

# Modern Institutions





Vietnam Development Report 2010

# Modern Institutions

Joint Donor Report to the Vietnam Consultative Group Meeting  
Hanoi, December 3-4, 2009

*Cover Photographs*

*The media covering the Vietnam Consultative Group Meeting, December 2008.  
(Photo by Ngan Hong Nguyen, World Bank).*

*A Community Supervision Board monitors the quality of bricks for a house built under a government program in Phuoc Tien commune, Bac Ai district, Ninh Thuan province.  
(Photo by Truong Quang Tran, Oxfam GB)*

*Legal Aid Service delivered by a mobile clinic in Ban Khen village, Lac Nung Commune, Bac Me district, Ha Giang province.  
(Photo by Huy Quang Do, Sweden)*

*A One Stop Shop in Thach Ha district, Ha Tinh province.  
(Photo by Serge Berrut, SDC)*

*Community consultation organized by Department of Planning & Investment to identify local priorities for the 2010 SEDP, Dien Bien province.  
(Photo by Son Van Nguyen, UNICEF)*

## VIETNAM GOVERNMENT FISCIAL YEAR

January 1 to December 31

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(Exchange Rate Effective as of October 28,2009)

Currency Unit VND

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Weights and Measures

Metric System

## ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
AECID	Spanish Agency for International Development Cooperation
ASEAN	Association of Southeast Asian Nations
AusAID	Australian Agency for International Development
BOT	Build Operate Transfer
BT	Build Transfer
BTO	Build Transfer Operate
CBO	Community Based Organization
CAP	Center for Agricultural Policy
CDD	Community Driven Development
CECODES	Center for Community Support Development Studies
CFAA	Country Fiduciary and Accountability Assessment
CIDA	Canadian International Development Agency
CIEM	Central Institute for Economic Management
CSO	Civil Society Organization
DEPOCEN	Development and Policies Research Center
DERG	Development Economics Research Groups of the University of Copenhagen
DFID	Department for International Development of the United Kingdom
EBRD	European Bank for Reconstruction and Development
EC	Economic Commission
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GSO	General Statistics Office
HCFP	Health Care Fund for Poor
HCMC	Ho Chi Minh City
ICT	Information and Communication Technology
ILSSA	Institute for Labor Studies and Social Affairs
INGO	International Non-Government Organization
IPSARD	Institute of Policy and Strategy for Agriculture and Rural Development
IT	Information Technology
JICA	Japan International Cooperation Agency
JRS	Judicial Reform Strategy
LCC	Legal Consultancy Center
LURC	Land Use Right Certificate

LSDS	Legal System Development Strategy
M&E	Monitoring and Evaluation
MOF	Ministry of Finance
MOHA	Ministry of Home Affairs
MOJ	Ministry of Justice
MONRE	Ministry of Natural Resources and Environment
MPI	Ministry of Planning and Investment
NA	National Assembly
NAPA	National Academy of Public Administration
NGO	Non-Government Organization
NHU	National Hanoi University
NTP	National Targeted Program
P135	Program 135
ODA	Overseas Development Agency
ONA	Office of the National Assembly
OSS	One Stop Shop
PAR	Public Administration Reform
PC	People's Council
PCI	Provincial Competitiveness Index
PFM	Public Financial Management
PM	Prime Minister
PPWG	People's Participation Working Group
Q&A	Question and Answer
RIA	Regulatory Impact Analysis
SAV	State Audit of Vietnam
SDC	Swiss Agency for Development and Cooperation
SDU	Service Delivery Unit
SPC	Supreme People's Court
SPP	Supreme People's Procuracy
SEDP	Socio Economic Development Plan
SME	Small and Medium Enterprise
SOE	State Owned Enterprise
TCER	Training Center for Elected Representatives
TV	Television
UNICEF	United Nations Children Fund
UNDP	United Nations Development Program
USAID	United States Agency for International Development
VAT	Value Added Tax
VID	Vietnam Innovation Day
VIDS	Vietnam Institute of Development Studies
VCCI	Vietnam Chamber of Commerce and Industry
VNCI	Vietnam National Competitiveness Initiative
VND	Vietnam Dong
VHLSS	Vietnam Household Living Standards Survey
VUFO	Vietnam Union of Friendship Organizations
VUSTA	Vietnam Union of Science and Technology Associations
WB	World Bank
WTO	World Trade Organization

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## EXECUTIVE SUMMARY

Institutions are not buildings or organizations, they are the rules by which citizens, firms, and the state interact. The photographs that grace the cover of this Vietnam Development Report epitomize Modern Institutions. The settings may not appear modern, but the activities they represent are cutting edge, and are transforming Vietnam. Local level planning with the active engagement of citizens. Monitoring of public works by citizens groups. Efficient administrative services with the citizen as the client. Legal advice being provided to citizens. Professional media coverage of important events. These are the roots which feed the growth of a modern, open, and high-performing society.

The Doi Moi reforms are widely credited with improving incentives for production and growth. Devolving responsibility to decentralized actors, in this case farmers and firms, and allowing them to sink or swim yielded strong results in a way that hierarchical controls could not. Yet, Vietnam's experience of the past two decades has also exhibited devolution in other respects: to provincial and lower levels of government, to administrative and service delivery units, to the courts and to elected bodies, and to the media and civil society.

Devolving authority and removing hierarchical controls may have benefits, but also poses a fundamental problem: how can accountability be assured after devolution? The fundamental tension between autonomy and accountability is not self-correcting. Accountability mechanisms will not automatically evolve to mediate these

new relationships. Rather they need to be consciously created. In fact, many new forms of accountability are being introduced, but they are not always optimal, and important gaps remain.

*This Vietnam Development Report focuses on devolution and accountability, two aspects of modern institutions that are the essence of Vietnam's experience in the past two decades.*

At the risk of over-simplifying, this VDR distinguishes between two types of accountability, *upward accountability* focusing on compliance with rules, dictates, and instructions coming from within the hierarchy, and *downward accountability* focusing on the results that the person or body is entrusted to deliver. A person or body concerned with upward accountability emphasizes adherence to rules. Those concerned with downward accountability serve their clients. Both forms of accountability are needed.

Like all models this paradigm omits many nuances, such as variations and hybrid forms of accountability. But models can be powerful precisely because they focus on the core aspects of an issue. In this case, the defining features of upward accountability are hierarchy and administrative rewards and punishment, while the defining features of downward accountability are feedback from clients, information for clients, and participation in decision making.

Vietnam's devolution has shown many positive results. Competition among the provinces is driving them to improve their business environments. Eased entry for non-state

providers of services and greater autonomy for the management of state facilities are supporting innovation and increasing the variety of services.

While these forms of devolution can bring positive results, there is no presumption that devolution is always good. On the contrary, central controls are sometimes essential. When competition among provinces leads them to ignore the impacts of their policies on their neighbors, some encouragement of regional planning is needed. When national uniformity is needed, such as in the system of law making, less devolution is needed, not more. Recent changes in the law making process are improvements in part because they centralize who can make laws and how. When there is asymmetric information, such as for the quality of health care and the credentials of health care professionals, or when equity concerns demand equal access to services, national standards are needed.

To provide some empirical grounding, this VDR draws on a large number of surveys and case studies, most notably the data from the 2008 round of the Vietnam Household Living Standards Survey (VHLSS), which included a new Governance Module, covering citizen satisfaction with government services, participation in policy making, access to information, and other issues. Administered to more than 9,000 households across Vietnam, this dataset is an important asset for attempting to understand Vietnam's institutional development. The fact that this data was collected and can now inform debates on governance reform represents an important milestone for Vietnam.

To explore the impacts of Vietnam's devolving character and nascent systems of accountability, we start with what remains after the devolution, the central state apparatus which must itself adjust when other functions and responsibilities are devolved. Next, we examine the experience of geographical devolution to lower levels of government. Functional devolution, to units providing administrative services and direct

services such as health and education follows. We then examine the increasing importance of the legal and judicial system, whose role is shifting as devolution takes place. Finally, we discuss the expanding array of forms of oversight for the devolving system—anticorruption bodies, civil society, the media, and the National Assembly have existed for a long time, but their roles are shifting and they may need more devolution themselves in order to be effective. An examination of the lynchpin that holds many of the mechanisms of accountability together, information, rounds out the report.

### Central Government

Through the devolution to firms and households, to lower levels of government and to autonomous service delivery units, the government is gradually being transformed from the director to the rule-maker, and in this process the role of the central state in bringing uniformity and consistency to the whole government apparatus is becoming more important than ever. Indeed, the tension between the self-governance of the different entities and uniformity of government administration calls for a shift in way the central government operates. The transformation of the central state in Vietnam has included changes in internal organization and a re-definition of functions and tasks. Managing the change well calls for coordination of policy making and planning across ministries and agencies, to help minimize confusion and ensure that policies achieve their desired objectives.

Efforts to reform public administration have been ambitious. Launched in the 1990s, the Public Administration Reform Master Plan covered decentralization, defining of functions, modernizing public financial management, e-government, and civil service reform, among others. The objectives of the reforms were many, and there have been some successes, particularly in the simplification of administrative procedures, but there has also been, at times, slow translation of policy into actions.



