



CADERNOS DE DEREITO ACTUAL

www.cadernosdedereitoactual.es

© **Cadernos de Derecho Actual** Nº 33. Núm. Ordinario (2026), pp. 261-280

·ISSN 2340-860X - ·ISSNe 2386-5229

Ensuring human rights in the law on sanctioning violations in the field of the water environment in Vietnam

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Summary: 1. Introduction. 2. Literature review. 2.1 Review of related research. 2.2 Research gaps and research orientation. 3. Methodology. 3.1 Theoretical foundation of the study. 3.2 Legal analysis method. 3.3 Survey method. 3.4 Comparative and normative benchmarking method. 3.5 Research ethics and methodological limitations. 4. Results and discussion. 4.1 Assessment of the protection of the right to live in a healthy water environment through administrative sanctions. 4.2 Assessment of transparency and access to environmental information in sanctioning procedures. 4.3 Assessment of proportionality and fairness of sanctions for water pollution. 4.4 Assessment of community participation and human-rights protection mechanisms in enforcement. 4.5 Discussion. 5. Conclusion. 6. References.

Abstract: This study examines whether Vietnam's law on administrative sanctions for water-environment violations operates as an effective human-rights safeguard rather than solely as a regulatory enforcement mechanism. It combines normative legal analysis of the 2020 Law on Environmental Protection and Decree No. 45/2022/ND-CP with a stakeholder survey of 198 respondents from regulatory agencies, legal and academic institutions, businesses, affected communities, and social organizations. Using a five-point Likert scale, the survey assessed perceived

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deterrence, proportionality, access to environmental information, remedial effectiveness, procedural fairness, and community participation. The findings suggest that stronger penalties have increased the perceived deterrent effect of the legal framework, but important gaps remain between formal sanctioning and substantive rights protection. Respondents expressed particular concern about access to local monitoring data, restoration of polluted water environments, support for affected communities, and protection for persons reporting violations. The study therefore argues for a more integrated enforcement model in which sanctions are linked to disclosure duties, enforceable remediation, accessible complaint procedures, and institutional accountability. These findings contribute to the literature by connecting environmental rule of law, administrative sanctions, and the practical realization of environmental rights in Vietnam.

Keywords: Human Rights, Water Environment, Administrative Sanctions, Environmental Rule of Law, Right to a Clean, Healthy and Sustainable Environment

1. Introduction

Environmental degradation increasingly raises questions of human rights as well as resource management. The right to a clean, healthy, and sustainable environment is now commonly analyzed in relation to the rights to life, health, development, and access to justice. A human rights-based approach therefore directs attention not only to pollution-control standards but also to prevention, transparency, participation, accountability, and effective remedies for affected persons.^{4,5,6}

Water pollution illustrates this connection particularly clearly because it can affect health, livelihoods, food security, and social equality at the same time. Research on marine and transboundary pollution further suggests that environmental harm may extend beyond the place where a violation occurs, which strengthens the case for legal mechanisms capable of prevention, deterrence, disclosure, and restoration rather than monetary punishment alone.^{7,8}

In Vietnam, Article 43 of the 2025 Constitution recognizes "Everyone has the right to live in a clean environment and the obligation to protect the environment".⁹ The 2020 Law on Environmental Protection¹⁰ develops this constitutional foundation

⁴ AUZ, J. "Human rights-based climate litigation: A Latin American cartography". *Journal of Human Rights and the Environment*, v. 13, n. 1, 2022, pp. 114-136. <https://doi.org/10.4337/jhre.2022.01.05>

⁵ BENNETT, N. J., MORGERA, E., and BOYD, D. "The human right to a clean, healthy and sustainable ocean". *npj Ocean Sustainability*, v. 3, 2024, pp. 1-8. <https://doi.org/10.1038/s44183-024-00057-7>

⁶ DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". *Frontiers in Marine Science*, v. 12, 2025, pp. 1683117. <https://doi.org/10.3389/fmars.2025.1683117>

⁷ VERGARA, E., PANCETTI, F., ZÚÑIGA, L., FABRES, K., and BAHAMONDE, P. "Risk map of human intake of mercury through fish consumption in Latin America and the Caribbean". *Frontiers in Sustainable Food Systems*, v. 8, 2024, pp. 1470683. <https://doi.org/10.3389/fsufs.2024.1470683>

⁸ ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". *International Environmental Agreements: Politics, Law and Economics*, v. 24, 2024, pp. 393-421. <https://doi.org/10.1007/s10784-024-09645-x>

⁹ NATIONAL ASSEMBLY OF VIETNAM. "Hiến pháp nước Cộng hòa xã hội chủ nghĩa Việt Nam [Constitution of the Socialist Republic of Vietnam]". 2025, Hanoi. Available at: <https://xaydungchinh sach.chinhphu.vn/toan-van-hien-phap-nuoc-cong-hoa-xa-hoi-chu-nghia-viet-nam-119231225213002261.htm> (accessed on 15 April 2026).

¹⁰ NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]". 2020, Hanoi. Available at: <https://vanban.chinhphu.vn/?pageid=27160&doid=2026>

through rules on pollution control, environmental information, state responsibility, and the handling of violations. Decree No. 45/2022/ND-CP¹¹ further specifies administrative sanctions for conduct including unlawful wastewater discharge, exceedance of technical standards, concealment of environmental information, and failure to implement remedial measures.

The central issue, however, is whether this framework protects rights in practice. Water pollution may persist after a fine is imposed, while affected residents may still lack timely information, meaningful participation, or access to effective remediation. This creates a distinction between sanctioning an offender and restoring the rights and living conditions of the affected community.

Decree No. 45/2022/ND-CP¹² has increased the severity and scope of administrative sanctions, which may strengthen deterrence. Yet a human rights assessment also requires examination of proportionality, procedural fairness, public disclosure, community participation, and the enforceability of remediation obligations. It must therefore consider both the state's duty to protect the public from pollution and the rights of regulated persons to legality, explanation, appeal, and control of administrative power.

This dual perspective is especially important in environmental enforcement because administrative decisions may affect public health and ecological security while also restricting property, business, and procedural rights. A rights-based sanctioning system should consequently combine effective enforcement with transparent procedures, reasoned decisions, review mechanisms, and remedies proportionate to the harm and risk involved.

Although Vietnamese scholarship has examined constitutional environmental rights, criminal liability, and compensation for environmental damage, fewer studies have evaluated administrative sanctions for water-environment violations as a unified human-rights mechanism. International work on environmental rule of law and transboundary obligations provides useful standards, but these standards have not yet been systematically connected to the design and implementation of Decree No. 45/2022/ND-CP in Vietnam.¹³

Accordingly, this study pursues three objectives: to develop a human rights-based framework for evaluating administrative sanctions for water-environment violations; to assess the compatibility and practical operation of the 2020 Law on Environmental Protection¹⁴ and Decree No. 45/2022/ND-CP¹⁵ against that framework; and to identify legal and institutional reforms that could strengthen deterrence, remediation, transparency, participation, and procedural safeguards.

¹³ (accessed on 15 April 2026).

