, *The Beijing Rules*. 

---

ANALYSIS REPORT 
OF THE CHILD JUSTICE LEGAL FRAMEWORK AND SITUATION OF MINORS IN CONFLICT WITH THE LAW IN VIET NAM
It is crucial to appoint a lead agency responsible for child justice coordination. This agency would be responsible for:

- Coordinating to develop a long-term plan on child justice and promote consistent policies, principles and approaches of prevention, handling, education, rehabilitation and community reintegration for minor offenders;

- Ensuring close cooperation and collaboration between authorized persons handling minor administrative violations, proceedings officers and social welfare, educational, health care workers, and other professionals;

- Generally monitoring and supervising prevention, handling, education, rehabilitation and community reintegration for minor offenders, and law and policy enforcement of child justice;

- Taking responsibility for collecting, summarizing, analysing, and reporting on child justice data, and promoting research on child justice system.

This lead agency should have capacity to perform state-level management and supervision; have a close relationship and ability to cooperate with police, procuracies and courts; be capable of promoting coordination and collaboration with non-judicial agencies but relating to prevention and handling violations such as education, health care, culture and sports, among others; and have sufficient personnel and resources to arrange a small group or team subject to coordination of child justice.

To identify a lead agency in terms of coordinating child justice, the following tasks should be done in the future:

**Short-term solutions (2019-2020)**

- Conducting a feasibility study and deciding which agency shall be the most appropriate lead for child justice

**Medium-term solutions (2021-2025)**

- Stipulating coordination responsibilities of child justice in a legal document with specific functions and duties.

- Setting up a department to coordinate child justice under a designated agency and allocating sufficient human and financial resources for the department to fulfil its role.

**3. Continued Improvement of the Legal and Policy Framework Pertaining to Child Justice**

Viet Nam has many special regulations for prevention, handling, education, rehabilitation and community reintegration for minor offenders. However, these regulations are dispersed in many
different legal and sub-law documents that are not fully consistent with international standards as well as best practices.

Some countries in the world and Asia Pacific region (such as Thailand, Singapore, the Philippines, Myanmar, Lao PDR, Indonesia, Malaysia, India, Bangladesh, Australia, New Zealand, Papua-New Guinea, and Fiji) have developed comprehensive laws on child justice, which stipulate the principles and procedures for handling minor offenders. This approach provides a more consistent legal framework for the child justice system, promotes a specialized approach in handling minors, and facilitates better integration between child justice and child protection systems building.

**Short-term solutions (2019-2020)**

- Codifying the regulations on prevention, handling, education, rehabilitation, and community reintegration of MICWL; conducting research, evaluation and proposing to develop a comprehensive law on child justice, or both of the above options.

**Medium-term solutions (2020-2025)**

- Based on the above research results, proposing the development of law on child justice and develop the bill; or keeping on with codifying the regulations on prevention, handling, education, rehabilitation, and community reintegration of MICWL, or both of the above options.

**4. Strengthened Capacity for Professionals Working in Child Justice**

For effective prevention, handling, education and rehabilitation of MICWL, officials and professionals involved in this process are required to have certain knowledge and skills. Moreover, to promote the child justice system, specialization should be strengthened in agencies conducting the proceedings as well as agencies and organizations providing services for MICWL.

There are two main approaches that are adopted by countries in order to promote greater specialization of minors in the justice system:

**Approach 1: Establish full-time specialist units or divisions within procedure conducting agencies to handle all minor’s cases.** It could be a specialized police department for minors, a minor unit under the People’s Procuracy, and a separate minor court operating full-time or on selected days of the week. This approach is often used in urban areas where the number of minor cases is large enough to have full-time officials.

**Approach 2: Designate specialist minor police, procuracy and judges who have been trained in handling children’s cases.** All MICWL will be assigned to these specialized officials to handle proceedings and apply specialized techniques. When not handling minor cases, these officials will continue to handle adult cases. This option is often used in areas where the number of MICWL is not large enough to have a department or unit specializing in minor cases.

Many countries combine these two options by establishing a specialized minor investigation unit and a full-time minor court in big cities and assigning officials to handle minor cases on part-time basis in less populated areas with less MICWL.
Short-term solutions (2019-2020)

- Urgently forming Family and Juvenile Courts across the country, especially at district-level. In localities that do not meet the conditions of the number of cases and personnel under the guidance of Circular No. 01/2016/TT-CA, it is necessary to appoint a specialized judge. At the same time, providing basic training on child justice to all judges responsible for handling minor offenders is advisable.

