LEGAL FRAMEWORK ON NOISE POLLUTION MANAGEMENT ON SDG: A QUALITATIVE CASE STUDY IN VIETNAM

Nguyen Thanh Phuong 1
Tran Thanh Khoe 2
Tran Thi Thu Van 3

ABSTRACT

Context: Noise pollution is understood as sound exceeding a certain threshold, causing negative effects on human health and well-being. There are various causes of noise pollution, such as machinery used in production processes, construction activities, traffic, commercial establishments, and household activities. However, in Vietnam, behaviors contributing to noise pollution share the common characteristic of being easily detectable but challenging to address and terminate due to enforcement difficulties.

Research Methods: In this article, to clarify the research issues, the following specific research methods were used: (1) Qualitative Research methods, (2) Exploratory research method; (3) Inductive and deductive methods; Statistical and synthetic methods; (4) Comparative method (Nguyen Thanh Phuong & Tran Thanh Khoe 2023).

Findings: The study has identified several shortcomings, including the lack of consistency in regulations related to noise management in Vietnam, such as (1) Competent authorities for handling; (2) Forms of handling; and (3) Processing procedures. Based on the analysis, the authors also propose some useful solutions to address the issue of noise pollution.

Conclusion: From the research results, noise control regulations in Vietnam have not received sufficient attention, with regulations being relatively sparse and less stringent compared to other countries worldwide. While some countries recognize the importance of noise management and have enacted separate laws directly regulating noise management issues. For instance, the United States enacted the Noise Control Act as early as 1972 with strict provisions. In 1997, China also implemented the Noise Pollution Prevention and Control Law (Huy Hoang, 2022). Based on the analysis of this paper, it can be seen that Vietnam needs to establish unified and stringent regulations regarding competent authorities for enforcement, forms of penalties, and penalty enforcement procedures concerning noise pollution. Additionally, there is a need for a specific law directly addressing this issue.

Keywords: noise, noise management, Vietnamese legal system, administrative sanction, sustainable development goals (SDGs).

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1 Master of Laws, Nam Can Tho University, Can Tho City, Vietnam, E-mail: Nguyenthanhphuong099@gmail.com
2 Master of Laws, Nam Can Tho University, Can Tho City, Vietnam, E-mail: khoett96@gmail.com
3 Master of Laws, Nam Can Tho University, Can Tho City, Vietnam, E-mail: tranthithuvandcn@gmail.com
1 INTRODUCTION

The causes of noise pollution can be divided into two main types. Those are natural origin pollution and anthropogenic pollution. In the case of natural sources, noise usually emanates from activities such as volcanic eruptions, earthquakes, or thunder. However, these are secondary causes, as noise is only generated during events such as volcanic eruptions, earthquakes, or storms; furthermore, there is not always a fixed cycle when this noise occurs randomly.

Conversely, anthropogenic sources are considered the main cause of noise pollution. The continuous increase in vehicular traffic, with the growing density of vehicles on the streets, generates noise from engines, car horns, and braking sounds, affecting the human living environment. As the intensity of noise increases, the impact of noise on human health becomes more severe. According to a survey conducted in the United States, 11.4% of children aged 6 to 19 suffer from ear abnormalities, with approximately 5.2 million children experiencing hearing disorders that may lead to deafness due to noise pollution (Tran Linh Huan & Phan Thi Kim Ngan, 2023). In Europe alone, for every 5 people, more than 1.5 individuals are exposed to noise levels on the road sufficient to cause health damage; excessive noise pollution can lead to metabolic diseases, high blood pressure, diabetes, and even heart disease; approximately 48,000 cases of heart disease and 12,000 premature deaths are recorded each year due to exposure to excessive noise levels (Dan Le, 2023). According to data from the World Health Organization (WHO), in the past three decades, noise pollution has become a pressing issue, directly affecting the environment and human quality of life (Bao Chau, 2022). Noise induces stress reactions in the human body, even occurring during sleep, leading to cardiovascular diseases, cognitive decline, sleep disorders, hypertension, and premature death (Hong Dien, 2022).

In Vietnam, according to national technical standards on noise, for special areas, the allowable noise level from 6:00 a.m. to 9:00 p.m. is 55dB, and from 9:00 p.m. to 6:00 a.m. the following day is 45dB, while for common areas such as apartment complexes, houses in alleys, hotels, guesthouses, administrative offices... the noise level from 6:00 a.m. to 9:00 p.m. is 70dB,
and from 9:00 p.m. to 6:00 a.m. the following day is 55dB. However, statistics from the Department of Natural Resources and Environment of Ho Chi Minh City, Vietnam, indicate that noise levels in Ho Chi Minh City often exceed permissible limits (Tuoi Tre Newspaper, 2021). According to a report by the United Nations Environment Programme (UNEP), Ho Chi Minh City is ranked as the 4th noisiest city in the world (Tran Trung, 2020). At the national level, the 2022 Report of the United Nations Environment Programme on Urgent Environmental Issues has pointed out that the current situation of noise pollution in Vietnam and the extent of harm caused by noise pollution to public health are diverse and alarming.