¹¹ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Available at: <https://thuvienphapluat.vn/van-ban/Vi-pham-hanh-chinh/Nghi-dinh-45-2022-NĐ-CP-xu-phat-vi-pham-hanh-chinh-linh-vuc-bao-ve-moi-truong-484772.aspx> (accessed on 15 April 2026).

¹² Ibid.

¹³ Ibid.

¹⁴ NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]." 2020. Ibid.

¹⁵ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

2. Literature review

2.1 Review of related research

The literature can be organized into four overlapping strands: the recognition of environmental rights; human rights-based environmental governance; guarantees against abuse of administrative power; and civil or criminal responsibility for environmental harm. These strands provide relevant concepts, but they often examine different stages of protection separately. Constitutional studies clarify the status of environmental rights, governance studies emphasize transparency and participation, and liability studies focus on compensation or punishment after harm occurs.

International studies have shifted environmental disputes from a predominantly technical frame toward questions of dignity, health, participation, and access to justice. Auz (2022) shows how rights-based climate litigation can reframe environmental injury,¹⁶ while Di and Yin (2025) emphasize preventive state obligations in marine environmental protection.¹⁷ These studies establish the normative importance of a human rights-based approach, but they do not address how ordinary administrative sanctioning procedures translate those principles into enforceable remedies in Vietnam.

Environmental rule-of-law scholarship adds transparency, accountability, and protection of vulnerable actors to the evaluation of enforcement systems.¹⁸ This perspective is particularly relevant to sanctioning law because deterrence cannot be assessed solely by the nominal amount of a fine. It also depends on detection, publication of violations, implementation of remedial orders, and the ability of affected persons to obtain information and challenge administrative inaction.

Research on marine and transboundary pollution extends the analysis beyond territorial control by emphasizing the state's duty to prevent foreseeable harm and cooperate where ecological risks cross borders.^{19,20,21} Its principal contribution to the present study is normative: it reinforces prevention and due diligence. Its limitation is that it offers less guidance on the domestic architecture of administrative penalties, local disclosure practices, and community-level remedies.

Administrative-law scholarship provides the missing procedural dimension. Broberg and Sano (2018),²² Pham Hong Thai and Nguyen Thi Thu Huong (2012),²³

¹⁶ AUZ, J. "Human rights-based climate litigation: A Latin American cartography". 2022. Ibid

¹⁷ DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". 2025. Ibid.

¹⁸ ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". 2024. Ibid.

¹⁹ KLEIN, N. "International law-making and the Geneva Declaration on Human Rights at Sea". *Leiden Journal of International Law*, v. 38, n. 2, 2025, pp. 262-278. <https://doi.org/10.1017/S0922156524000426>

²⁰ SHANY, Y. "The extraterritorial application of international human rights law". *Recueil des Cours*, v. 409, 2019, pp. 9-152. https://doi.org/10.1163/1875-8096_pplrdc_A9789004445055_01

²¹ YU, L., FENG, R., SUN, Y., and PENG, Y. "Governance of cross-border genomic data sharing through a human rights approach". *Nature Genetics*, v. 57, 2025, pp. 2090-2098. <https://doi.org/10.1038/s41588-025-02252-9>

²² BROBERG, M., and SANO, H. "Strengths and weaknesses in a human rights-based approach to international development: An analysis of a rights-based approach to development assistance based on practical experiences". *The International Journal of Human Rights*, v. 22, n. 5, 2018, p. 664-680. <https://doi.org/10.1080/13642987.2017.1408591>

²³ PHAM, H. T., and NGUYEN, T. T. H. "Bảo đảm, bảo vệ quyền con người, quyền công dân trong pháp luật hành chính Việt Nam [Ensuring and protecting human rights and citizens' rights in Vietnamese administrative law]". *VNU Journal of Science: Legal Studies*, v. 28, n.1, 2012,

and Nguyen Thi Tiep (2022)²⁴ associate a rights-based approach with legality, proportionality, accountability, participation, and review of public power. These principles allow the sanctioning process to be evaluated from both sides: whether the state effectively protects affected communities and whether regulated persons receive fair procedure.

In Vietnam, research on environmental rights and human rights in the environmental field has mainly developed in three main directions:

Firstly, many works focus on establishing the theoretical and constitutional basis of the right to live in a healthy environment. Duc Hien (2011) is one of the early studies that directly addressed the right to live in a healthy environment in Vietnam, thereby affirming that this right is closely related to the right to life and the right to human development.²⁵ Tran Thi Truc Minh (2013) further analyzed the necessity of constitutionalizing environmental rights during the amendment of the 1992 Constitution, thereby contributing to shaping the legal foundation for recognizing environmental rights in the 2013 Constitution.²⁶ Recent studies by Bui Thi Huong (2022),²⁷ Chu Hong Thanh (2021),²⁸ Tran Hon (2025),²⁹ Nguyen (2022)³⁰ and Ly Thanh Nhan and Nguyen Phuong Dong (2025)³¹ have expanded the research content towards evaluating the development of environmental rights in the current Vietnamese legal system, especially after the promulgation of the 2020 Environmental Protection Law.

Secondly, some studies approach the issue from the perspective of administrative law and the mechanism for protecting human rights in state management activities. Pham Hong Thai and Nguyen Thi Thu Huong (2012) pointed out that ensuring human rights in administrative law depends not only on the content of legal norms but also on the procedures for exercising public power, the monitoring mechanism, and the

pp. 1-7. Available at: <https://js.vnu.edu.vn/LS/article/view/1121> (accessed on 15 April 2026).

²⁴ NGUYEN, T. T. "Transnational corporations and environmental pollution in Vietnam – Realising the potential of private international law in environmental protection", *Journal of Private International Law*, Vol. 18, No. 2, 2022, pp. 238-265. <https://doi.org/10.1080/17441048.2022.2096059>

²⁵ BUI, D. H. "Về quyền được sống trong môi trường trong lành ở Việt Nam hiện nay [On the right to live in a healthy environment in Vietnam today]". *Journal of Jurisprudence*, n. 11, 2011, pp. 24.

²⁶ TRAN, T. T. M. "The human right to live in a healthy environment and the amendment of the 1992 Constitution". *Journal of Legal Sciences*, Special Issue n. 03, 2013.

²⁷ BUI, T. H. "Quyền về môi trường trong pháp luật Việt Nam [Environmental rights in Vietnamese law]". *State Management Review*, 2022. Available at: <https://www.quanlynhanuoc.vn/2022/07/07/quyen-ve-moi-truong-trong-phap-luat-viet-nam/> (accessed on 15 April 2026).

²⁸ CHU, H. T. "Bảo vệ quyền về môi trường [Protection of environmental rights]". *Vietnam Lawyers Magazine Online*, 2021. Available at: <https://lsvn.vn/bao-ve-quyen-ve-moi-truong-a6532.html> (accessed on 15 April 2026).

²⁹ TRAN, H. "Quyền được sống trong môi trường trong lành: Quy định pháp luật của một số nước và kinh nghiệm cho Việt Nam [The right to live in a healthy environment: Legal regulations of several countries and lessons for Vietnam]". *Legal Online Magazine*, 2025. Available at: <https://phaply.net.vn/quyen-duoc-song-trong-moi-truong-trong-lanh-quy-dinh-phap-luat-cua-mot-so-nuoc-va-kinh-nghiem-cho-viet-nam-a260978.html> (accessed on 15 April 2026).