- Reviewing, revising and improving the quality of training programmes for police officers, procuracy officers, judges, defence lawyers, judgment execution officials and social workers to equip them with basic knowledge of child justice. Training contents include minor legislation, essential skills and techniques to effectively handle MICWL as well as their development, psychology, and communication.

- At district level, assigning investigators, prosecutors, and specialized lawyers to handle all cases related to minor offenders. Major districts with many minor offenders shall be prioritized before expanding nationwide.

- Developing and implementing advanced and intensive training programmes for investigators, prosecutors, judges and defence lawyers who will be assigned to handle MICWL.

- Accelerating feasibility studies toward creating a specialised investigation team or specialised investigators for minors at district or town level and piloting this model in one or two big cities (such as Hanoi and Ho Chi Minh City) where there are many minor offenders.

- Adjusting the criminal records management system to ensure all minor offences are handed over to the Family and Juvenile Courts or specialized prosecutors and judges to handle and plan the proceedings on specific days of the week and/or in a courtroom which is separate from the criminal cases of adults.

Medium-term solutions (2020-2025)

- Progressively forming the police units or groups specialized in minor cases in major districts or towns across the country.

- Continuing to organize quality training so that all minor supervisors and other relevant officials handling MICWL, including police officers, prosecutors, judges, defence lawyers, correctional officers and social workers, receive regular and continuous professional training.

5. Involvement of Social Workers in the Child Justice System

Social workers play an important role in the child justice system in the world. Root causes of offences committed by minors vary from poverty, domestic violence, alcohol or drug abuse, learning difficulties, and negative effects from peers. Normally, investigators, prosecutors, and judges are not equipped with essential knowledge and skills to accurately and adequately address the underlying reasons that lead to offences committed by minors, or with functions to solve these problems. In many other countries, social workers can perform the following tasks:
Supporting minors in the first meeting with the police: Social workers need to participate in the minor’s interrogation to provide psychological support, especially when the minor’s parents are not present. Social workers may also advise the agency conducting the proceedings on the application of appropriate preventive measures in the community in place of detention.

**Supervising minors subject to non-custodial measures:** When minor offenders are handed to their parents or legal representatives for supervision while waiting for the trial court, there are concerns that parents will not fully implement these obligations; thus, social workers can be assigned to supervise minor offenders.

**Preparing a Social Inquiry Report on children’s circumstances and characteristics:** To make the best decisions for the minors, judges or prosecutors must have sufficient information about the social situations of the minor - including his or her personal records, characteristics, behaviours, family situation, learning situation, friends, and living environment. Professional social workers are equipped with appropriate specialized knowledge and skills to conduct these social investigations. The ‘Social Inquiry Report’ on minors conducted by social workers will comprehensively evaluate the minor’s personal and family circumstances, identify social factors that contribute to the minor offence, propose necessary support and intervention measures to address the causes and conditions of offences, and available services at the minor’s residence. The ‘Social Inquiry Report’ will be included in the record for the judges’ consideration in the decision-making.

**Monitoring and managing minors educated and rehabilitated in the community:** Social workers also play an important role in monitoring, educating and rehabilitating minor offenders in the community. They will coordinate with other agencies, organizations and individuals to ensure minor offenders and their families receive fundamental social support and guidance to prevent recidivism. In some countries, social workers must also submit regular reports on the minor’s improvement to local authorities or judges.

Preparing minors for release from imprisonment: Social workers collaborate with reformatories and detention centres to help minors be prepared for their release, and help them continue their studies, vocational training or job seeking. Social workers also work with parents to assist them to create a favourable family environment for minors after they are released.

Viet Nam has been deploying a National Scheme on social work professional development for the period 2011-2020. This scheme presents a solution to develop a Law on social work. MOLISA is building a network of qualified social workers and collaborators at all levels. This will equip professional and trained amateur social workers across the country with better skills to supervise and manage education and reintegration for minor offenders. Concurrently, MOLISA also strengthens the child protection system and improves measures to prevent and support children who are exposed to social risks or in need of special protection, including children in conflict with the law.

**Short-term solutions (2019-2020)**

- Regulating the roles, functions and duties of social workers in the child justice system under the Law on Children, the PC, the PPC, and the LHAV, and developing specific guidelines on the roles of social workers in prevention, handling, education, rehabilitation and community reintegration for minor offenders.