In aiming to mitigate the adverse effects of noise pollution, the Vietnamese government has promulgated principles for managing and controlling noise pollution under Article 89 of Vietnam’s Environmental Protection Law 2020. These principles are further specified in documents under the law to establish a legal framework for state management activities regarding noise. The Ministry of Natural Resources and Environment of Vietnam has also issued Circular 39/2010/TT-BTNMT regulating national technical standards on noise along with Article 22 of Decree No. 45/2022/ND-CP detailing forms of punishment for acts of noise pollution. Despite efforts to minimize and prevent noise pollution in Vietnam, the management and control of noise pollution have not yielded the desired results.

Currently, regulations on handling noise violations have been issued. These regulations are scattered across multiple documents. The penalties for violations are not sufficiently deterrent, leading to repeated offenses. Consequently, the practical application of penalty provisions in noise management encounters difficulties. The authors recognize that addressing the shortcomings in handling noise pollution perpetrators is essential to protecting public health and contributing to the development of a healthy living environment.
2 THE CURRENT LEGAL STATUS OF NOISE POLLUTION MANAGEMENT IN VIETNAM

Currently, to control noise pollution, state management agencies in Vietnam have issued legal documents regulating this issue. Directly regulated legal documents include the Environmental Protection Law of 2020, Decree No. 45/2022/ND-CP dated July 7, 2022, of the Government on administrative penalties for environmental protection violations (Decree No. 45/2022/ND-CP), Decree No. 144/2021/ND-CP dated December 31, 2021, of the Government regulating administrative penalties in the fields of security, order, social safety, and many other documents. These legal documents have made important contributions to establishing a legal basis for controlling noise pollution. However, despite significant results, noise pollution still persists, significantly affecting the quality of life of people, especially in major urban areas such as Hanoi and Ho Chi Minh City. From this reality, it can be seen that, despite many efforts, controlling noise pollution in Vietnam has not been truly effective and consistent. There are many reasons for this, including the fact that the system of legal regulations still has limitations, specifically manifested in the following aspects:

Firstly, Article 89 of the Environmental Protection Law of 2020 of Vietnam stipulates that “Organizations, individuals causing noise must control, handle to ensure environmental technical standards; organizations, individuals in residential areas causing noise must take measures to minimize, not adversely affect the community; organizations, individuals managing roads with high traffic density causing noise must take measures to minimize, meet environmental technical standards.” The nature of this regulation has not clarified the essence of the noise pollution problem, nor has it defined what constitutes preventing noise pollution. Furthermore, Vietnamese law has not specifically regulated how to identify and classify sources of noise pollution. Evaluating the issue objectively, it is observed that noise can originate from various causes, whether objective or subjective. Therefore, identifying and classifying sources of noise pollution will play a crucial role in effectively preventing this problem. The current legal situation in Vietnam regulating
environmental issues still does not clearly define the legal standards for identifying and classifying sources of noise pollution, which is a significant limitation in determining behaviors and proposing prevention measures against noise pollution in Vietnam. Accordingly, environmental protection laws in Vietnam need to specifically identify and classify each group of noise pollution, and each group will have different prevention and treatment directions to be effective in addressing the actual situation.

On the jurisdiction of administrative penalties for noise pollution violations in Vietnam, it is observed that the competent authorities to penalize violations related to noise pollution are stipulated in Articles 22 and 68 of Decree No. 45/2022/NĐ-CP, including Chairpersons of People’s Committees at all levels; Specialized inspectors of natural resources and environment; People’s Police; Specialized inspectors of culture, sports, and tourism. The authors’ group argues that when multiple authorities are empowered to handle a single violation, it is not entirely reasonable and can create difficulties in law enforcement. This regulation could complicate the determination of the competent authority to penalize specific violations. For example, business activities such as karaoke services that fail to meet acoustic criteria, causing noise pollution and affecting the lives of surrounding residents. Therefore, determining jurisdiction for such cases can confuse law enforcement entities. Additionally, while multiple agencies are designated for penalties, the law does not specifically outline the responsibilities and functions of each entity, potentially prolonging the penalty process. Consequently, many noise pollution violations remain unaddressed in a timely manner, diminishing the effectiveness of state management, and violating the principles of swift and timely handling of administrative violations.