³⁰ NGUYEN, T. L. H. "The inclusion of sustainable development into new-generation ftas – what can be expected in reserving nations' rights to regulate?". *Vietnamese Journal of Legal Sciences*, v. 7, n. 2, 2022, pp. 73-100. <https://doi.org/10.2478/vjls-2022-0009>

³¹ LY, T. N., and NGUYEN, P. D. "Thực thi quyền con người được sống trong môi trường trong lành theo pháp luật bảo vệ môi trường [Implementing the human right to live in a healthy environment in accordance with environmental protection laws]". *Vietnam Journal of Legal Sciences*, v. 1, n. 185, 2025, pp. 35-44. <https://doi.org/10.70236/tckhplvn.200>

ability to control state power.³² Nguyen Thi Tiep (2022) further clarified the requirement to ensure human rights in the application of administrative sanctions, especially emphasizing the principle of proportion and limiting abuse of power in administrative enforcement activities.³³ These works have significant theoretical implications for evaluating the law on administrative sanctions in the field of water environment.

Thirdly, many studies focus on legal responsibility for acts causing environmental pollution. Nguyen Duy Phuong and Nguyen Duy Thanh (2024) analyzed the law on compensation for environmental pollution damage caused to business organizations in Vietnam, thereby showing the difficulties in determining damages and legal responsibility.³⁴ Nguyen Thu Thuy (2022) studied the responsibility of transnational corporations for environmental pollution in Vietnam from the perspective of international private law, emphasizing the need to improve the legal mechanism to control environmental impacts beyond national territory.³⁵ Meanwhile, Tran Thi Yen Khoa and Nguyen Van Tron (2024) approached the issue of protecting human rights through environmental criminal law, especially for acts causing serious consequences for the community.³⁶

Furthermore, legal and sub-legal documents such as the Law on Environmental Protection (2020),³⁷ Decree No. 45/2022/NĐ-CP,³⁸ as well as research reports from the Institute of State and Law in collaboration with the Institute of Science and Technology (Germany)³⁹ provide important practical and legal basis for evaluating the mechanism for handling environmental violations in Vietnam. These documents show a trend towards strengthening the penalty mechanism to improve the effectiveness of environmental management. At the same time, these documents

³² PHAM, H. T., and NGUYEN, T. T. H. "Bảo đảm, bảo vệ quyền con người, quyền công dân trong pháp luật hành chính Việt Nam [Ensuring and protecting human rights and citizens' rights in Vietnamese administrative law]". *VNU Journal of Science: Legal Studies*, v. 28, n.1, 2012, pp. 1-7. Available at: <https://js.vnu.edu.vn/LS/article/view/1121> (accessed on 15 April 2026).

³³ NGUYEN, T. T. "Pháp luật về áp dụng các biện pháp xử lý hành chính dưới góc độ bảo đảm quyền con người [Law on applying administrative handling measures from the perspective of ensuring human rights]". *Journal of Democracy and Law*, 2022. Available at: <https://danchuphapluat.vn/phap-luat-ve-ap-dung-cac-bien-phap-xu-ly-hanh-chinh-duoi-goc-do-bao-dam-quyen-con-nguoi-4186.html> (accessed on 15 April 2026).

³⁴ NGUYEN, D. P., and NGUYEN, D. T. "Law on compensation for damages owing to environmental pollution by business organizations in Vietnam". *Multidisciplinary Reviews*, v. 8, n. 4, 2024, pp. 2025122. <https://doi.org/10.31893/multirev.2025122>

³⁵ NGUYEN, T. T. "Transnational corporations and environmental pollution in Vietnam – Realising the potential of private international law in environmental protection", *Journal of Private International Law*, Vol. 18, No. 2, 2022, pp. 238–265. <https://doi.org/10.1080/17441048.2022.2096059>

³⁶ TRAN, T. Y. K., and NGUYEN, V. T. "Bảo vệ quyền con người trong lĩnh vực môi trường bằng pháp luật hình sự ở Việt Nam hiện nay [Protecting human rights in the environmental field through criminal law in Vietnam today]". *Human Rights Law Electronic Journal*, 2024. Available at: <https://tapchiquyenconnguoi.hcma.vn/Content/bao-ve-quyen-con-nguoi-trong-linh-vuc-moi-truong-bang-phap-luat-hinh-su-o-viet-nam-hien-nay-145415> (accessed on 15 April 2026).

³⁷ NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]". Ibid.

³⁸ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

³⁹ VIETNAM INSTITUTE OF STATE AND LAW & KONRAD-ADENAUER-STIFTUNG (KAS). "Environmental protection law and sustainable development in Vietnam today". Conference proceedings, 2012, Hanoi.

also reflect efforts to internalize the principles of sustainable development, environmental rights protection, human rights, etc., within the national legal system.

Taken together, previous studies establish the normative status of environmental rights and identify important remedial, procedural, and governance principles. Their fragmentation nevertheless leaves an analytical gap: few studies connect the legal design of administrative sanctions, stakeholder perceptions of enforcement, and the substantive restoration of water-related rights within a single framework. The present study addresses that gap by combining normative legal analysis with evidence from regulators, experts, businesses, affected residents, and civil-society actors.

2.2 Research gaps and research orientation

Three gaps define the study's contribution. First, existing Vietnamese research more often explains the constitutional recognition of environmental rights or analyzes compensation and criminal liability than it evaluates administrative sanctions as a mechanism for realizing those rights.

Second, Decree No. 45/2022/ND-CP has rarely been examined through an integrated set of human-rights criteria.⁴⁰ This study evaluates deterrence together with proportionality, access to environmental information, community participation, procedural fairness, protection of reporting persons, and restoration of affected environments.

Third, the literature has not sufficiently connected international standards of environmental rule of law with the practical constraints of Vietnamese enforcement, including uneven disclosure, variable local capacity, coordination difficulties, and the risk that monetary sanctions may be disconnected from ecological restoration.

The study therefore does not claim to measure nationwide enforcement performance. Its more limited contribution is to identify how selected stakeholders perceive the relationship between sanctioning and rights protection and to interpret those perceptions against the applicable legal framework and international human-rights principles.

On this basis, the analysis asks whether the current framework is sufficiently clear, proportionate, transparent, participatory, procedurally fair, and remedially effective to protect persons and communities exposed to water pollution.

3. Methodology

This study uses a mixed legal-empirical design. Normative legal analysis evaluates the content and internal coherence of the applicable rules, while a cross-sectional stakeholder survey provides contextual evidence about how the sanctioning framework is perceived in practice. The survey is not treated as proof of legal compliance or nationwide enforcement performance; rather, it is used to identify recurring implementation concerns that can be examined against human-rights and environmental rule-of-law standards.

3.1 Theoretical foundation of the study

The analytical framework integrates five dimensions: (1) protection of the right to a clean, healthy, and sustainable environment; (2) legality and proportionality of administrative sanctions; (3) transparency and access to environmental information; (4) participation, complaint, and review mechanisms; and (5) the state's positive obligation to prevent harm and secure effective remediation. This framework makes it possible to assess sanctions not simply as punitive acts but as part of a broader

⁴⁰ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

legal process that should prevent damage, provide fair procedure, and restore affected rights where possible (Table 1).