- Studying the feasibility of different structural and organizational models for social workers in
the child justice system and proposing an agency to be responsible for social workers at the state level in the justice system.

- Introducing professional training on handling minor offenders to existing capacity building programmes for social workers and collaborators.

**Medium-term solutions (2020-2025)**

- Piloting the model that social workers join child justice in selected localities. In this model, social workers participate in all stages of proceedings, and trained social workers or collaborators will manage and supervise minors who are subject to non-custodial measures.

- Based on the above feasibility study results, assigning an agency under the Government to take the responsibility of developing and managing social workers in the justice and state management system to work on the programmes on community-based monitoring, education and rehabilitation of MICWL.

- Gradually expanding social workers’ participation in the child justice system across the country, starting in areas with the highest number of MICWL.

- Steadily increasing the number of qualified social workers at district and commune levels.

- Organizing continuous and quality professional training for social workers and collaborators working with minor offenders.

6. **Increased Application of Informal Measures (diversion), Restorative Justice, and Community-based Rehabilitation of MICWL**

Informal measures, also known as diversion, are alternative measures of community-based MICWL education and rehabilitation to replace criminal or administrative measures. Around the world, these diversion measures are used: 1) to solve minor violations in family or community without having to notify the agencies conducting the proceedings; 2) as a way to channel MICWL away from the administrative or criminal justice system when police, prosecutors or courts consider that community-based education and rehabilitation will be effective without having to adopt administrative or criminal measures. These measures often include restorative justice; that is, measures with participation of MICWL, victims, and in appropriate cases both the community and families so that the parties can discuss and agree on the plan to help children realize their mistakes, deal with the causes and conditions of law violations, and overcome the damage caused by violation acts.

Following the improvement of provisions regarding informal handling measures and diversion in the LHAV and the PC, the following measures should be imposed to bolster community-based restorative education for MICWL, alternating administrative and criminal handling measures.

**Short-term solutions (2019-2020)**

- Revising the existing regulations in the Law on the Execution of Criminal Judgement on the execution of suspended sentence, non-custodial reform, conditional release before the prison term to apply the case management method in supervision, education and
rehabilitation to minor offenders.

- Building a team of judicial semi-specialists at the commune level as prescribed in Decree 37/2018/NĐ-CP, training them with essential knowledge and skills, and financing them to monitor, educate and rehabilitate minor offenders in the community.

- Developing specific guidelines on special conciliation procedures to resolve disputes associated with children. Designing and organizing training programs for on-site conciliation workers on special skills, procedures and methods for conciliation relating to juveniles.

- Issuing specific guidelines to encourage grassroots conciliation for minors who are subject to criminal alternative measures or criminal liability exemption.

- Designing and implementing a training programme for communal officers or collaborators on social work management skills for minor offenders, piloting in selected areas before expanding.

- Developing specific guidelines on community-based monitoring and support services, including clear referral systems, monitoring mechanisms and minimum standards for these services.

Medium-term solutions (2020-2025)

- Proposing the amendment of regulations on grassroots conciliation to stipulate a wider conciliation scope for less serious offences and violations committed by minors.

- Gradually increasing the diversity and quality of community-based programs for diverted minors to channel them away from the criminal justice system, especially on the basis of closely combed with the recommendations in point 5 above on the development of social workers in the justice sector.

- Based on the pilot results, gradually expanding the new model of managing and supervising minor offenders in the community, starting at districts and towns with the highest rates of minor offenders before expanding nationwide.

- Developing and gradually introducing more professional programmes to address minor offences (such as counselling, life skills programs, and parenting skills).

- Organizing quality training to improve the capacity of social workers, collaborators, reformatory workers and prison officials to support reintegration and rehabilitation of minors.

- Gradually increasing governmental investment and sponsor granted community-based programmes and services for minor offenders, and reconnecting with funds that benefit from money saving by reducing prison penalties.
7. Reduced Application of Custodial Sanctions

International studies have shown that the use of deprivation of liberty measures such as imprisonment and placement in reformatory schools for children committing minor and non-violent violations where separation from the community deems not necessary, is not an effective solution for education and rehabilitation of MICWL. Despite being quite expensive, deprivation of liberty sanctions does not solve the risk factors contributing to offending behaviours related to the minors' living environment, family and peers. On the contrary, placing minors in an environment full of legal violators will increase the risk of reoffending, which can raise minors' recidivism rate. This not to say that deprivation of liberty should be eliminated, as there will always be some high risk minor offenders who must be detained in order to protect the community. However, in general, the majority of MICWL can be handled more effectively and safely in the community. Along with the implementation of the above solutions to strengthen diversion as well as community-based education and rehabilitation measures, it is necessary to reduce the application of custody sanctions.