Regarding the forms of administrative penalties for noise pollution violations, even though they are stipulated in Article 22 of Decree No. 45/2022/NĐ-CP, the following punitive measures can be imposed: (1) The primary form of penalty includes warning and fines; (2) Additional penalties may include suspension of noise-polluting activities of the business entity. Moreover, the violating entity is obliged to remedy the consequences. According to Clause 2 of the aforementioned Article, for noise pollution
exceeding technical standards by 02 dBA to below 05 dBA, fines ranging from 1,000,000 VND to 5,000,000 VND are imposed.

It can be seen that the aforementioned penalty levels are effective, yet they lack long-term deterrent effects on businesses in Vietnam, as these penalties often lead to recidivism. For instance, in Tan Quy Ward, District 7, Ho Chi Minh City, a company engaged in ice production has been fined four times for exceeding noise standards, yet the issue persists, adversely affecting the lives of surrounding residents for an extended period (C. Tuan - T. Mai - L. Phan, 2022). The recurrence of violations can be attributed to the significant benefits businesses derive from such infractions, outweighing the imposed penalties. Therefore, Vietnamese law requires mechanisms for dealing with repeat offenses, which may warrant criminal considerations rather than administrative ones. Repeat penalties should be sufficiently deterrent and preventive. Concerning supplementary penalties, activities causing noise exceeding technical standards by 10 dBA or more may result in the suspension of business operations for a period of 03 to 12 months. Hence, noise violations below 10 dBA cannot be subject to the supplementary penalty of activity suspension. However, violations below 10 dBA are common, frequently observed, and deeply impact urban residents' lives. Common violations range from 02 dBA to 05 dBA (these noise levels are quite loud). Applying supplementary measures such as activity suspension requires noise levels to exceed 10 dBA, which is rare. The highest fine for violating the provision on ensuring general quietness is only 2 million VND (Doan Hung, 2023). Thus, current legal provisions fail to address violations concerning minor and moderate noise pollution effectively.

Regarding the measure to compel remedial actions, if violations occur, Vietnamese law mandates that the violating entity applies measures to remedy the consequences it has caused. According to Point A, Clause 12 of Article 22 of Decree No. 45/2022/ND-CP: “Forcing the implementation of noise reduction measures to meet technical standards within the deadline determined by the competent authority in the administrative penalty decision for violations caused by this Article.” This provision allows the competent authority to determine the deadline for remedying the consequences, requiring the
implementation of noise reduction measures. However, this provision is not entirely reasonable as it lacks specific time limits, potentially prolonging the remediation process. Before implementing remedial measures, the impacts of noise pollution still affect the lives of surrounding residents. This does not align with the principle of handling administrative violations as stipulated in Point B, Clause 1 of Article 3 of the Law on Handling of Administrative Violations 2012, amended and supplemented in 2020, which states: “Administrative penalties shall be conducted promptly, publicly, objectively, within the jurisdiction, ensuring fairness, and in accordance with the law.” Therefore, with the aforementioned penalty provisions, it is difficult to ensure timely and swift remediation of consequences.

Fifth, regarding the enforcement process, according to Vietnamese regulations, the competent authorities must substantiate noise pollution violations through environmental sound measurements. Sound measurements should be conducted using appropriate technical equipment as prescribed. In principle, the measurement time corresponds to the time when the violation occurs. This is the primary factor contributing to the difficulties encountered during noise violation enforcement. Currently, the responsibility for handling noise violations mainly falls on local police forces and land management officials. The challenge for most localities lies in the lack of measurement equipment, and insufficient grounds for enforcement, and even when reports are made to district or provincial authorities for inspection teams equipped with measurement devices, the violations may have ceased (Minh Hieu, 2022). However, although noise violations may be transient in nature, they occur frequently. Violators may switch off sound equipment immediately after inspection. If sound measurements are not conducted promptly, it becomes challenging to justify penalties. Presently, when handling noise pollution violations, competent authorities often seek expert opinions from independent organizations capable of conducting legally required measurements. This prolongs the processing time, and by the time measurements are carried out, the violations may have ceased.

Another factor affecting the effectiveness of violation processing is the proactive role of competent authorities. The detection and handling process
for minor and moderate violations primarily relies on citizens' complaints. Proactivity and assertiveness are crucial factors significantly influencing the violation processing process. Therefore, to enhance noise pollution management effectiveness, competent organizations and individuals need comprehensive training in professional expertise and awareness of their responsibilities.