Table 1. Overview of the theoretical basis related to the research topic.

Theoretical Framework	Contents Applied in the Research	References
Human Rights-Based Approach	Defining and evaluating the legal framework for sanctions (handling) should not only be seen as an administrative management tool. It should also be seen as a mechanism to protect the right to life, the right to healthcare, the right to access information, the right to participation, and the right to live in a healthy environment (human rights related to the environment).	Broberg & Sano (2018); ⁴¹ Di & Yin (2025); ⁴² Bennett, Morgera, & Boyd (2024). ⁴³
Environmental Law	Considering transparency, accountability, access to environmental justice, and the control of public power in sanctioning water-environment violations.	Government of Vietnam (2022); ⁴⁴ Oral (2024); ⁴⁵ Vietnam Institute of State and Law & KAS Institute (2012). ⁴⁶
Theory of Sustainable Environmental Rights	Clarifying the right to live in a healthy environment as a basis for evaluating the adequacy of sanctions for acts of water pollution.	Duc Hien (2011); ⁴⁷ Tran Thi Truc Minh (2013); ⁴⁸ Bui Thi Huong (2022); ⁴⁹ Ly Thanh Nhan & Nguyen Phuong Dong (2025). ⁵⁰

⁴¹ BROBERG, M., and SANO, H. "Strengths and weaknesses in a human rights-based approach to international development: An analysis of a rights-based approach to development assistance based on practical experiences". 2018. Ibid.

⁴² DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". 2025. Ibid.

⁴³ BENNETT, N. J., MORGERA, E., and BOYD, D. "The human right to a clean, healthy and sustainable ocean". 2024. Ibid.

⁴⁴ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

⁴⁵ ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". 2024. Ibid.

⁴⁶ VIETNAM INSTITUTE OF STATE AND LAW & KONRAD-ADENAUER-STIFTUNG (KAS). "Environmental protection law and sustainable development in Vietnam today". 2012. Ibid.

⁴⁷ BUI, D. H. "Về quyền được sống trong môi trường trong lành ở Việt Nam hiện nay [On the right to live in a healthy environment in Vietnam today]". 2011. Ibid.

⁴⁸ TRAN, T. T. M. "The human right to live in a healthy environment and the amendment of the 1992 Constitution". 2013. Ibid.

⁴⁹ BUI, T. H. "Quyền về môi trường trong pháp luật Việt Nam [Environmental rights in Vietnamese law]". *State Management Review*, 2022. Ibid.

⁵⁰ LY, T. N., and NGUYEN, P. D. "Thực thi quyền con người được sống trong môi trường trong lành theo pháp luật bảo vệ môi trường [Implementing the human right to live in a healthy environment in accordance with environmental protection laws]". 2025. Ibid.

Theoretical Framework	Contents Applied in the Research	References
Theory of Human Rights Guarantees in Administrative Law	Evaluating the principles of legality, proportion, fair procedure, the right to appeal, and control of abuse of power in administrative sanctioning activities.	Pham Hong Thai & Nguyen Thi Thu Huong (2012); ⁵¹ Nguyen Thi Tiep (2022). ⁵²
The State's Active Obligation to Protect Human Rights	Analyzing the State's responsibility in preventing, addressing, and remedying water pollution and protecting vulnerable groups from environmental risks.	Milanovic (2008); ⁵³ Shany (2019); ⁵⁴ Yu & Xu (2023); ⁵⁵ Hoang & Pham (2023). ⁵⁶

Table 1 indicates that the effectiveness of a sanction cannot be inferred from its formal severity alone. A rights-protective measure should be legally clear, proportionate to the gravity and risk of the violation, capable of preventing continued pollution, accompanied by enforceable remediation, and implemented through procedures that permit disclosure, explanation, participation, complaint, and review.

3.2 Legal analysis method

The legal analysis examined the 2020 Law on Environmental Protection,⁵⁷ Decree No. 45/2022/ND-CP,⁵⁸ and relevant rules on administrative procedure, disclosure, sanctioning competence, appeals, and remedial measures. Provisions were coded according to the five analytical dimensions identified above. Particular attention was paid to unlawful wastewater discharge, exceedance of technical standards, concealment of environmental information, suspension of operations, compulsory remediation, publication of sanctioning decisions, and the procedural position of affected communities and regulated entities.

⁵¹ PHAM, H. T., and NGUYEN, T. T. H. "Bảo đảm, bảo vệ quyền con người, quyền công dân trong pháp luật hành chính Việt Nam [Ensuring and protecting human rights and citizens' rights in Vietnamese administrative law]". *VNU Journal of Science: Legal Studies*, v. 28, n.1, 2012, pp. 1-7. Available at: <https://js.vnu.edu.vn/LS/article/view/1121> (accessed on 15 April 2026).

⁵² NGUYEN, T. T. "Transnational corporations and environmental pollution in Vietnam – Realising the potential of private international law in environmental protection", *Journal of Private International Law*, Vol. 18, No. 2, 2022, pp. 238-265. <https://doi.org/10.1080/17441048.2022.2096059>

⁵³ MILANOVIC, M. "From compromise to principle: Clarifying the concept of state jurisdiction in human rights treaties". *Human Rights Law Review*, v. 8, n. 3, 2008, pp. 411-448. <https://doi.org/10.1093/hrlr/ngn021>

⁵⁴ SHANY, Y. "The extraterritorial application of international human rights law". 2019. Ibid.

⁵⁵ YU, L., FENG, R., SUN, Y., and PENG, Y. "Governance of cross-border genomic data sharing through a human rights approach". 2025. Ibid.

⁵⁶ HOANG, V. N., and PHAM, V. A. "Vietnam and its international commitments and obligations of human rights: The case of the individual rights to life, liberty, and personal security in the time of COVID-19". *The VMOST Journal of Social Sciences and Humanities*, v. 65, n. 1, 2023, pp. 116-128. [https://doi.org/10.31276/VMOSTJOSSH.65\(1\).116-128](https://doi.org/10.31276/VMOSTJOSSH.65(1).116-128)

⁵⁷ NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]." 2020. Ibid.

⁵⁸ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

Each provision was assessed through four questions: whether the rule is sufficiently clear for consistent application; whether the sanction and remedial measure are proportionate to the gravity, duration, and risk of harm; whether implementation provides timely information, participation, explanation, complaint, and review; and whether the legal consequence is capable of preventing continued pollution and restoring affected environmental conditions. This method distinguishes the existence of a legal rule from its capacity to protect rights in practice.

The doctrinal analysis treats the 2020 Law on Environmental Protection,⁵⁹ Decree No. 45/2022/ND-CP,⁶⁰ and the Law on Handling Administrative Violations as complementary rather than interchangeable instruments. The 2020 Law establishes substantive environmental duties, pollution-control obligations, information requirements, and the general responsibility to prevent and remedy environmental harm. Decree No. 45/2022/ND-CP⁶¹ specifies sanctionable conduct, fine ranges, additional sanctions, and compulsory remedial measures in the environmental field. The Law on Handling Administrative Violations supplies the general procedural framework governing competence, limitation periods, record-making, explanation, issuance and enforcement of sanctioning decisions, complaint, and review. Read together, these instruments create a legal chain from the identification of an environmental duty, through proof and sanctioning of a violation, to enforcement and remediation. The analysis therefore examines not only whether each instrument contains relevant rules, but also whether their interaction produces a coherent and rights-protective enforcement process.