Short-term solutions (2019-2020)

- Training or capacity building for judges across the country to strengthen the compliance with the principles under the LHAV and the PC to ensure that custodial sanctions are only applied as a measure of last resort for the shortest period possible.
- Undertake a study and develop a transition plan for re-orienting reform schools to increasingly cater to children subject to a criminal sanction, rather than as an administrative measure.

Medium-term solutions (2020-2025)

Studying and proposing the promulgation of a Law on Child justice, or in case where this Law has not yet been promulgated, continuing to amend the LHAV and the PC in the direction of:

- Limiting the application of imprisonment to minors in very serious or particularly serious intentional crimes of a violent nature.
- Along with promoting the mechanisms of community-based MICWL monitoring and education, shortening the maximum period of termed imprisonment for minor offenders.
- Limiting the scope of applying administrative measures of placement in reformatory schools in cases of violent legal violations that it is deemed impossible to manage minors in the community due to the serious nature of the violations and minors' circumstances;

8. Enhanced Child Justice Evidence Base

Building an effective child justice system requires a solid understanding of the nature and extent of minor offending in the country, how children who commit crimes and law violations are being handle, and what measure and approaches are proving to be most effective at preventing re-offending. This requires all procedure conducting bodies to collect, share and analyse comprehensive data on MICWL in both administrative and criminal systems, number and types of crimes and law violations; age, gender and personal characteristics of child offenders; types of measures and sanctions imposed; and
rate of re-offending. This information should be centrally collated and analysed, and supplemented with periodic research to better understand child offending trends and to measure the effectiveness of different measures. Regular monitoring and evaluation of measures and programs ensures that countries are targeting resources efficiently and constantly improving interventions.

**Short-term solutions (2019-2020)**

- Consolidating existing data on MICWL that are administratively and criminally handled.
- Developing minor judicial indicators to measure progress in judicial reforms for minors.
- Publishing regular reports on the child justice system to provide proceeding agencies and community with up-to-date information on the nature and status of violations committed by minors, and the impact of different models and programs on managing MICWL and reducing recidivism.
- Developing and implementing a strategy to engage and provide information to the community to increase public awareness of all elements in the child justice system and ensure a balanced and informative public debate on what measures will bring the best long-term results to the community.

**Medium-term solutions (2020-2025)**

- Along with assigning a nodal agency to coordinate child justice, it is necessary to delegate this agency the responsibility of strengthening the development of an integrated and centralized system to collect consolidated data on MICWL in both and promoting the analysis and research of a child justice system.
- Evaluating the effectiveness of child justice reforms that have been piloted and implemented in the period 2015-2020 and using these results to develop policies and programs as well as allocate resources.
- Continuing to strengthen mechanisms to systematically and consistently collect and analyse data on the child justice system.

**9. Enhanced Communication and Awareness Raising on Child Justice**

As analysed above, in recent years, Viet Nam has made remarkable progress in improving the system of legal documents related to MICWL. However, to put these regulations into practice, it requires joint efforts and contributions made by many departments, agencies, and organizations involved in the prevention, handling, education and rehabilitation of MICWL as well as families, communities and people. Besides, as analysed above, the current system of policies and laws still needs to continue improving. In the absence of a lead agency for coordinating and promoting child justice, regular information sharing, policy dialogue, awareness-raising, and communication are essential to engage support, consensus and participation of all stakeholders in order to continue to improve and ensure effective implementation of child justice laws and policies.
Short-term solutions (2019-2020)

- Developing and implementing effective communication campaigns to promote the support, participation, and responsibilities of agencies, organizations, families, communities and people in the implementation of new regulations, and legal improvements on the prevention, handling, education and rehabilitation of MICWL. In particular, these activities need to be integrated into existing programmes, strategies and projects such as the Law Dissemination and Education Program 2017-2021, Child Protection Program 2016-2020, the project on Preventing and Fighting against Child Abuse, Delinquency of Minor, Domestic Violence and Human Trafficking.