In order to remain efficient in its new role the state will also need to face new challenges brought about by the devolution of authority. One of those challenges is to remain staffed with qualified and motivated people, while competing for talent with a rapidly growing private sector. While it is tempting to focus on salary as the key variable by which the state and the private sector compete for talent, many other factors also contribute, such as the opportunity for staff to use their talents and to be rewarded for their efforts. Indeed, on average government salaries do not appear to be grossly out of line. Increases in the minimum wage upon which state salaries are based have far outpaced inflation and have roughly kept pace with GDP growth. (Figure I). The system of remuneration, which relies heavily on allowances and bonuses, is complex making it difficult to compare state salaries and private sector salaries. What data does exist suggest that state salaries are not significantly lower than in the private sector, and may even be higher. (Figure II) For some high demand

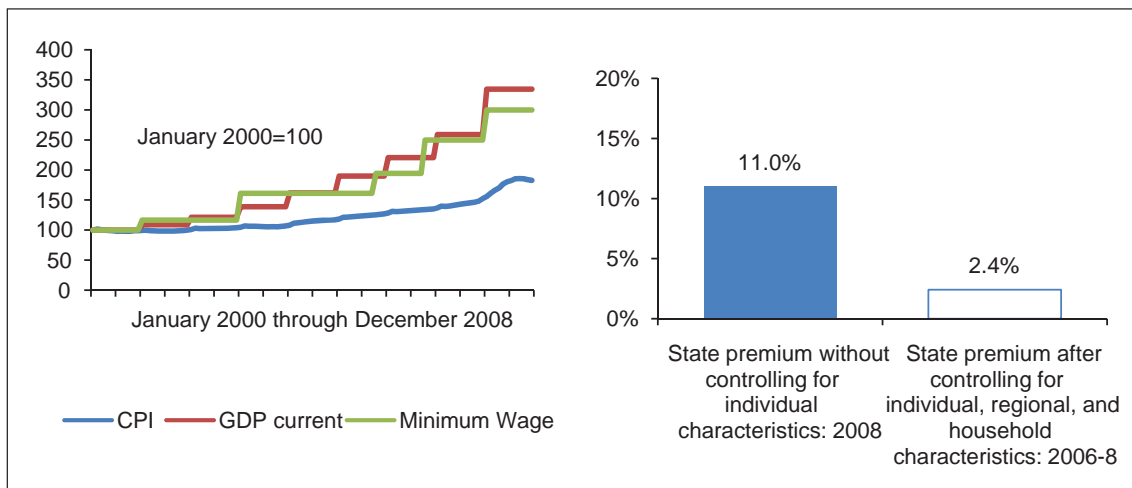
professions, and for some locations, however, state salaries may indeed lag those of the private sector. Some of the state premium may be due to better qualifications of civil servants not easily captured by surveys.

The system of recruitment and promotion is a key factor affecting the ability of the state to staff itself. Getting the basics right, through uniform systems of control and competitive recruitment, is essential before embarking on sophisticated performance management programs. The need for uniformity within much of the civil service provides a good example of the sort of decision that is best kept centralized, rather than devolved. The new Law on Cadres and Civil Servants has adopted the principle of meritocracy, but the challenge now is to translate this principle into concrete recruitment and managerial processes, and then implement them.

Even the best set of laws and regulations, however, will face challenges. The tension between

**I. Minimum wage compared to CPI and GDP**

**II. Average state salary premium compared to formal sector alternatives, 2006-2008**



*Note:* The chart on the left uses annual GDP figures. For the chart on the right, the bars show the coefficients on the state dummy variable for cross-section regressions of log wages on various characteristics, and for the similar coefficient for a panel regression with respondent characteristics. The bar on the right, which is based on panel data with individual characteristics, is not statistically significant, while the one on the left is highly significant. The numbers of observations for the two bars in the right-hand chart are 3,668 and 2,083, respectively.

*Source:* Own estimates based on VHLSS 2008. Analysis for figure on the right is based on the approach of Cuong, 2008.

meritocracy, which calls for differentiating rewards according to performance, and career stability, one of the attributes that many civil servants find attractive, makes such reforms difficult in countries around the world. Moreover, many would stand to lose from some types of reforms, such as increasing the differentiation in performance ratings, while the benefits are diffuse, exactly the sort of collective action problem which stymies many needed reforms. Even when the net benefits of reform are positive, the lack of a clear constituency pushing for change or the presence of constituencies pushing the other way can block or delay reforms.

A second challenge for the central state apparatus is to ensure that the public's finances are managed properly, a concern for many Vietnamese citizens. Among the many forms of corruption that Vietnam is wrestling to contain, misuse of public resources raises the most ire with the population. While an ongoing program of reforms aims to strengthen the control environment, and places a greater emphasis on transparency and accountability, risks could be further reduced by improving the budget process, and increasing transparency and oversight. A large difference remains between budgeted and actual expenditures and revenue, and user fees and charges of many service delivery units—a direct consequence of Vietnam's devolution—contribute to the lack of clarity in budget coverage. Better and more public information can also help strengthen accountability. Budget proposals are not currently disclosed to the public until after the budget is adopted—together with the lack of a formal mechanism for public consultation on the budget, this practice limits public participation. The system of external oversight, particularly by the National Assembly and by State Audit of Vietnam, has improved. Such external oversight is essential for a devolving system.

### Local Governance

Vietnam's move from a highly centralized hierarchical state designed for central planning

toward a more nimble set of arrangements suited for markets has included the decentralization of responsibilities and powers to lower levels of government. The extent of devolution from the national government to the provinces in Vietnam is by any objective measure, quite large. With new authority, the provinces are, more so than in the past, able to align their mix of services with local desires.

As the central government granted additional powers and responsibilities to provincial and lower levels of government, they strengthened the manner and degree of potential oversight. Downward accountability was also strengthened through measures requiring greater transparency—commune-level administrations, among others, were required to publicize the estimates and uses of annual budgets, assorted funds and people's contributions. Yet, strengthening downward accountability through participation and transparency requires a cultural shift that cannot be achieved quickly. A decade after the passage of the Grassroots Democracy Decree, which recognized the importance of publicizing information and including active participation of the citizenry in making decisions, implementation remains unbalanced.

While there has been clear progress in establishing these new accountability arrangements, it is also clear that there are gaps in many areas. Participation in decision making does exist, but often focuses more on implementing what has already been decided, for example in selecting sites under the targeted poverty alleviation program P-135. Participation in the broader planning process may be limited in part by the institutional setup, with planning agencies well established at the national and provincial levels but thin at the district and commune levels. Although many people may not actively participate simply due to lack of interest, even a small number of interested citizens could potentially help make consultations a success. Ensuring the opportunity for participation is essential.

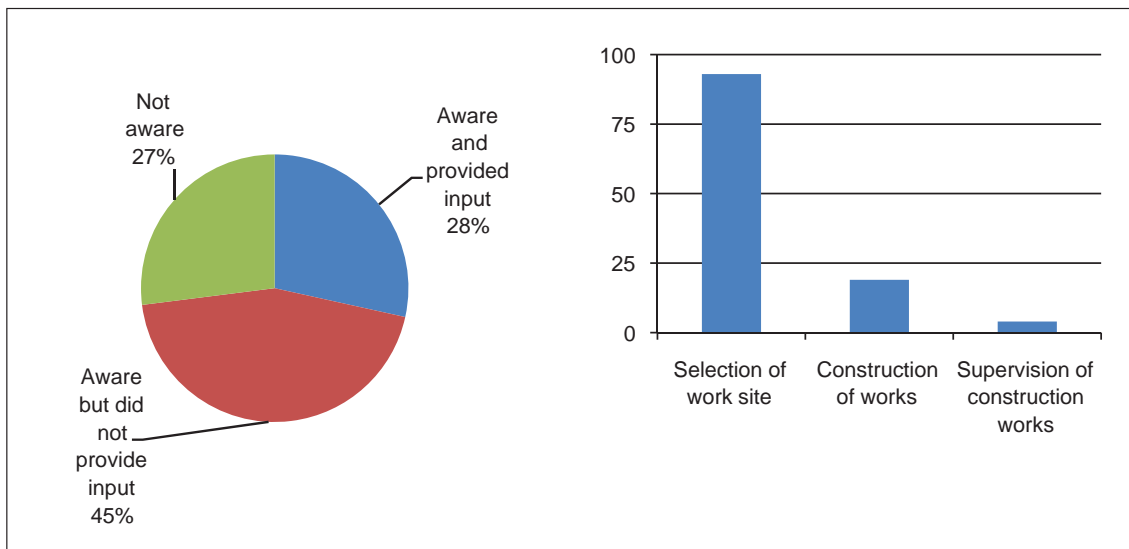
Although somewhat less empowered than the province or district levels, the commune level has been the locus of considerable experimentation with downward accountability systems. Yet, around half of the households in Vietnam reported having no information on commune budgets and plans. Although the people most interested in these budgets and plans are more likely to say they have some information, they generally report that the information does not meet their needs. (Figure V.) Other studies point to the complexities of filling these gaps. The reasons why information does not meet the people's needs are diverse, including literacy and language issues, education, and the distances needed to travel to get the information.

Most of the new mechanisms of downward accountability—responsiveness directly to citizens through participation and enhanced transparency—have taken place at the commune level, while much of the devolved power has gone to the provinces. One challenge, therefore,

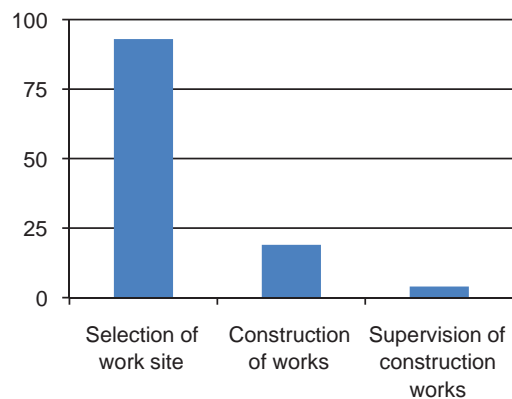
is the misalignment of accountability with new arrangements.