3.3 Exploratory stakeholder survey

The survey was conducted during March–May 2026 in Ho Chi Minh City, Can Tho, Tra Vinh, Soc Trang, Dong Thap, and An Giang, representing localities with significant industrial, agricultural, and urban wastewater management challenges. Data were collected through a combined procedure involving paper questionnaires and an online survey platform.

Recruitment was undertaken through government environmental agencies, universities, professional legal networks, business associations, community organizations, and direct field contact. Content review was undertaken by five experts comprising two environmental-law scholars, one administrative-law scholar, one environmental management specialist, and one environmental inspector.

The questionnaire was then pilot-tested with 15 participants drawn from different stakeholder groups, after which minor revisions were made to improve wording clarity, reduce ambiguity, and eliminate overlapping items. A total of 230 questionnaires were distributed. 214 responses were received, and 16 questionnaires were excluded because of incompleteness or duplicate responses. The final analytical sample comprised 198 valid responses. The valid-response rate was 86.1% (Table 2).

⁵⁹ NATIONAL ASSEMBLY OF VIETNAM. “Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020].” 2020. Ibid.

⁶⁰ GOVERNMENT OF VIETNAM. “Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection].” 2022. Ibid.

⁶¹ Ibid.

Table 2. Survey participants and selection rationale (N = 198).

Survey Target Groups	Number of people surveyed	Reasons for Selection
State management officials in the fields of natural resources, environment, inspection, and handling of administrative violations;	42	Direct experience in applying regulations on penalties, inspection, investigation, and handling of water pollution.
Lawyers, legal experts, law lecturers, and researchers on human rights and the environment;	36	Provides expert perspectives on the reasonableness, proportionality, and level of protection of rights in current legislation.
Representatives of businesses and production and trading establishments that generate wastewater or are subject to environmental law regulations;	38	Reflects the perceptions of regulated entities regarding compliance obligations, penalties, penalty procedures, and compliance costs.
Residents living in areas at risk of being affected by water pollution;	54	Provides data on environmental rights experiences, access to information, complaints, and requests for remediation.
Representatives of social organizations, media, and local officials involved in community environmental monitoring.	28	Adds perspectives on social monitoring, information transparency, and the role of the community in protecting the water environment.

3.4 Comparative and normative benchmarking method

Comparative and normative benchmarking was used to interpret the Vietnamese framework against widely recognized human-rights and environmental rule-of-law principles, including legality, proportionality, prevention, access to information, participation, accountability, and effective remedy. The comparison was functional rather than jurisdiction-by-jurisdiction: it did not seek to transplant a foreign sanctioning model, but to identify whether the domestic framework performs the protective functions associated with these principles. International scholarship and standards were therefore used as evaluative benchmarks, while recommendations were adapted to Vietnam's institutional structure, administrative-law traditions, and enforcement capacity.

3.5 Research ethics and methodological limitations

Because the study involved an anonymous questionnaire administered to adult participants concerning professional opinions on environmental law and human rights, did not collect sensitive personal information, and did not involve any medical, psychological, or behavioral intervention, formal approval by an institutional research ethics committee was not required under the applicable research regulations of the authors' institution. Informed consent was obtained from all participants before the questionnaire was administered. The research was conducted in accordance with the principles of voluntary participation, informed consent, confidentiality, data minimization, and responsible research practice.

The study has several methodological limitations. The purposive sampling strategy may overrepresent participants with stronger interest in environmental

enforcement and does not support statistical generalization to all Vietnamese provinces or stakeholder groups. The data are self-reported and may be affected by recall, social-desirability, or acquiescence bias. The cross-sectional design captures perceptions at one point in time and cannot establish causal effects of legal reforms. The sample size limits disaggregated comparisons, while the absence of the respondent-level dataset in the revision materials prevented recalculation of Cronbach's alpha and inferential tests. Finally, the legal analysis focuses on the national framework and selected implementation concerns rather than a systematic database of administrative cases. These limitations mean that the results should be interpreted as analytically informative rather than nationally representative.

4. Results and discussion

4.1 Assessment of the protection of the right to live in a healthy water environment through administrative sanctions

Table 3 suggests a distinction between deterrence and restoration. Respondents viewed stronger sanctions as necessary, particularly for serious pollution, but rated the framework less strongly on whether remedial measures sufficiently limit harm and whether the law fully reflects the environmental rights of affected persons. The pattern indicates that formal penalty severity may have improved more quickly than the institutional capacity to secure timely remediation and rights-based assistance.

Table 3. Perceptions of the role of sanctioning law in protecting water-environment rights (N = 198).

No.	Survey Indicators	Mean	SD
1	Current penalties have contributed to raising awareness of compliance with water-environment law among violating organizations and individuals.	4.18	0.71
2	The regulations on penalties for exceeding wastewater discharge standards clearly demonstrate the responsibility of the community to protect environmental rights.	4.11	0.76
3	Remedial measures in current legislation significantly limit the negative impacts of water pollution on people.	3.94	0.84
4	Current laws on sanctions for water-environment violations relatively fully reflect the right of people to live in a clean environment.	3.89	0.88
5	The increase in penalties under Decree No. 45/2022/ND-CP has a clear deterrent effect on facilities causing water pollution.	4.23	0.69
6	Severe water pollution acts require continued application of stronger sanctions to protect public health and human rights.	4.37	0.63
7	People in water-polluted areas still face many difficulties in requesting timely action from competent authorities to address violations.	4.08	0.81

The survey results in Table 3 show that the majority of participants positively assessed the role of administrative sanctions in protecting water environmental rights. The indicators regarding the handling of violations under Decree No. 45/2022/ND-CP⁶² achieved the highest average score (Mean = 4.23), reflecting a fairly consistent understanding that the significant increase in penalties has created greater legal pressure on organizations and individuals at risk of water pollution. This result is consistent with the trend of strengthening environmental legal responsibility in many international studies on environmental rule of law and human rights-based

⁶² Ibid.

approaches.^{63,64} The clearest response regarding severe pollution is "Severe water pollution acts require continued application of stronger sanctions to protect public health and human rights," achieving the highest average score of 4.37. This indicates that respondents did not view water pollution as a common administrative offense that could be resolved after paying a fine. They considered it a problem that could affect the health, livelihoods, and basic security of community life. In that sense, the results support the view that environmental rights require sufficiently strong enforcement measures to prevent damage before remediation becomes difficult, or even impossible.⁶⁵ In addition, other indicators (survey content) were also rated as "important," with average scores ranging from 3.94 to 4.18. From a legal perspective, this survey shows that the penalties for violations causing water pollution in Vietnam have begun to be approached from a human rights protection perspective. However, the focus of the law remains on the state's management function and violation prevention. Mechanisms to protect those affected by water pollution, especially vulnerable groups or rural areas, are not yet well-designed as a central part of the current legal system.