- Engaging the mass media in raising awareness of sustainable prevention and rehabilitation solutions for MICWL; disseminating effective models and practices in MICWL prevention, community-based handling for minors, application of child-friendly and gender-sensitive handling procedures, as well as support for minors in community reintegration.

- Regularly organizing policy dialogues, legal forums, law enforcement review activities at various levels and scales, with the participation of law enactment, enforcement and judicial agencies, organizations, unions, service providers as well as families, communities, and minors who are directly affected by the laws and policies. Such forums will provide opportunities to exchange and agree on effective measures to effectively and consistently implement the provisions of MICWL-related laws, and at the same time provide orientations to improve the law and policies in the future.

Medium-term solutions (2020-2025)

- Along with determining and assigning the responsibilities of coordinating child justice for a specific agency, it is necessary to delegate this agency the function of presiding over, coordinating legal communication, dissemination and education activities related to the prevention, handling, education and rehabilitation of MICWL.
APPENDIX I: DEFINITIONS OF TERMS ON CHILD JUSTICE

**Child**: The United Nations Convention on the Rights of the Child defines a child as a person below the age of 18.

**Minor in conflict with the law**: a person aged below 18 years who has been alleged as or accused of committing a crime or an administrative offence. Under Vietnamese law, people under the age of 18 violating the laws are called “minors” because “children” are defined as people under the age of 16.

**Case management**: a method involving a series of logical steps to provide services for children in conflict with the law in a supportive, child friendly and timely manner. This multi-sectoral method requires the involvement of multiple organizations and agencies. Under this method, a child in conflict with the law will be assigned with a case manager who is responsible for designing and implementing a tailor-made plan in coordination with the child, his or her family and other service providers. The case manager directly provides some services (namely consultation) and coordinates different services provided by other agencies and community organizations to the child.

**Community service work**: a measure requiring an offender to perform a non-paying job for the benefit of the community. This method provides the child offender with a meaningful opportunity to repair the harm caused by their offence, while making contributions to their victim(s) or to the community in general.

**Deprivation of Liberty**: any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other competent authority. This includes placement in closed institutions like police stations, treatment facilities, education and re-education facilities, and rehabilitation facilities for minors, and prisons.

**Non-custodial penalty (sanction)**: a penalty or measure (administrative or criminal) without deprivation of liberty to be imposed on a child (such as warning, fine, supervision and education in community).

**Rehabilitation**: actions taken to address underlying problems contributing to a minor’s law violation. Rehabilitation programmes may include counselling or treatment for drug or alcohol addiction.

**Reintegration**: programmes and activities to support a child in conflict with the law upon release who faces difficulties when returning to his or her community. These programs could be those aiming to prepare a child for integration when they are still under incarceration or those providing support after he or she returns to the community.

**Restorative Justice**: an approach to justice in which the victim(s), the offender and in some
circumstances the community affected by the crime, actively participate in solving the issues caused by the offence, usually with the support of a facilitator. This offence handling method puts emphasis on remedying the consequences caused by the offence and on rebuilding the harmonized relationship between the offender, the victim(s) and the society. It mainly involves conciliation measures.

**Social Inquiry Report:** a report containing information about the background and circumstances in which a child is living and the conditions under which an offence has been committed. This report is submitted to the competent authority to facilitate judicial adjudication. A social worker or a qualified collaborator usually prepares this report. The report includes an assessment on social background and family conditions in which the child is living, his or her educational process, educational level, needs and motivations.
APPENDIX II. KEY LEGAL DOCUMENTS PERTAINING TO CHILD JUSTICE

1. Constitution 2013
2. Law on Special Amnesty 2018
3. Law on Legal Aid 2017
4. Law on Children 2016
5. Penal Code 2015 (amended and supplemented in 2017);
7. Law on Enforcement of Custody and Temporary Detention 2015
8. Law on Organisation of People’s Courts 2014
9. Law on Grassroots Conciliation 2013
10. Law on Handling of Administrative Violations 2012
11. Law on the Execution of Criminal Judgements 2010
12. Law on Enforcement of Civil Judgments (pertaining the enforcement of fines) 2008
15. Decree No. 56/2017/ND-CP dated 9th May 2017 of the Government detailing a number of articles of the Law on Children
17. Decree No.15/2014/ND-CP dated 27th February 2014 Detailing a Number of Articles and Implementation of the Law on Grassroots Conciliation
18. Decree No.02/2014/ND-CP dated 10th January 2014 of the Government on Defining the Application Mode and Implementation of the Administrative Handling Measures related to Placement in Reformatories and Compulsory Education Establishments
and Preservation of Exhibits and Means used to Commit Administrative Violations which are Confiscated or Seized under Administrative Procedures