As provinces recognize that investors are drawn to places with unobtrusive business environments, the autonomy to make policies that are friendly to growth can engender some positive competition between provinces. Yet, competition between provinces is not always beneficial. Decisions in one province can have important impacts, positive or negative, on others. The cross-border nature of many environmental problems makes independent planning by each province in isolation inefficient. In addition, uncoordinated planning can lead to wasteful duplication. There are also positive spillovers, since growth in one province could be beneficial to its neighbors, if the proper infrastructure is in place. When the benefits of regional planning are mutually beneficial, provinces may be expected to work together of their own volition. When the costs and benefits are asymmetric, however, then the role of the national government can be much

### III. Do people participate in decision-making and supervision of infrastructure works?



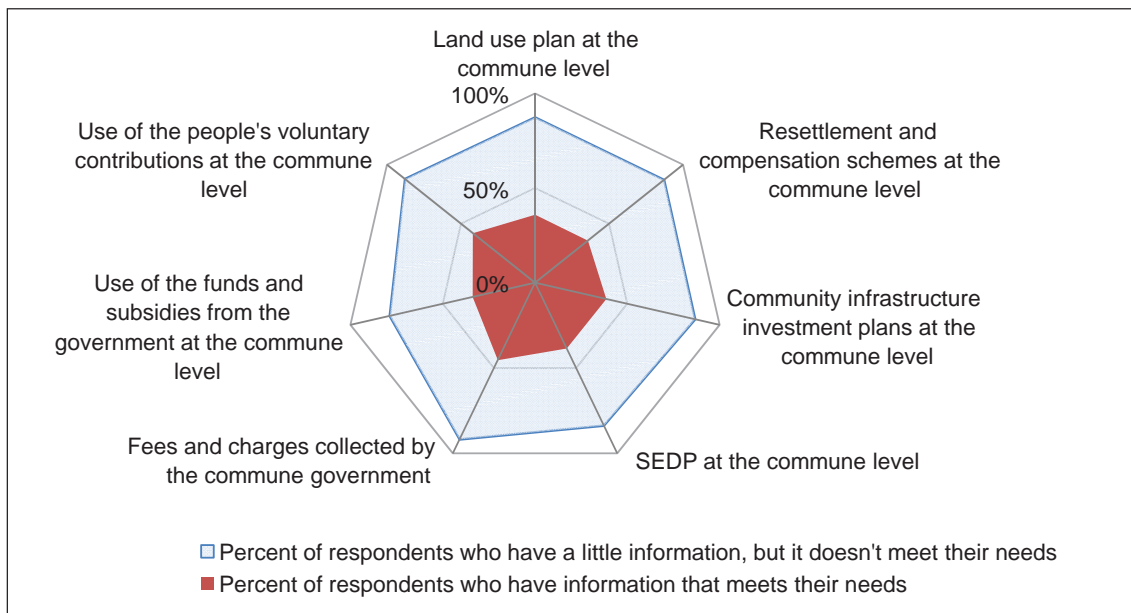
### IV. If they do participate, how?



*Note:* Chart depicts the simple average over infrastructure works in P135-II communes in the provinces of Lai Chau, Lao Cai, Binh Phuoc, and Soc Trang, including electricity works, transportation works, schools, water supply works, health stations, markets, communal houses, and irrigation works.

*Source:* Own calculation based on “Report on Results of Citizen’s Report Card Survey on People’s Satisfaction with P135-II” (Quyen et al, 2009)

**V. Information that meets households' needs on commune budgets and plans (among those with interest)**



*Note:* Based only on respondents who said they were interested in the various budgets and plans. Number of observations ranged from 2,481 to 4,424.

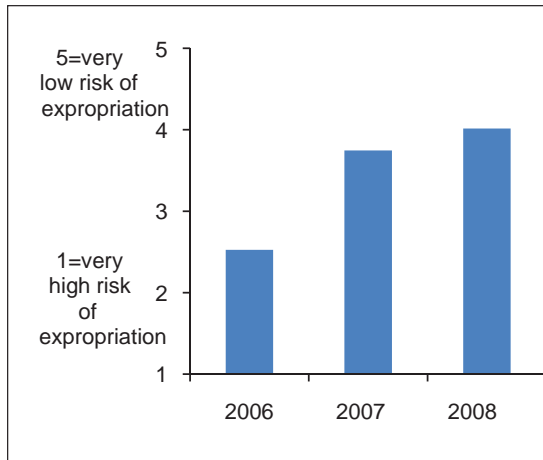
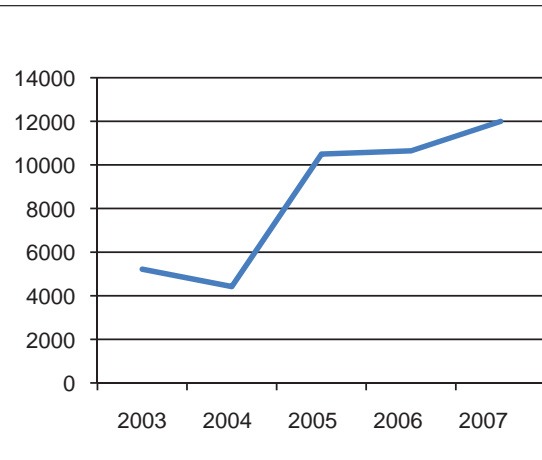
*Source:* Own estimates based on 2008 VHLSS Governance Module

stronger. National standards may be part of the solution, but there is also scope for national intervention to encourage regional planning, for example among provinces that share the same watersheds or municipal areas.

Devolving authority over production decisions to farmers and enterprises established basic property rights over their outputs, but property rights over their assets, particularly land, was needed to encourage investment. The authority to allocate land was devolved to the local authorities which have gained significant powers of land-use management. The process of decentralized land-use management has coincided with a vigorous conversion of agricultural land into non-agricultural land for industrial zones, export processing zones, urban areas, tourist and commercial areas. However, the shifting of land use from one purpose to another, or from one land-holder to another, did not emerge in a balanced way. In this conversion processes, provincial government officials have strong incentives to favor investors.

Successive revisions of the Land Law in the past two decades have introduced the concept of prices for land, strengthened rights for investors, and laid out detailed rights and obligations of both land users and state bodies. Several other key milestones have been reached in formalizing what was previously a very informal system of property rights, and in strengthening due process, transferability, control and protection. In the last few years alone, firms have gained increased confidence in their property rights. (Figure VI). Despite these advances, the allocation of land and resettlement once land has been re-designated for a new purpose continues to be a major source of conflict in Vietnam. Between 70 and 90 percent of complaints involve land, and these have increased significantly over time, more than doubling in five years. (Figure VII).

The set of circumstances that define when land can be taken in Vietnam include not only cases that would traditionally be interpreted as for the public good, such as the building of a road, but also cases where the benefits are arguably

**VI. Confidence in land property rights****VII. Formal complaints sent to MONRE related to land issues**

*Note:* Chart on the left shows average of averages from overlapping panels. Number of observations ranged from 342 to 1,212 firms in the panels.

*Source:* Chart on the left shows own calculations based on data from VNCI and VCCI, Provincial Competitiveness Survey, Overlapping Panels. Chart on the right is based on data from MONRE.

private. Moreover, the most important cause of dissatisfaction is the low compensation given to those who lose their land. The identification of “market” prices for use in setting compensation for involuntary resettlement is problematic as the market is new, and problems are compounded by asymmetric information between seller and buyer—farmers do not necessarily know the value of the land for their livelihood or the value of land for other uses. Greater reliance on voluntary, negotiated, land transfers would ease some of these problems.

**Administrative and Direct Services**

Responsibilities have also been devolved along functional lines to units providing services. The tension between autonomous service provision and the desire for uniform standards of quality for services that are accessible to the whole population presents a challenge for which there is no magic formula. Experimenting with the mechanisms for balancing autonomy and accountability has been a feature of Vietnam’s development for some time.

In 2001, administrative units gained considerable decision-making power over a block grant from the government for administrative expenditures and staff costs. They were allowed to use cost savings to increase staff remuneration within certain limits and there was also a change in the way they work. One set of reforms, launched on an experimental basis in the 1990s, sought to make it easier for citizens and firms to deal with the state through the introduction of “one stop shops” for administrative services. The pilots have since been extended considerably. Eighty-four percent of departments at the province level had established their one stop shops by October 2009. And by most accounts, the one stop shops are successful. For citizens and firms, the prospect of long lines and unanswered questions are less of a concern than they had been in the past.

While one stop shops focus on the manner in which existing administrative procedures are applied, a second initiative called Project 30 aims to streamline the stock of procedures themselves. With top-level government backing,

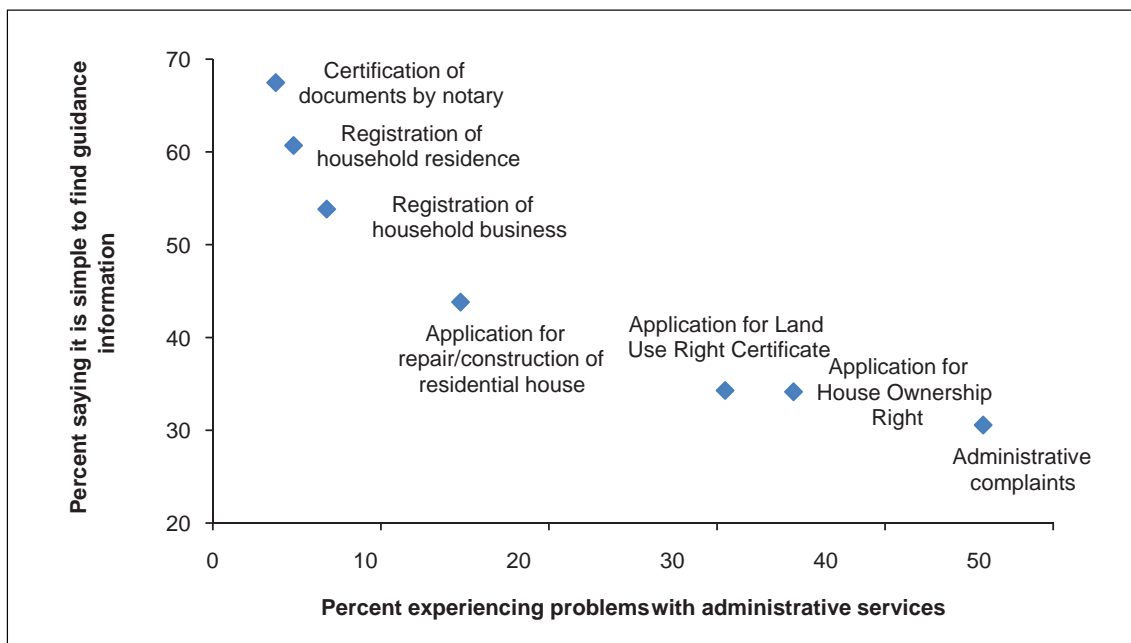
Project 30 is making real progress. A new on-line national database with some 5,700 administrative procedures was launched on October 26th 2009 setting the stage for a culling process next year. Success at Project 30 has come about in part because there was a constituency with both the ability, through collective voice by business associations, and the incentive to push for change.