4.2 Assessment of transparency and access to environmental information in sanctioning procedures

Access to environmental information is a practical precondition for the exercise of environmental rights. Affected communities cannot assess health risks, submit informed complaints, monitor official responses, or evaluate compliance with remedial orders without timely information about pollution sources, water quality, responsible actors, sanctioning decisions, and follow-up measures. This section therefore examines respondents' perceptions of access to water-quality information, publication of sanctioning decisions, and the duties of public authorities and regulated facilities to disclose relevant environmental data. The results are presented in Table 4.

Table 4. Assessment of access to information and transparency in handling water-environment violations (N = 198).

No.	Survey Indicators	Mean	SD
1	Currently, people still have difficulty accessing complete information about water pollution sources in their residential areas.	4.21	0.74
2	The public disclosure of decisions on penalties for water-environment violations has not been implemented uniformly across localities and management agencies.	4.14	0.79
3	Current legal regulations on environmental information transparency have created an important legal basis for the community to monitor wastewater discharge activities.	3.96	0.83
4	People need regular access to water environmental monitoring data directly related to their living areas.	4.42	0.58
5	Some production facilities still conceal or provide incomplete information related to wastewater quality and pollution risks.	4.27	0.69

⁶³ ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". 2024. Ibid.

⁶⁴ DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". 2025. Ibid.

⁶⁵ BENNETT, N. J., MORGERA, E., and BOYD, D. "The human right to a clean, healthy and sustainable ocean". *npj Ocean Sustainability*, v. 3, 2024, pp. 1-8. <https://doi.org/10.1038/s44183-024-00057-7>

No.	Survey Indicators	Mean	SD
6	The current penalty mechanism is not strong enough for the act of concealing information or hindering the community's access to water environmental data.	4.16	0.76
7	Public disclosure of environmental penalties helps to enhance the social responsibility of businesses and better protect the rights of citizens.	4.31	0.65

Table 4 identifies access to local monitoring data as the most pressing transparency concern. Respondents also perceived uneven publication of sanctioning decisions and insufficient consequences for concealing or withholding environmental information. These findings support reforms that treat disclosure as a substantive component of rights protection: without timely and intelligible data, residents may be unable to identify risks, request intervention, submit complaints, or monitor compliance with remedial orders.

The implication is not simply that more information should be published. Disclosure duties should specify the responsible agency, minimum data fields, publication deadlines, accessible formats, and the status of remedial compliance. A fragmented disclosure practice may weaken both community participation and the deterrent value of sanctions because violations and non-compliance remain less visible.

4.3 Assessment of proportionality and fairness of sanctions for water pollution

This section examines whether sanctions are proportionate to the seriousness and duration of water pollution and whether they are accompanied by fair procedure and effective remediation. Particular attention is given to monetary fines, suspension of operations, environmental restoration, support for affected communities, and the rights of regulated persons to explanation and appeal. The results are presented in Table 5.

Table 5. Assessment of proportionality and fairness of sanctions for water-environment violations (N = 198).

No.	Survey Indicators	Mean	SD
1	The current penalties for businesses causing serious water pollution are still lower than the actual damage suffered by the community.	4.25	0.71
2	More stringent remedial measures are needed instead of focusing solely on monetary fines.	4.34	0.60
3	Suspension of operations for facilities causing serious water pollution is necessary to protect the health rights of the community.	4.29	0.66
4	Some current penalty regulations do not adequately differentiate the levels of danger between different acts of water pollution.	4.03	0.80
5	The law needs to be supplemented with mechanisms for environmental restoration and support for affected communities after serious water pollution incidents.	4.41	0.55
6	Penalties often prioritize the interests of local economic development over the environmental rights of affected people.	3.98	0.87
7	The current penalty process generally ensures the right to explanation and the right to appeal for violating organizations and individuals.	3.76	0.91

Table 5 indicates that respondents were more concerned with environmental restoration and support for affected communities than with monetary penalties alone. The comparatively lower assessment of procedural explanation and appeal also suggests that a rights-based framework must protect both the community exposed to pollution and the regulated party subject to administrative coercion. Proportionality therefore requires attention to the seriousness and duration of harm, the economic benefit obtained from non-compliance, the violator's remedial conduct, and the procedural safeguards available during enforcement.

These findings support a reform model in which fines, suspension, restoration orders, health-risk communication, and community support are coordinated rather than imposed as disconnected measures. Where restoration is technically impossible or delayed, the law should provide clearer mechanisms for monitoring, interim protection, and assistance to affected persons.

However, the survey results also show concerns about the imbalance between economic development and environmental rights protection in some localities. The statement, "Penalties often prioritize local economic development over the environmental rights of affected people," with a Mean of 3.98, reflects the reality that some authorities are still lenient towards businesses that contribute significantly to the local budget. From a legal perspective, these results indicate that Vietnam's law on penalties for water-environment violations needs further improvement in clearly defining the severity of violations, strengthening remedial measures, and establishing mechanisms for restoring human rights for communities affected by the actions of individuals and organizations causing water pollution.

4.4 Assessment of community participation and human-rights protection mechanisms in enforcement

Community participation is an enabling condition for rights-based environmental enforcement. This section examines perceptions of community monitoring, reporting and complaint procedures, the responsiveness of competent authorities, the role of social organizations and the press, and safeguards for persons who report water pollution. These indicators assess not only enforcement effectiveness but also whether citizens can meaningfully exercise rights to information, participation, complaint, and environmental protection. The results are presented in Table 6.

Table 6. Assessment of community participation and human-rights protection mechanisms in enforcement (N = 198).

No.	Survey Indicators	Mean	SD
1	Community involvement is needed to increase the monitoring of water pollution in the locality.	4.45	0.53
2	Many residents are unaware of the procedures for reporting or complaining about water pollution.	4.12	0.78
3	Local authorities in some areas have not responded promptly to residents' reports of water pollution.	4.06	0.81
4	Strengthening the role of social organizations and the press will contribute to improving the effectiveness of water environmental law enforcement.	4.33	0.62
5	Residents are concerned about potential difficulties when reporting pollution related to large local businesses.	3.91	0.88
6	A better protection mechanism is needed for individuals and communities participating in reporting water pollution.	4.39	0.57

No.	Survey Indicators	Mean	SD
7	Ensuring community participation will help ensure that water-environment law are enforced more effectively and fairly.	4.36	0.60

Table 6 suggests that community participation is widely perceived as necessary but not fully operationalized. Respondents identified limited knowledge of complaint procedures, delayed official responses, concern about reporting violations involving influential businesses, and insufficient protection for reporting persons. This pattern is consistent with a gap between formally recognized participation rights and the practical conditions needed to exercise them. Clear reporting channels, response deadlines, feedback obligations, and safeguards against retaliation would make participation more legally effective.

4.5 Discussion

The combined legal and survey findings suggest that Vietnam's framework is moving from a narrow command-and-control model toward a more rights-conscious form of environmental enforcement, but the transition remains incomplete. The 2020 Law on Environmental Protection⁶⁶ and Decree No. 45/2022/ND-CP⁶⁷ provide a stronger basis for sanctions, disclosure, suspension, and remediation. Their practical effect, however, depends on inspection capacity, inter-agency coordination, availability of monitoring data, technical assessment of environmental damage, and consistent follow-up after a sanctioning decision.