22. Decree No.111/2013/ND-CP dated 30th September 2013 of the Government 111/2013/ND-CP of September 30, 2013, on the Application of the Administrative Handling Measure of Rehabilitation at communes, wards and district towns

23. Decree No.81/2013/ND-CP dated 19th July 2013 of the Government Elaborating some Articles and Enforcement of the Law on Handling Administrative Violations

24. Joint Circular No.06/2018/TTLT-VKSNDTC-TANDTC-BTP-BLDTBXH dated 21st December 2018 of the Supreme People’s Procuracy, Supreme People’s Court, Ministry of Public Security, Ministry of Justice, Ministry of Labour, Invalids and Social Affairs on Coordination of Implementing a number of Provisions of the Penal Procedural Code on Procedures Applicable to People under 18 years of age


26. Joint Circular No.02/2013/TTLT/BLDTBXH-BCA-VKSNDTC-TANDTC dated 4th February 2013 of the Ministry of Labour, Invalids and Social Affairs, Ministry of Public Security, Supreme People’s Procuracy, Supreme People’s Court guiding the Collection, Management, Provision and Use of Data on Minors in Conflict with the Law

27. Circular No.02/2018/TT-TANDTC dated 21st September 2018 of the Supreme People’s Court Regulates Procedures of Criminal Cases with Participants under the Age of 18 at the Family and Juvenile Courts

28. Circular No.01/2017/TT-TANDTC dated 28th July 2017 of the Supreme People’s Court Regulations on Courtrooms

29. Circular No.01/2016/TT-CA dated 21st January 2016 of the Supreme People’s Court Providing for the Organization of the Specialised Courts in the People’s Court of Provinces or Centrally-running cities, and People’s Courts of District, Town or Provincial City and Equivalents

30. Circular No.20/2015/TT-BCA dated 14th May 2015 of the Ministry of Public Security issues regulations of reformatories

31. Circular No.48/2014/TT-BCA dated 17th October 2014 of the Ministry of Public Security Detailing Several Articles of the Decree No.111/2013/ND-CP dated 30th September 2013 Regulating the Application Regimes of Administrative Handling Measure of Rehabilitation at Communes, Wards and District Towns

32. Circular No.43/2014/TT-BCA dated 8th October 2014 of the Ministry of Public Security Detailing the Enforcement of the Decree No.02/2014/ND-CP dated 10th January 2014 regulates the Application Regimes and Enforcement of Administrative Handling Measure of Placement in Reformatories and Compulsory Educational Facilities


34. Decision No. 242/QD-TTg dated 25th May 2017 of the Prime Minister approving “The project on innovating and enhancing the effectiveness of law enforcement” in the 2018-2020 period

35. Decision No.705/QD-TTg dated 25th May 2017 of the Prime Minister promulgating the Law
dissemination and education program for the 2017-2021 period

36. Decision No. 623/QD-TTg dated 14th April 2016 of the Prime Minister approving the National Strategy for Preventing and Fighting against crimes in the 2016-2025 period, with orientations towards 2030

37. Decision No.2361/QD-TTg dated 22nd December 2015 of the Prime Minister approving the Child Protection Programme between 2016-2020

38. Decision No.2468/QD-BCA-C41 dated 28th May 2018 of the Ministry of Public Security approving the project on Preventing and Fighting against Child Abuse, Delinquency of Minor, Domestic Violence and Human Trafficking
APPENDIX III. REFERENCES


Central Population and Housing Census Steering Committee (2019) The Viet Nam Population and Housing Census of 00:00 hours on 1 April 2019: Implementation organisation and preliminary results


UN Committee on the Rights of the Child (2012), Concluding observations on the combined third and fourth periodic report of Viet Nam.


Legal Department, Ministry of Labour, Invalids and Social Affairs (2014) Report on the Survey of Minors in conflict with the law who have no permanent place of residence in reformatories.

Department of Administrative and Criminal Law, Ministry of Justice (2010), Report No. 35/PL HSHC dated 18/01/2010 Summarising the Performance of 8 years Enforcing the Ordinance on Handling Administrative Violation 2002 and Guiding documents.