Simplifying administrative procedures has already had a positive effect. Citizens responding to the VHLSS Governance Module report low levels of difficulty when dealing with most administrative procedures, although more than one in four respondents reported trouble related to land and housing procedures. Reinforcing the pivotal role of information, the survey also suggests that being able to easily find guidance information enables citizens to avoid difficulties. (See Figure VIII.) The business community also generally reported improvements in the business

environment stemming from administrative reforms. By 2008, nearly 90 percent of respondents to the Provincial Competitiveness Index (PCI) survey said that the one stop shop model had been implemented locally, and nearly as many agreed that the provincial implementation of one stop shops is good for business. When asked about access to a wide range of documents, from local budgets to planning documents, to tax and business registration data, firms reported easier access and less need for personal relationships with officials in order to get the documents.

While the view among citizens that administrative procedures had improved was widespread—in every province more citizens reported improvement than worsening—the degree of improvement was stronger in the richer provinces. Mirroring the findings for citizens, the firm level PCI survey also shows that improvement is felt somewhat more strongly in the richer provinces. Compared to the poorer third of provinces, firms

**VIII. Dealing with administrative services and the ease of accessing information**



*Note:* Includes only respondents who had used the service since 2006. Number of observations ranged from 71 to 4,085. Chart shows the percentage of respondents who said it was simple or very simple to find guidance information and the percentage of respondents who said they encountered difficulty when dealing with the service. Responses of “don’t know” were dropped from the analysis.

*Source:* Own estimates based on 2008 VHLSS Governance Module

in the richer third were more likely to report improvements in paperwork, costs, numbers of visits required, and friendliness of staff.

As Vietnam and its citizens become wealthier, it is clear that the pressure to further improve these services will not ease. As wages and salaries increase, so will the value of time and consequently the cost of waiting. As Vietnam progresses in strengthening property rights, in the form of house ownership and land use right certificates, citizens will increasingly be utilizing administrative services. A growing demand for more efficient administrative services will be a fact of Vietnam's development in the next decade.

Service delivery units, such as hospitals and schools, have achieved substantial autonomy in several respects. They have been given the power to generate their own revenues, by charging user fees on core services, setting fees within a band for non-core and on-demand services, and borrowing from commercial banks, among others. They have also been given significant authority over the use of their financial resources, both their self-generated resources and block grants from the state. The reforms undertaken since Doi Moi have provided service delivery units not only with more autonomy on financial issues, but also on other aspects of their management.

The rationale for making service delivery units more autonomous was to improve service quality. The case of the health sector shows that some positive effects have indeed taken place. Service delivery units in the health sector have cut administrative costs by eliminating irrational expenditures and allocating a fixed expenditure budget to separate departments. Managers have become more dynamic and entrepreneurial, organizational structures have been enhanced and existing human resources have been used more efficiently.

Some of the most important positive effects have taken place unevenly, benefiting more certain facilities. In most central-level and provincial-

level hospitals, the amount and variety of revenues have increased, while the trend is not so clear for district-level health facilities. The user fee scheme for the health sector has not been revised since it was established in 1994 and there has been a gradual erosion of the surplus of revenues that were first brought about through the user fees. In the education sector, likewise, the low levels of regulated tuition fees are reported to be a key cause the high turnover of teachers in self-financed schools.

Echoing a theme found throughout the VDR, conflicts of interest accompanying the devolution pose problems for service delivery. In some public hospitals, the medical staff moonlight as private providers, providing an incentive for these staff to refer patients for tests or other services from which they will personally profit. Inappropriate incentives from drug distributors to health facility staff may lead them to prescribe more expensive drugs, or multiple drugs, or excessive quantities, even if unnecessary. Regulations explicitly prohibit health professionals from asking for bribes or gifts, but these regulations are not strongly enforced. Recent regulations explicitly prohibit public health professionals from establishing or participating in the management of private enterprises such as private hospitals. Nevertheless, working after hours in private health facilities is currently allowed and encouraged.

The tension between delegated power and the need to maintain standards calls for shifts in accountability mechanisms, both upward accountability for compliance with national standards, and downward accountability to users. To address a fundamental problem of asymmetric information in the provision of health care, a sound system of certifying not only health care facilities, but the people providing health services, is needed. Such a system can help ensure that those practicing medicine are qualified and competent, and discipline those who significantly breach ethical and clinical standards of care.

### Legal and Judicial Systems

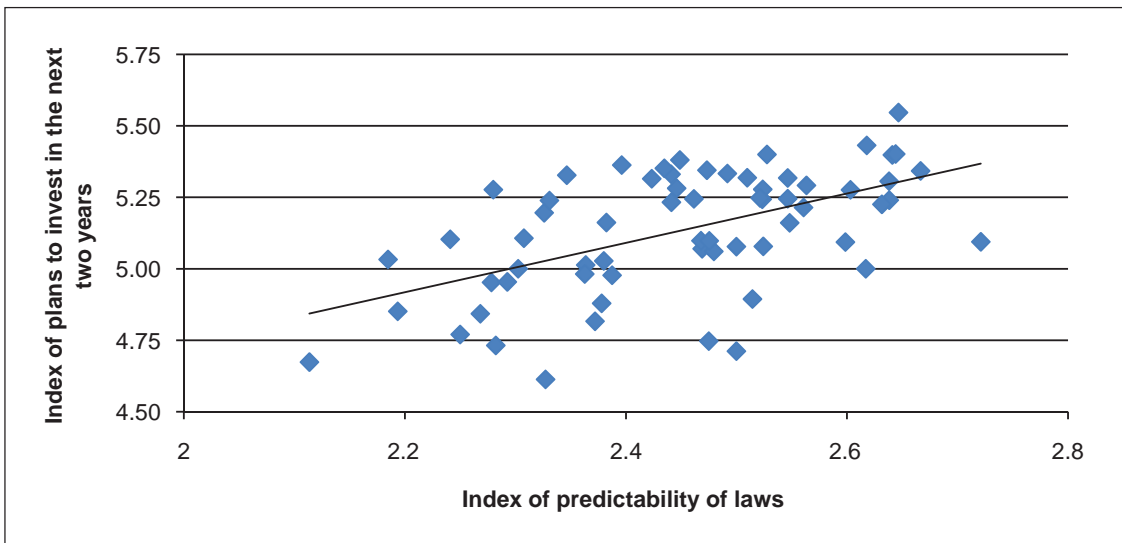
Thousands of new laws and regulations at all levels of government have been generated to address the changing landscape of Vietnam’s economy. The changes in the legal framework ultimately generate uncertainty for firms, households, and the government officials who must enforce those laws. The key challenge for legal reform is to ensure that the legal framework is internally consistent, implementable, and is well understood by the public and by those who enforce it. A stable and predictable set of laws can give firms the confidence they need to undertake costly investments. At present, however, firms in Vietnam generally do not report that economic and financial laws are predictable. And in general, firms with confidence in the predictability of laws are more likely to invest. (Figure IX.)

Making laws more predictable begins with publication of drafts, but it does not end there. Publicizing drafts of laws, as has been done

since the Law on the Promulgation of Legal Normative Documents took effect in January of 2009, is a clear advance, but focusing consultation on existing drafts misses the chance for upstream debate on what a proposed law is intended to achieve. Separating the function of policy-making from technical drafting could help reduce this risk.

The links between Vietnam’s devolving economic and administrative system and the judiciary are complex. On the one hand, devolution in economic decision making in other spheres increases the work of the courts as more disputes come before them. At the same time, the responsibility for resolving disputes is also being gradually devolved from the central and local government bodies to the courts. To be credible, courts need to be efficient and independent. At present, however, judges often consult with higher courts and even with local governments when deciding on a case.

**IX. Provinces with more predictable laws have more firms willing to invest**



*Note:* The dots represent the provincial averages of these two questions: “Which statement best characterizes your firm’s investment plans over the next 2 years? 1=Plan to close, 2=Plan to reduce size of operations considerably, 3=Plan to reduce size of operations, 4=Plan to stay at present size, 5=Plan to increase size, 6=Plan to increase size considerably.” And “How predictable are changes in economic and financial laws at central level affecting your business? 1=Never, 2=Seldom, 3=Sometimes, 4=Usually, 5=Always”.

*Source:* Own estimates based on Vietnam National Competitiveness Initiative. Provincial Competitiveness Index 2008.



Enhancing independence of the courts is easier said than done. But several steps could help move in that direction. The length of judicial tenure, now only five years, could be lengthened, and providing court financing directly by the legislature could also enhance independence. Shifting to an adversarial system, already envisioned under the Judicial Reform Strategy to 2020, can make the judges' role as arbiters, rather than participants in the case, clear and thereby strengthen the presumption of innocence and other basic human rights.

The tension between independence and accountability is especially challenging for the judiciary. Yet, accountability can be enhanced without sacrificing independence by placing greater emphasis on transparency. While there has been some progress in making case records public, the disclosure of judgments, and the analysis leading to judgments, remains low.