The survey findings are broadly consistent with international human rights-based approaches that connect environmental protection with information, participation, accountability, and effective remedies^{68,69,70}. The distinctive contribution of the present study lies in showing that stakeholders do not evaluate sanctions only by their severity. They also assess whether pollution stops, information becomes available, affected persons can participate, and environmental conditions are restored.

This distinction helps explain why higher nominal fines may coexist with continuing dissatisfaction. Deterrence may remain limited where inspection is infrequent, the probability of detection is low, economic gains from non-compliance exceed expected penalties, or remedial orders are not independently monitored. In such circumstances, increasing fines alone may not materially improve rights protection.

The findings on transparency further support a procedural interpretation of environmental rights. International standards generally treat access to information and participation as enabling rights because they allow individuals to identify risk,

⁶⁶ NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]." 2020, Hanoi. Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=202613> (accessed on 15 April 2026).

⁶⁷ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

⁶⁸ AUZ, J. "Human rights-based climate litigation: A Latin American cartography". *Journal of Human Rights and the Environment*, v. 13, n. 1, 2022, pp. 114-136. <https://doi.org/10.4337/jhre.2022.01.05>

⁶⁹ ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". 2024. Ibid.

⁷⁰ DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". 2025. Ibid.

contest official inaction, and seek remedies. In the Vietnamese context, uneven publication across localities may reflect differences in digital infrastructure, institutional practice, data ownership, and coordination between environmental authorities and local governments.

The results on proportionality also reveal a two-sided legal requirement. Sanctions should be sufficiently strong to protect public health and prevent profitable non-compliance, but they should also be imposed through clear, reasoned, and reviewable procedures. A human rights-based approach does not justify unlimited administrative coercion; it requires the state to protect affected communities while respecting legality, explanation, appeal, and judicial or administrative review for regulated persons.

Practical implementation is further complicated by the technical nature of water pollution. Establishing causation, duration, ecological damage, and responsibility may require monitoring records, laboratory evidence, and coordination among environmental, health, water-resource, and local authorities. Where data are incomplete or institutional mandates overlap, remedial orders may be delayed or framed too generally to support effective compliance monitoring.

Vietnam's major pollution episodes illustrate why enforcement cannot be evaluated by the imposition of a fine alone. The Vedan wastewater-discharge case demonstrated the long-term difficulty of connecting administrative enforcement with proof of community loss, ecological restoration, and accessible compensation. The Formosa marine pollution incident similarly showed that large-scale environmental harm requires coordination across environmental, health, fisheries, local-government, and compensation mechanisms. These examples arose under different legal settings and should not be treated as direct tests of Decree No. 45/2022/ND-CP⁷¹. They nevertheless reveal recurring implementation problems: delayed detection, evidentiary complexity, fragmented institutional responsibility, unequal access to information, and the risk that negotiated remediation or compensation may remain disconnected from transparent monitoring of ecological recovery. In this sense, the cases support the survey finding that rights protection depends on an integrated cycle of disclosure, sanctioning, restoration, assistance, and review.

The proposed reforms therefore require differentiated institutional responsibility. The National Assembly and the Government should clarify the relationship between sanctions, restoration, compensation, and community protection in future legislative amendments. The Ministry of Agriculture and Environment should standardize disclosure, monitoring, inspection guidance, and verification of remedial compliance. Provincial People's Committees and specialized environmental agencies should publish local data, enforce response deadlines, and maintain accessible complaint channels. The Ministry of Justice and the courts should strengthen review of sanctioning legality and procedural safeguards, while the Vietnam Fatherland Front, social organizations, and the press can support community monitoring and legal awareness. This allocation of responsibility may reduce the current gap between formal rules and enforceable rights.

5. Conclusion

This study finds that Vietnam's legal framework for administrative sanctions has become more attentive to the protection of environmental rights, particularly through stronger penalties, broader remedial measures, and increasing recognition of transparency and participation. Nevertheless, the evidence also suggests that sanctioning and rights restoration do not always operate as an integrated process. A

⁷¹ GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Ibid.

violation may be formally handled while affected communities continue to face limited access to monitoring data, delayed remediation, weak participation mechanisms, or uncertainty about institutional responsibility.

The analysis therefore indicates that the principal reform challenge is not simply to increase fines. It is to connect detection, sanctioning, disclosure, remediation, complaint, review, and community protection within a coherent enforcement cycle. This requires clearer standards for assessing environmental harm, verification of remedial compliance, timely publication of monitoring and sanctioning information, accessible reporting channels, safeguards for persons who report pollution, and fair procedural guarantees for regulated entities.

Legislative reform should be led by the National Assembly and the Government, with technical implementation coordinated by the Ministry of Agriculture and Environment and provincial People's Committees. The Ministry of Justice and competent courts should strengthen legal review and procedural safeguards. Future research should use respondent-level data, validated scales, larger probability-based samples, stakeholder-group comparisons, and administrative case records to test whether these reforms improve deterrence, restoration, and the substantive enjoyment of the right to a clean, healthy, and sustainable environment.

6. References

- AUZ, J. "Human rights-based climate litigation: A Latin American cartography". *Journal of Human Rights and the Environment*, v. 13, n. 1, 2022, pp. 114-136. <https://doi.org/10.4337/jhre.2022.01.05>
- BENNETT, N. J., MORGERA, E., and BOYD, D. "The human right to a clean, healthy and sustainable ocean". *npj Ocean Sustainability*, v. 3, 2024, pp. 1-8. <https://doi.org/10.1038/s44183-024-00057-7>
- BROBERG, M., and SANO, H. "Strengths and weaknesses in a human rights-based approach to international development: An analysis of a rights-based approach to development assistance based on practical experiences". *The International Journal of Human Rights*, v. 22, n. 5, 2018, pp. 664-680. <https://doi.org/10.1080/13642987.2017.1408591>
- BUI, T. H. "Quyền về môi trường trong pháp luật Việt Nam [Environmental rights in Vietnamese law]". *State Management Review*, 2022. Available at: <https://www.quanlynhanuoc.vn/2022/07/07/quyen-ve-moi-truong-trong-phap-luat-viet-nam/> (accessed on 15 April 2026).
- CHU, H. T. "Bảo vệ quyền về môi trường [Protection of environmental rights]". *Vietnam Lawyers Magazine Online*, 2021. Available at: <https://lsvn.vn/bao-ve-quyen-ve-moi-truong-a6532.html> (accessed on 15 April 2026).
- DI, L., and YIN, B. "Protection and preservation of the marine environment through a human rights-based approach: Potentials, limitations and recommendations". *Frontiers in Marine Science*, v. 12, 2025, pp. 1683117. <https://doi.org/10.3389/fmars.2025.1683117>
- BUI, D. H. "Về quyền được sống trong môi trường trong lành ở Việt Nam hiện nay [On the right to live in a healthy environment in Vietnam today]". *Journal of Jurisprudence*, n. 11, 2011, pp. 24.
- GOVERNMENT OF VIETNAM. "Nghị định số 45/2022/NĐ-CP quy định về xử phạt vi phạm hành chính trong lĩnh vực bảo vệ môi trường [Decree No. 45/2022/NĐ-CP on administrative sanctions in the field of environmental protection]". 2022. Available at: <https://thuvienphapluat.vn/van-ban/Vi-pham-hanh-chinh/Nghi-dinh-45-2022-NĐ-CP-xu-phat-vi-pham-hanh-chinh-linh-vuc-bao-ve-moi-truong-484772.aspx> (accessed on 15 April 2026).
- HOANG, V. N., and PHAM, V. A. "Vietnam and its international commitments and obligations of human rights: The case of the individual rights to life, liberty, and personal security in the time of COVID-19". *The VMOST Journal of Social Sciences and Humanities*, v. 65, n. 1, 2023, pp. 116-128. [https://doi.org/10.31276/VMOSTJOSSH.65\(1\).116-128](https://doi.org/10.31276/VMOSTJOSSH.65(1).116-128)
- KLEIN, N. "International law-making and the Geneva Declaration on Human Rights at Sea". *Leiden Journal of International Law*, v. 38, n. 2, 2025, pp. 262-278. <https://doi.org/10.1017/S0922156524000426>