Sixth, Sanctions for noise pollution offenses are scattered and loosely regulated across various legal documents, making it difficult to access and apply the provisions to address noise pollution violations effectively. One possible solution to prevent noise pollution effectively is to apply legal sanctions rigorously against violations, as timely and strict enforcement creates significant deterrence, education, and prevention for societal entities, especially those contributing to noise pollution. However, currently, sanctions for noise pollution offenses are regulated inconsistently across various legal documents, such as Government Decree No. 45/2022/ND-CP dated July 7, 2022, which regulates administrative penalties in the environmental protection field; Government Decree No. 100/2019/ND-CP dated December 30, 2019, which regulates administrative penalties in road and railway transport; Government Decree No. 144/2021/ND-CP dated December 31, 2021, which regulates administrative penalties in national security, public order, social safety, crime prevention, fire prevention and fighting, search and rescue, family violence prevention; Government Decree No. 123/2021/ND-CP dated December 28, 2021, amending and supplementing several articles of decrees regulating administrative penalties in maritime, road, and railway transport, civil aviation... This diversity has created many difficulties for entities in applying and enforcing these regulations, resulting in delays in handling violators engaged in activities causing noise pollution, thus reducing the effectiveness of noise pollution prevention in practice (Tran Linh Huan & Phan Thi Kim Ngan, 2023).
3 PROPOSAL FOR ENHANCING LEGISLATION ON NOISE POLLUTION MANAGEMENT IN VIETNAM

Currently, the government has established specific regulations for managing noise pollution. These regulations provide a legal basis for addressing noise pollution violations and have significantly contributed to ensuring people’s right to live in a healthy environment. However, challenges and obstacles have arisen during the implementation of the law. Based on the aforementioned analysis, the authors propose several measures to improve the legal framework as follows:

Firstly, there is a need to enhance the Environmental Protection Law of 2020 and its implementing guidelines by continuing to develop and issue specific regulations directly addressing the prevention of noise pollution. Specifically, the Environmental Protection Law of 2020 should provide unified and specific definitions of terms related to noise pollution prevention. Additionally, Vietnamese environmental laws should establish specific provisions regarding the responsibilities of entities in preventing noise pollution and classify noise groups. This is essential to help entities identify and determine their specific responsibilities in preventing noise pollution. Such a legal foundation is crucial for enabling competent authorities to accurately identify the responsibilities of violating entities, thereby imposing appropriate and fair sanctions, ultimately enhancing the effectiveness of noise pollution prevention.

Secondly, concerning the competent authorities for handling noise pollution behaviors under Article 68 of Decree No. 45/2022/NĐ-CP, it is necessary to clearly define the jurisdiction for each type of violation, limiting the situation of shifting responsibility during the administrative penalty process for noise-related violations. Moreover, a profound understanding of individual and organizational responsibilities among competent authorities is essential to improve inspection and monitoring effectiveness in state management of noise pollution.

Thirdly, regarding the forms of administrative penalties for noise pollution behaviors under Article 22 of Decree No. 45/2022/ND-CP, adjustments are needed as follows: (i) increasing penalties for violations exceeding noise
standards by less than 10 dBA if the violating entity engages in repeated offenses. Specifically, for the same level of violation, if there is a repeat offense, the fine should be increased by 1.5 times the previous penalty. In the case of a third offense, the violating entity should incur an additional penalty for suspending noise-polluting activities; (ii) stipulating a maximum time limit for remedying consequences for violating entities. The authors recommend refining the law to compel the implementation of noise reduction measures to meet technical standards within a specific deadline determined by the competent authority in the administrative penalty decision for violations caused.

Fourthly, regarding the penalty process, the authors suggest the following: (i) enhancing inspection, monitoring, and enforcement of noise pollution violations, continuously improving the professional competence of environmental resource officers, and improving the use of specialized equipment and technical means for sound intensity measurement to promptly and effectively address noise violations; (ii) enhancing the provision of specialized equipment for noise monitoring and measurement to shorten the time required to determine violation grounds for processing. Finally, in the long term, there should be a roadmap for issuing laws specifically addressing noise pollution in Vietnam, rather than integrating them into various statutes and documents, which leads to the lack of many processing provisions and difficulties in law enforcement.

4 CONCLUSION

Noise pollution is one of the most common environmental violations. The government has now issued specific regulations to address this issue. However, the effectiveness of enforcement has not yet achieved the desired results. The main reason is that the penalties are not deterrent enough for minor violations, and there are still many difficulties in the process of measuring and monitoring sound intensity. Through the analysis in this article, the authors have identified three factors that need improvement to enhance management effectiveness: imposing sufficient deterrent and preventive sanctions, enhancing the provision
of sound measuring equipment, and training and enhancing the professional competence and responsibility of law enforcement officers. This will contribute to protecting the health and well-being of the people.
REFERENCES