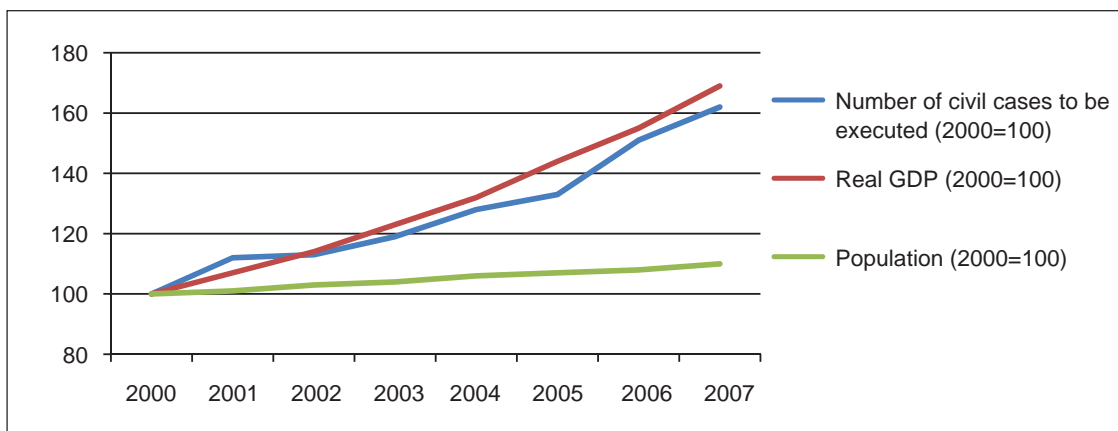
The courts are not used in Vietnam to the extent that they are in other countries. However, this does not mean that the courts should be a low priority for reform. On the contrary, in Vietnam's devolving system with citizens becoming more demanding of the government, with rapid growth and more and more arms-length economic activity, the pressure on the courts to deliver justice fairly and efficiently will grow. Indeed,

court cases track economic growth much more closely than population growth, as illustrated in Figure X.

The Vietnamese system calls for a conciliation process before going to court for some types of cases, and millions of cases have been handled this way in the past decade. However, the tension between a system aimed at amicable resolution of problems, and the distinctly non-amicable nature of many disputes, causes problems when there is a fundamental imbalance of power between the parties. Moreover, the impartiality of the body may be called into question for some disputes, since commune-level conciliation councils are headed by local officials from the commune People's Committee, posing a conflict of interest when the dispute involves the local government. Even if these issues were resolved, however, the need for a sound judiciary would remain.

Nontrivial numbers of firms encounter disputes with local government or government officials. Although the courts have had jurisdiction to settle administrative disputes since 1996, the number of administrative cases accepted and heard by the courts is still limited. Many types of cases can not be heard by the courts until first settled with the local governments, raising additional questions about the impartiality of the system.

#### X. Growing economy, growing pressure on the courts



Sources: Own estimates based on data from Ministry of Justice; GSO

A key role of the legal and judicial system is to stop disputes before they even occur. Improving the quality of legal development can help in this regard, but equally important is to raise awareness on the part of the citizenry and the business community about their legal rights. Significant efforts have been made to enhance legal dissemination and consultancy in Vietnam. Mobile legal aid clinics provide legal aid services, especially in rural and remote areas, and the number of legal aid cases has been steadily increasing. Getting legal advice through the market, the default option in most countries, faces challenges in many places in Vietnam. Indeed, vicious circle is at work: the lack of use of the courts limits the demand for legal services, while the limited availability of legal advice also makes the courts less attractive for settling disputes.

The legal profession itself could help move judicial reforms along, but faces a collective action problem. As argued elsewhere in this VDR, collective action organizations can help resolve the fundamental contradiction between diffuse benefits and concentrated costs and risks. In this case, an individual lawyer might not find it worthwhile to push for certain improvements, since that lawyer would expend all of the costs

and only reap a small share of the benefits. A collective action organization like the newly created National Bar Federation can help resolve this contradiction.

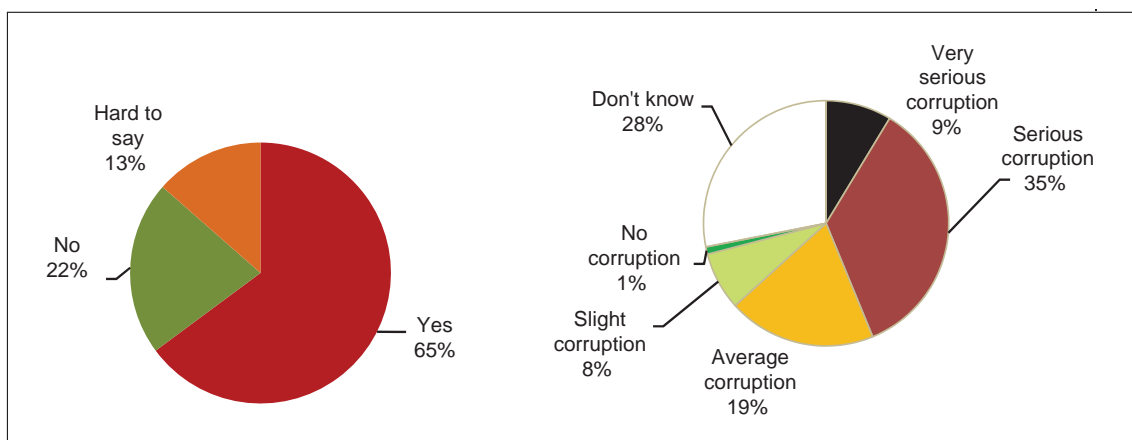
**Oversight**

In this story of devolution and accountability, some bodies stand out in a fundamental way. Rather than merely being the recipients of new powers who consequently need to be held accountable, these bodies differ for the oversight role that they play in ensuring accountability of others. Those entrusted with detecting and preventing corruption, organized civil society, elected bodies, and the media all play different parts in the evolving accountability system, and each faces its own challenges. Assuring access to information would make all of these bodies more effective.

One manifestation of governance weakness is corruption. While corruption exists in every country, uncontrolled corruption can deter investment, waste resources, and erode the trust of the population. The citizenry is well aware of the importance of the fight against corruption. Although very few reported encountering corruption directly, the perception that corruption

**XI. “Is corruption a major problem for you and your family?”**

**XII. Citizens’ perception of the overall level of corruption**



Note: The number of observations is 9,188.

Sources: Own estimates based on 2008 VHLSS Governance Module

poses a problem for people is pervasive. (Figure XI and Figure XII.

Identifying trends in corruption is more complex, yet examining trends can provide lessons for how anticorruption efforts are working. Assessments are somewhat mixed, as one would expect. Citizens are not pessimistic and most do not say things are getting worse. Yet only a fraction say things are getting better. Surveys of firms suggest that corruption is posing less of an obstacle for their operations, but the same surveys show that the magnitudes of bribes, as a percentage of revenues, is not declining. Whatever the trend, the levels remain worrisome—more than half of the firms in the PCI survey indicated that firms in their industry pay commissions when contracting with the government. The need to remain vigilant and step up the fight against corruption is as strong as ever. But how?

Enforcing the rules laid down about proper behavior in the laws is an essential element of upwards accountability. While specialized bodies such as the Government Inspectorate, State Audit of Vietnam, and the Ministry of Public Security are clearly key for carrying out enforcement, the Law on Anticorruption places primary responsibility for organizing inspections on the heads of the organizations themselves. The system is more effective for identifying fraud and waste than for detecting corruption. The potential for conflicts of interest, in which the head of the organization being investigated refers the case to the competent investigative body, may dissuade some investigations.

Vietnam's anticorruption system also places much stock in denunciations by citizens. While important and sometimes successful, this approach faces practical challenges in Vietnam as anonymous reports of corruption are not permitted. Although whistle-blowers are, in principle, protected by law, many people are simply unaware of the procedures or their rights. In addition, the sort of corruption that people are most likely to encounter may not be viewed as corruption at all by a significant portion of

the population. Nevertheless, even though an approach that relies on whistle-blowers faces a number of challenges, the importance of making this avenue available for interested citizens is beyond dispute.

Another pillar of Vietnam's anticorruption effort introduced with the Law on Anticorruption and subsequent decrees was to require declarations of assets and income for a broad cross-section of public sector employees—as of the end of 2008, some 395,000 officials had submitted declarations of assets and income. At present the declarations themselves are not public information, but are only verified internally, although this is not done often or systematically. The verification process does not provide for spot checks, although the declarations will reportedly be used in the vetting process for promotions prior to the next Party Congress.

Beyond approaches that center on finding wrongdoers, transparency, for example of procurement transactions, can be a particularly effective tool. In addition, an approach that works well for one sector may not work well for others. While the National Anticorruption Strategy to 2020 calls for sector-specific approaches, it remains to be seen how well these strategies will be customized for the corruption vulnerabilities in each sector.

Many policy reforms whose main purpose is not anticorruption also have the effect of reducing opportunities for corruption. The administrative reforms that have simplified life for firms and citizens also limit the opportunities for corruption. Reforms in public financial management improve transparency and efficiency of public spending, but they also make it harder to hide corruption. Making all of society allies in the fight against corruption, for example by devolving more authority to civil society and the media, would also help.

Indeed, when groups of citizens or firms sharing common interests can form civil society organizations, they can help overcome many of the collective action problems discussed in

this VDR. Mass-organizations, which were traditionally seen as intermediaries between the Party and the people, have seen some devolution themselves with a reduction in state financing. In addition, the legal space for several new forms of civil society organizations has been opened. Yet, the processes of creating new civil society organizations are burdensome, and not all are treated equally. Mass-organizations have been granted some additional rights and responsibilities which have not been given to the others.

In Vietnam's devolving system, the devolution of civil society has been approached cautiously. The introduction of each new type of civil society organization has gone hand in hand with the introduction of measures to hold them accountable, mostly emphasizing upward accountability through the hierarchy. This form of accountability may be appropriate in some circumstances, for example for the regulation of those that provide health services, but may also weaken civil society's ability to play its oversight role. Restrictions on public criticism by some forms of civil society organizations undermine their ability to distill clear messages collectively and to contribute to policy debates.

The nucleus of many of Vietnam's public policy debates is the National Assembly which, together with the locally elected People's Councils, has seen some devolution in the decades since the beginning of Doi Moi. These bodies have gained certain powers of oversight and have generally become more assertive. Deputies call government ministers to testify before the National Assembly, frequently press them to explain the performance of their ministries, and periodically reject government proposals. These question and answer sessions are televised and attract a large audience. The oversight role by provincial People's Councils has also become more important as provinces have gained new powers over public finance, public investment and land use management, among others. The devolution that has occurred elsewhere in society

is being accompanied by devolution of oversight responsibilities.