- LY, T. N., and NGUYEN, P. D. "Thực thi quyền con người được sống trong môi trường trong lành theo pháp luật bảo vệ môi trường [Implementing the human right to live in a healthy environment in accordance with environmental protection laws]". *Vietnam Journal of Legal Sciences*, v. 1, n. 185, 2025, pp. 35-44. <https://doi.org/10.70236/tckhplvn.200>
- MILANOVIC, M. "From compromise to principle: Clarifying the concept of state jurisdiction in human rights treaties". *Human Rights Law Review*, v. 8, n. 3, 2008, pp. 411-448. <https://doi.org/10.1093/hrlr/ngn021>
- NATIONAL ASSEMBLY OF VIETNAM. "Hiến pháp nước Cộng hòa xã hội chủ nghĩa Việt Nam [Constitution of the Socialist Republic of Vietnam]". 2025, Hanoi. Available at: <https://xaydungchinh sach.chinhphu.vn/toan-van-hien-phap-nuoc-cong-hoa-xa-hoi-chu-nghia-viet-nam-119231225213002261.htm> (accessed on 15 April 2026).
- NATIONAL ASSEMBLY OF VIETNAM. "Luật Bảo vệ môi trường số 72/2020/QH14 ngày 17 tháng 11 năm 2020 [Law on Environmental Protection No. 72/2020/QH14 dated November 17, 2020]". 2020, Hanoi. Available at: <https://vanban.chinhphu.vn/?pageid=27160&docid=202613> (accessed on 15 April 2026).
- NGUYEN, D. P., and NGUYEN, D. T. "Law on compensation for damages owing to environmental pollution by business organizations in Vietnam". *Multidisciplinary Reviews*, v. 8, n. 4, 2024, pp. 2025122. <https://doi.org/10.31893/multirev.2025122>
- NGUYEN, T. L. H. "The inclusion of sustainable development into new-generation ftas – what can be expected in reserving nations' rights to regulate?". *Vietnamese Journal of Legal Sciences*, v. 7, n. 2, 2022, pp. 73-100. <https://doi.org/10.2478/vjls-2022-0009>
- NGUYEN, T. T. "Transnational corporations and environmental pollution in Vietnam – Realising the potential of private international law in environmental protection", *Journal of Private International Law*, Vol. 18, No. 2, 2022, pp. 238-265. <https://doi.org/10.1080/17441048.2022.2096059>
- NGUYEN, T. T. "Pháp luật về áp dụng các biện pháp xử lý hành chính dưới góc độ bảo đảm quyền con người [Law on applying administrative handling measures from the perspective of ensuring human rights]". *Journal of Democracy and Law*, 2022. Available at: <https://danchuphapluat.vn/phap-luat-ve-ap-dung-cac-bien-phap-xu-ly-hanh-chinh-duoi-goc-do-bao-dam-quyen-con-nguoi-4186.html> (accessed on 15 April 2026).
- ORAL, E. "The environmental rule of law and the protection of human rights defenders: Law, society, technology, and markets". *International Environmental Agreements: Politics, Law and Economics*, v. 24, 2024, pp. 393-421. <https://doi.org/10.1007/s10784-024-09645-x>
- PHAM, H. T., and NGUYEN, T. T. H. "Bảo đảm, bảo vệ quyền con người, quyền công dân trong pháp luật hành chính Việt Nam [Ensuring and protecting human rights and citizens' rights in Vietnamese administrative law]". *VNU Journal of Science: Legal Studies*, v. 28, n.1, 2012, pp. 1-7. Available at: <https://js.vnu.edu.vn/LS/article/view/1121> (accessed on 15 April 2026).
- SHANY, Y. "The extraterritorial application of international human rights law". *Recueil des Cours*, v. 409, 2019, pp. 9-152. https://doi.org/10.1163/1875-8096_pplrhc_A9789004445055_01
- TRAN, H. "Quyền được sống trong môi trường trong lành: Quy định pháp luật của một số nước và kinh nghiệm cho Việt Nam [The right to live in a healthy environment: Legal regulations of several countries and lessons for Vietnam]". *Legal Online Magazine*, 2025. Available at: <https://phaply.net.vn/quyen-duoc-song-trong-moi-truong-trong-lanh-quy-dinh-phap-luat-cua-mot-so-nuoc-va-kinh-nghiem-cho-viet-nam-a260978.html> (accessed on 15 April 2026).
- TRAN, T. T. M. "The human right to live in a healthy environment and the amendment of the 1992 Constitution". *Journal of Legal Sciences*, Special Issue n. 03, 2013.
- TRAN, T. Y. K., and NGUYEN, V. T. "Bảo vệ quyền con người trong lĩnh vực môi trường bằng pháp luật hình sự ở Việt Nam hiện nay [Protecting human rights in the environmental field through criminal law in Vietnam today]". *Human Rights Law Electronic Journal*, 2024. Available at: <https://tapchiquyenconnguoi.hcma.vn/Content/bao-ve-quyen-con-nguoi-trong-linh-vuc-moi-truong-bang-phap-luat-hinh-su-o-viet-nam-hien-nay-145415> (accessed on 15 April 2026).
- VERGARA, E., PANCETTI, F., ZÚÑIGA, L., FABRES, K., and BAHAMONDE, P. "Risk map of human intake of mercury through fish consumption in Latin America and the Caribbean".

- Frontiers in Sustainable Food Systems*, v. 8, 2024, pp. 1470683.
<https://doi.org/10.3389/fsufs.2024.1470683>
- VIETNAM INSTITUTE OF STATE AND LAW & KONRAD-ADENAUER-STIFTUNG (KAS).
"Environmental protection law and sustainable development in Vietnam today".
Conference proceedings, 2012, Hanoi.
- YU, L., FENG, R., SUN, Y., and PENG, Y. "Governance of cross-border genomic data sharing
through a human rights approach". *Nature Genetics*, v. 57, 2025, pp. 2090-2098.
<https://doi.org/10.1038/s41588-025-02252-9>