This expanded mandate is facing a number of practical constraints. At present only 29 percent of National Assembly deputies are working full-time, even fewer at the local level. Having part-time deputies has been argued to have advantages, but the importance and volume of work, at least at the national level, call for full time attention. Efforts to improve the professionalism and capacity of deputies have included expanding training opportunities, and greater efforts aimed at generating and disseminating knowledge to the deputies. A stronger emphasis has also been put on contact with voters and on assisting voters with their petitions, complaints and denunciations.

In addition, the potential for conflicts of interest for deputies in the National Assembly or People's Councils abound and may diminish oversight. Many deputies work in the government, and the conflicts of interest become apparent during the question and answer sessions with government.

The media has benefitted from a considerable expansion of autonomy in the past two decades, gaining more control over their finances, more choices in their organizational structures, and permission to organize business activities in various stages of the product cycle. Beyond the legal changes that devolved greater authority to the media, other changes, particularly over content, have also taken place.

The devolution of authority to the media accompanied a growing acceptance of the media as an ally for advancing several goals, including the fight against corruption. Indeed, autonomy is essential for the media to do this job well. Yet, a countervailing concern by some over the quality of reporting and the impact of vigorous reporting has generated a refocused effort on strengthening accountability of the media itself. The mechanisms, however, have been almost entirely a return to upwards accountability for

compliance with rules—rules whose boundaries, in the case of the media, are not entirely clear. The challenge for media reform, as with other aspects of Vietnam’s devolving system, is to align the system of accountability with incentives to generate positive results, notably vigorous and high quality reporting.

More cleanly separating regulatory functions from direct management is showing positive results in the economic sectors, and this could be true for the media sector, as well. Similarly, reorienting efforts to deter poor reporting toward civil remedies through the courts, rather than subjecting journalists to the specter of criminal sanctions, can provide accountability without draconian measures that tend to stifle edgy reporting altogether.

Many journalists feel that improving the professionalism of reporters and reporting will help bring about the confidence needed to attain independence with accountability for the media. Ensuring that the media has the information to do the job can improve the professionalism of the media and encourage accurate reporting.

Indeed, the new systems of accountability that are called for by a devolved system rely crucially on accurate and timely information. At the moment, however, Vietnamese citizens and enterprises, the media and civil society, and even some public officials have difficulty getting needed information. Access to legal documents is improving, if not yet complete, and access to administrative procedures is also increasing with the government’s program on administrative procedure reform. Yet, even for this most practical function of information—how to do things—some citizens find information hard to obtain. The draft Law on Access to Information, slated for discussion in the spring 2010 session of the National Assembly, could be an important advance.

Although the need to make public information the rule rather than the exception seems clear,

there are formidable challenges. Addressing the genuine need to safe-guard certain forms of information is one challenge. Changing the legal and organizational culture that emphasizes secrecy is another. Although access to information is recognized as a right in the Constitution and there are currently many legal documents regulating access to government information, that information may not be easily accessible. Most legal documents regulating access to information do not clearly assign institutional and individual responsibilities for the publication of information. More fundamentally, the provisions in the current legislation constitute a “positive list” of information that should be disclosed. The presumption that all information not prohibited, for example on national security grounds, should be considered public is still lacking in Vietnam. Ensuring that the right to request information is extended to all types of information not specifically excluded and is applicable to all sectors and levels of government would be a major advance.

Establishing an effective access to information law will also need to overcome a related accountability barrier. If the system of accountability is asymmetric, for example if making a mistake is punished more than failure to do something good, the result will be overly risk-averse behavior. But this neatly describes Vietnam’s system: those who release information can be punished if they make a mistake, but are not rewarded for making information available.

### **Themes and Lessons for Governance Reform**

The shifting landscape of devolution and accountability is neither linear nor predetermined. Indeed, the Vietnamese approach to reform, searching step-by-step for solutions to society’s problems, is one of experimentation. And experimentation, pushing boundaries in one way or another, continues to occur. A snapshot of several initiatives in local governance, service delivery, and oversight is provided in Box I.

Some are more successful than others, but the spirit of experimentation and the willingness to push the boundaries are the common features.

In surveying the breadth of Vietnam's institutional reforms and the experience of the past two decades, several repeated themes emerge.

- *The extent of devolution has been substantial, both geographically and functionally.*
- *New systems of accountability are being put in place, but often with a lag and not always of the best form.*
- *In the devolved system, conflicts of interest are becoming more evident.*
- *Information plays a central role in any system of accountability.*
- *The most successful reforms had a constituency that was empowered to push for change.*
- *People are becoming more demanding—as Vietnam endeavors to develop into a modern middle-income country, the pressure*

*for better services, and more voice and participation will only get stronger.*

Devolving authorities, whether along economic, geographical or functional lines raises fundamental questions of accountability. Indeed, the notion of “devolution with accountability” would seem to be a contradiction. While it is not a contradiction that is easily resolved, new mechanisms of accountability are helping fill the void.

The first decade after Doi Moi was the era of devolution of economic power, from central planners to farmers and enterprises. The second decade saw significant devolution of powers and responsibilities to the provinces, and stronger accountability for communes. More recently, functional devolution to service delivery units has improved results even while raising new challenges in aligning accountability with incentives.

*What will the next decade look like?*

**Box I. Experimentation in Vietnam's devolution and accountability landscape**

**Accountability in health care:** Recognizing the importance of making patients and their parents happy with their treatment, the National Hospital of Pediatrics sought to improve their understanding of the reasons for dissatisfaction, proposing a mini-project to gather parents' feedback through surveys of patients and their care givers. The first round of 6,000 interviews is expected to be completed in November 2009.

**Lessons from decentralizing business environment decisions:** By decentralizing policy and fiscal authority to leaders in the Chu Lai Open Economic Zone in Quang Nam Province, local officials were expected to have the regulatory space and incentives to experiment with policies and institutions and ultimately spur development in that area. Chu Lai was intended to give local leaders increased fiscal, policy, and legal authority, since fiscal and policy decision making authority are divided between local officials and the central government. As a consequence of consensus decision making process, which includes ministries with conflicting interests in Chu Lai's experimentation and success, Chu Lai's attempts to innovate have stalled.

**Strengthening communication and information after decentralization:** Hoa Binh Province has begun to streamline the planning process by drafting "planning guidelines" at the commune level and district levels. The guidelines cover several aspects of better planning practice, such as participation of local people in the process of planning, emphasis on the evidence-based analysis, prioritization of policy interventions, and active consultation.

**Accountability at the city level:** Ho Chi Minh City carried out a "Survey on Citizen's Satisfaction with Public Services" in 2008 at its own initiative and at its own expense. The city's People's Council mobilized the funds to repeat the surveys, which collected information on difficulties and problems with using services, levels of satisfaction and dissatisfaction, levels of transparency and access to information, and feedback mechanisms. Resistance was overcome by a plan to work closely with the concerned bodies, holding consultations during planning to be sure that the questionnaires were right, and workshops afterward to ensure the results were properly understood.

**Challenges and success of an anticorruption whistle blower:** Mr. Dinh Dinh Phu, a retired colonel living in Do Son town in Hai Phong city, detected in 2003 some serious corruption related to land use management. Perceiving this situation to be unfair, Mr. Phu started at the beginning of 2004 to submit denunciations to many places, but was met with silence. Mr. Phu was accused of "taking advantage of democracy to slander the leader, the Party and the authority". Mr. Phu was brought to the lower court of Hai Phong, where a verdict was issued against him. But as a retired soldier, Mr Phu would not give up easily. After emergency petitions to the Supreme People's Court, the Ministry of Public Security, the Prime Minister and the Deputy Prime Minister, the case was investigated and Mr. Phu was cleared by the Government Inspectorate.

**Media playing its oversight role:** Since 2007, charging unmetered fares became common among the different taxi companies in the Ho Chi Minh City airport. Thanh Nien reporters started to investigate this situation by interviewing passengers and taxi drivers, and then exposed the situation in the newspaper. Following additional investigations, it reported that the guards in the airport were asking taxi drivers for bribes in order to have priority in picking up passengers. Taxi drivers claimed that it was the bribe payment which was forcing them to charge higher fares. Vigorous reporting helped strengthen accountability of many parties who contributed to the problem of unmetered fares.





# 1. THE STATE AND INSTITUTIONAL REFORM

The year 2009 brought a new set of challenges for Vietnam. Faced with a rapidly deteriorating world economy, the key focus of leaders and the public was how to wrestle with the domestic fallout from a crisis that began elsewhere. While the challenge of early 2008 was to control an overheating economy with rapidly accelerating inflation fueled by massive inflows of foreign capital, by 2009 the pendulum had swung the other way. Inflation concerns had eased and the real impacts of the financial crisis occurring overseas took center stage. As this report goes to press, growth forecasts are again on the rise and yet another macroeconomic challenge confronts Vietnamese policy makers.

While the macroeconomic pendulum swings, a wide range of other challenges, both long-term and emerging, call for reforms of a different sort. Citizens increasingly call for more efficient and transparent delivery of services for all, not only for those who can afford them. There is growing recognition of the need to ensure that public investments are selected properly, and that those who are displaced are fairly compensated. Corruption remains a concern of many, both within and outside of government.

This Vietnam Development Report (VDR) focuses on the somewhat longer term challenge of institutional reform. Institutions, the rules by which society and its constituents interact, have come to be understood as key factors that determine how a country develops in the longer term.

As institutional reform is a long-term agenda, framing the issues facing Vietnam today and for the next decade requires some understanding of how institutions have been evolving. The next section argues that one of the defining characteristics of Vietnam's experience of the past decades has been the devolution of authority, not only along geographical lines, but in other dimensions as well.

## *A Devolving State*

A standard analytical framework for exploring governance relationships has three discrete sets of actors: the state, the business community and civil society. This staple of many institutional studies implicitly assumes a great degree of independence between actors in terms of objectives and control, with institutions mediating the relationships.

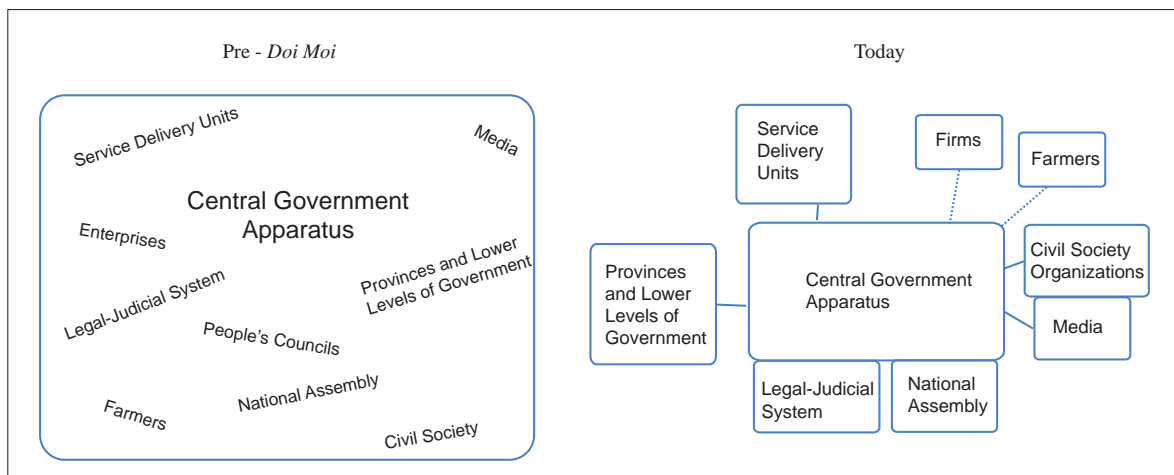
In Vietnam, however, the bodies that comprise society have been more tightly linked than in most countries. This was especially so in the 1970s and 1980s prior to the opening of economic policies known as Doi Moi. Units of the state existed along geographical and functional divisions, the latter even including economic production including farms and industry, but all were viewed as part and parcel of the same whole. Accountability rested strongly in the system of administrative controls for complying with rules and for achieving targets.

In response to the disappointing performance in the post-war years, a series of “fence-breaking”

experiments began to shift Vietnam’s economy toward a new model.<sup>1</sup> Even before the start of the Doi Moi process in 1986, some units of this whole began to receive greater autonomy. Agriculture, which had been collectivized in fits and starts since the 1950s, began a transformation process in the 1980s that established basic property rights for farmers, allowing them to keep some of their output. The process accelerated with Doi Moi, which serves as a convenient starting point for examining the changes. In the enterprise sector, firms were given some autonomy to make production decisions. The incentive system no longer relied on selfless effort to advance society’s goals, but began to incorporate rewards for the economic producers themselves. In

terms of accountability, the top-down system of accountability through compliance with administrative rules began to give way over the next decades to an accountability system that was more strongly oriented toward bottom-up accountability for results. For economic production, such bottom up accountability came naturally through the market mechanism. By today, the agricultural and (private) industrial sectors resemble much more closely fully autonomous bodies whose arms-length relationship with the state must be mediated by new institutions. In essence, one of the central features of Doi Moi was the devolution of some types of power.

**Figure 1.1. A devolving state**



The devolution of decision-making power in the economic sectors has been followed by considerable devolution in other spheres. Figure 1.1 provides a snapshot of the devolving relationships. Sub-national governments have been given increased autonomy in selecting investment projects and allocating budget resources. In the first decade after Doi moi, the planning process and decision making over land-use decisions saw considerable decentralization to the provinces. In the second decade after Doi Moi, provinces gained a larger role in the budget process and over public investment decisions,

and devolution of land-use decisions continued. Local levels of government also gained more say over their human resource management decisions. And recent years have seen further decentralization of public investment decisions, expansions of public-private arrangements in investments, and further decentralization of human resource management at the local level.

Parts of the government that are directly involved in providing services to the population, particularly in health and education, have been given increased autonomy to perform, and finance,

those functions on their own. In the first decade after Doi Moi, service delivery units gained the right to collect user fees, and private providers were authorized to provide some services. In the second decade, there was further delegation of financial authority to service delivery units and administrative units and engagement of non-state actors in service provision was broadened. More recently the process has continued, with further delegation of authority to service delivery units and deepened “socialization” of service delivery, allowing the engagement of non-state actors and even granting preferential policies to non-state providers.

Some aspects of the legal and judicial system also have the earmarks of devolution. Lawyers have seen expanded rights to provide legal consultancy and participate in legal proceedings, and there has been devolution of jurisdiction to the courts to handle economic disputes. Devolution of powers continued in the second decade after Doi Moi, with lawyers becoming authorized to practice in law offices and law firms, and civil society organizations gaining the ability to provide legal consultancy services. There was further devolution of jurisdiction to the courts to handle some administrative cases, and an expansion of the mandate of the district courts to handle economic disputes. The devolution of powers, particularly to lawyers and lawyers’ organizations, has continued in recent years. Civil judgment execution has been made more independent from the executive, and the jurisdiction of the courts over administrative cases has expanded, as has jurisdiction over criminal and civil cases. Experiments in socialization of some judicial and judgment execution activities are ongoing.

The National Assembly has been empowered to play an oversight role. In the first two decades of Doi Moi, devolution expanded the oversight powers of the National Assembly and the locally elected People’s Councils, a process which has continued in recent years. Oversight bodies such as State Audit of Vietnam now report directly to the National Assembly.

For some areas, the devolution that has taken place has been more limited, although still unmistakable. Civil society, as it exists in Vietnam, remains dominated by organizations that maintain close ties to the state, although there have been changes that somewhat ease entry and facilitate voice for civil society organizations. In the first decade after Doi Moi mass organizations received increased independence over their management and finance, and more forms of civil society organizations were allowed to be established and to operate. In the second decade, mass organizations have gained greater authority to undertake numerous public affairs activities, and additional forms of civil society organizations were allowed to be established and to operate, always based on the principle of self-finance. More recently, mass-organizations and other civil society organizations were devolved authority to undertake new public affairs activities, especially in the areas of anticorruption, service delivery, grassroots democracy, administrative procedure reform and law making.

The media, while still linked more closely to the state than in most countries, was given more autonomy in terms of financing and circulation, and to some extent over content. In the first decade after Doi Moi the reporting rights of the media and journalists were expanded. In the second decade, media agencies became financially and managerially more independent from their parent organizations and were allowed more flexibility in production.

While the devolution that has taken place has arguably brought many positive results, there is no presumption that devolution is always good. On the contrary, this VDR will argue that central controls are sometimes essential. When competition among provinces leads them to ignore the impacts of their policies on their neighbors, some encouragement of regional planning is needed. When national uniformity is needed, such as in the system of law making, less devolution is needed, not more. Recent changes in the law making process are improvements in part because they centralize who can make laws

and how. When there is asymmetric information, such as for the quality of health care and the credentials of health care professionals, or when equity concerns demand equal access to services national standards are needed.

Even when devolution is appropriate, a new conundrum arises. To devolve powers is to also devolve responsibilities, and ensuring that newly empowered bodies perform their functions well is the duty of the accountability system.

### *New Forms of Accountability*

The Vietnamese terms for accountability and responsibility are very similar, but the meanings of the words are quite different.<sup>2</sup> While being responsible for something implies whose job it is, being accountable calls for more. It assumes that there is accurate and accessible information on which to judge whether the job is being done well, and it assumes that there are mechanisms to reward good performance and discourage bad performance. This VDR distinguishes between two types of accountability.

- *Upward accountability for compliance:* The person or body focuses on the rules and dictates from above, emphasizing adherence to instructions coming from within the hierarchy.
- *Downward accountability for results:* The person or body focuses on the results they are entrusted to deliver, and mechanisms ensure that poor performance has consequences and good performance has rewards.

Like all models, this focus on two forms of accountability omits many nuances, such as variations and hybrids of forms of accountability. But models can be powerful precisely because they focus on the core aspects of an issue. In this case, the defining features of upward accountability are hierarchy and administrative rewards and punishment, while the defining features of downward accountability are feedback from clients, information for clients, and participation in decision making.

The type of accountability system that is most appropriate for a particular function depends on the features of that function or activity. If there were perfect information, then the two types of accountability would be very similar, since a top-down monitor could easily tell how well an organization is performing its role. But when information is not perfect, and of course it never is, then it is costly to play that monitoring role. In the case of service provision, those with the best information may be the clients—those who are using the services. The health sector provides a good example here. Being responsible to patients and their families through a bottom-up system of accountability for results can be more efficient than a purely top-down hierarchical approach. At the same time, some information may not be well known to the clients. To follow through with the health sector example, the quality of the doctors and pharmaceuticals can not be easily detected by most patients—some measure of upward accountability is also needed.

Another key distinction to be made in examining systems of accountability is between the reasons for good and poor performance. There is a world of difference between intentional errors, errors of negligence, and innocent errors. An accountability system that treats them all the same will not achieve the desired effects. Similarly, if making a mistake is punished more severely than failure to do something good, the result could be overly risk-averse behavior, long delays in getting things done, the ubiquitous need for higher approvals, and so forth. On the other hand, an accountability system that focuses entirely on the negatives—punishing mistakes or poor performance—is only half of an accountability system. Ensuring rewards for positive performance is equally important. All too often, the penalties for acting without official authority outweigh any benefits for making the right decision, a feature that is evident in many areas in Vietnam, from the release of information to making even small decisions. As Vietnam advances to become a middle-income country, one of the toughest challenges will be to get the accountability system right.<sup>3</sup>

One way of thinking about a system of accountability was provided by the World Development Report 2004 which distinguished between the long route to accountability and the short-route to accountability. The long route to accountability involved citizens holding service delivery organizations accountable indirectly through the election process.

Such a system also has an important information aspect, providing the system with feedback about the types of services that the population feels are most important.

In Vietnam one mechanism by which preferences and concerns are revealed is through the Vietnam Fatherland Front, which collects opinions, petitions, and grievances through consultations with its network of mass organizations. These are reported every year at the opening of the National Assembly. With the Vietnam Fatherland Front's status as an official organization, even one with constitutional rights and duties, this report to the National Assembly carries weight. Box 1.1 summarizes some of the issues that are on people's minds, and even highlights areas where the accountability systems seems to be coming up short.

This system helps satisfy the information aspects of accountability—that is, the system provides information to leadership about the concerns and preferences of the population. But it does not fully satisfy the central role of accountability of ensuring that those concerns and preferences are addressed—if they are not addressed, what are the consequences? The same World Development Report that introduced the long-route to accountability also introduced the short-route to accountability. The short route to accountability focuses on specific services emphasizing the direct interactions between service providers and their clients. Such a system is only emerging in Vietnam, in some places and for some functions, but will become ever more important as responsibilities are devolved.

The shifting landscape of devolution and accountability is neither linear nor predetermined.

Indeed, the Vietnamese approach to reform, searching step-by-step for solutions to society's problems, is one of experimentation. And experimentation, pushing boundaries in one way or another, continues to occur. Yet, the fundamental tension between autonomy and accountability is not self-correcting. Accountability mechanisms will not automatically evolve to mediate these new relationships. Rather they need to be consciously created. Collective action problems, in which the benefits for an action accrue to a diffuse group while the costs are borne solely by the one carrying out the action, are evident in many places in the report and may also stymie progress.

The annex of this VDR contains a series of devolution and accountability timelines highlighting key changes in both. The purpose of the timelines is not to provide an exhaustive list of actions; indeed, it is a subjective judgment when identifying the dates that for a change in devolution or accountability. Rather the value is in the entirety of the timelines, for the visual depiction of a changing system they represent.

### *Data for Informing the Analysis*

The central theme of this VDR is that devolution of authority over the past decades has covered a wide range of activities and services and is also calling for new mechanisms of accountability. While the fact of such devolution can, in most cases, be determined through readings of laws and a review of history, the impact of the changes requires a different sort of analysis. And that analysis requires data that captures how citizens and firms assess the institutional environment, about their experiences with the state, and about the problems they face. Such governance data has always been sparse compared to economic data, but whereas a few decades ago there was a veritable information vacuum on such topics, in Vietnam and elsewhere, there is a growing body of survey data that help to fill this void.

This VDR makes extensive use of several key sources of governance data. (Box 1.2) First, an important innovation took place in the 2008 round

**Box 1.1. Institutional challenges highlighted in the Vietnam Fatherland Front's report to the National Assembly**

In its May 2009 report to the National Assembly the Vietnam Fatherland Front reported that it had collected 2,446 opinions and petitions of the voters and the people throughout the country. While praising the leadership for achievements in many areas the report also cited areas of concern. A summary of some of these concerns is instructive both for the concerns themselves and for the weaknesses in accountability they identify:

- The lack of good data on what is happening in terms of labor and employment during the economic downturn. The report notes that statistics on the number of people losing jobs and economic areas and fields, types of production and business “remains inaccurate and inconsistent which causes difficulties for the implementation of support solutions of the government.”
- The problems related to resettlement are discussed in several places in the report. While noting that the government has launched many policies on agricultural and rural development, the report also states that such policies “fail to satisfy the growing and emerging needs and requirements, and the gaps between the rich and the poor are still widening. Reclamation of farming land and forestry land to build industrial parks/zones, urban centers and golf courses/courts in many localities is still irrational leading to a situation where the agricultural land reserves are declining continuously; and many units that have been allocated land to launch projects fail to do so, leave the allocated land unused, or use such land for wrong purposes, or trade such land for illicit earnings which causes discontent and dissatisfaction on the part of the people.”
- While appreciating the cash bonuses distributed during Tet, the report also notes the regrettable mistakes that took place in many places. They note that in some localities the policy was implemented in an arbitrary, irresponsible and undemocratic fashion. They note that many poor people have not benefited from the policy or benefited only with delays or reduced amounts. “Huge numbers of voters petition to the government and levels of administration to pinpoint the responsible officials to deal strictly with wrongdoers.”
- While applauding achievements in the area of preventing and combating corruption and waste the report notes that the situation of corruption and waste still takes place. “Many cases of corruption have been brought to light which won support and attracted a lot of interest and attention of the general public. However, responsible functionary agencies were still slow to take action or failed to deal satisfactorily with certain cases of corruption, below expectations, thus fading away trust and confidence of the people in the fight against corruption.”
- To help improve the battle against corruption and waste the report noted that voters petition the government “to speed up the public administration reform, to strengthen and to promote openness and transparency in order to stop and to roll back corruption and waste, especially in such fields as land administration, investments, capital construction, use of public assets, etc. Voters also petition the National Assembly to strengthen and to enhance effectiveness of its oversight in this regard.”
- In the area of legal development the report applauds the increased work that is going into legal development. It notes that more law development projects are approved and commented upon and each session of the National Assembly than in the past. But it also notes that laws are slowed to be developed. There seems to be a particular issue with the development of secondary legislation. The report calls on the National Assembly and the standing committee of the National Assembly to gradually reduce the number of articles and laws stipulating that the government and line-ministries are responsible for issuing concrete and specific under-laws. In other words the practice of leaving the details for secondary legislation is something that the voters seem to think contributes to the slowness in developing the secondary legislation.

Finally, the Vietnam Fatherland Front report to the National Assembly neatly summarized the challenge of building accountability for a devolved system: “Many voters petition the government to... ‘grasp those difficulties and obstacles in the real running and governance of socio-economic activity of the country, especially regarding administrative procedures, attitudes, sense of responsibility of public officials and civil servants in the course of performing official functions and duties in order for timely issuance of correct and appropriate solutions and mechanisms, thus solving difficulties and obstacles, speeding up economic development, meeting expectations of the people.’”

*Source:* Central Committee of the Vietnam Fatherland Front, Presidium. Hanoi 19 May 2009. “Report: Synthesis of opinions and petitions of voters and the people.” Delivered at the Fifth Session of the 12th National Assembly.

of the Vietnam Household Living Standards Survey (VHLSS) conducted by the General Statistics Office (GSO). A new Governance Module was attached and administered to more than 9,000 households across Vietnam. Sample sizes ranged from 72 in Kon Tum to 300 in Ho Chi Minh City, and most provinces had over a hundred respondents. The availability of more than 9,000 observations on citizen satisfaction with government services, participation in policy making, access to information, and other issues, is an important asset for any researcher attempting to understand Vietnam's institutional development. The fact that this data was collected and is now informing debates on governance reform represents an important milestone for Vietnam.

A second source of data is familiar to many researchers: The annual survey conducted by the Vietnam Competitiveness Initiative (VNCI) and the Vietnam Chamber of Commerce and Industry (VCCI) has, since 2005, been used to construct the popular Provincial Competitiveness Index (PCI). The PCI is widely acknowledged to have been a positive influence on the competitive spirit of the provinces, all of whom would like to see themselves ranked higher year after year. It is also a somewhat unique source of data on the institutional environment facing firms. With over 7,000 firms participating in the survey in 2008, a rather large number for such a survey of enterprises about business environment issues, the annual PCI survey represents a valuable cross-section of firms' views. In addition, the fact that some of the same firms were included in the survey at different points in time makes it possible to examine changes over time in a fairly powerful way. This VDR will draw on both the 2008 round of the full PCI survey and the panels of firms that participated in the survey in both 2006 and 2008 in order to better understand the dynamics of Vietnam's institutional environment. In addition to these two large-scale surveys of firms and households, a broad range of other survey data will be examined.

The data provide for a rich source of information to move beyond guesses and assertions about Vietnam's governance challenges. The producers of the data, GSO and VNCI-VCCI and the thousands of citizens and enterprises that participated in the surveys, have provided a valuable service. As with any data, however, their responsibility ends with the quality of the data. The subsequent conclusions and analysis in this VDR is not their responsibility, but that of the authors of this VDR.

### *Organization of the VDR*

This Vietnam Development Report, like its predecessors, draws on the contributions of many development partners. The VDR series provides a vehicle to communicate not only with government and the broader community, but also among donors that contribute to its preparation. The VDR series aims to influence the reform agenda, build consensus among thinkers and the public at large, harmonize upstream with donors, and position those involved as substantive contributors of knowledge and expertise. The present VDR, focused on Modern Institutions, represents a joint statement of the donor community on progress and prospects for Vietnam's development and aspirations for devolved, yet accountable, system.

To examine the extent and nature of devolution, and the mechanisms of accountability that are being developed and need to develop, this VDR will examine five broad parts of the state apparatus. Chapter 2 examines the central state apparatus that governs society even after other functions are devolved, focusing on two key resources that the state has at its disposal: human and financial. Chapter 3 examines the system of governance at the sub-national level. Chapter 4 centers on the interface between governmental bodies that interact most closely with the general public, providers of services, and examines the mechanisms of accountability that have come to exist after these service providers were granted

### Box 1.2. Key data on governance and institutions

The General Statistics Office (GSO) conducted the Viet Nam Living Standard Survey (VLSS) in 1993 and 1998, and since 2002, the survey, whose name was changed to the Vietnam Household Living Standards Survey (VHLSS), has been repeated every two years.. The VHLSS Governance Module\* was appended to the much longer household survey questionnaire for the first time in 2008, collecting governance data from 9,189 households. The basic features of the survey are as follows:

- The questionnaires were administered through face-to-face interviewing, and quality control was supervised by GSO. As respondents are mandated by law to participate, the response rate for the VHLSS is extremely high.
- The households selected to be administered the Governance Module were chosen at random from among the households sampled for the broader VHLSS. Sample sizes for each province were approximately proportional to the population of the provinces.
- The VHLSS is not a simple random sample of respondents, but rather a sample of households within the sites that were chosen for each province. As long as the sites are representative of the population in that province, then the Governance Module sample can be considered a representative sample at the provincial level. If, however, the sites are not representative of the province as a whole, then the sample may not fit the strict definition of representativeness. In addition, the well known challenge of properly sampling certain respondent groups, especially un-registered migrants, are present for the Governance Module as they are for the broader VHLSS.

The VNCI-VCCI Provincial Competitiveness Index Survey\*\* has been conducted every year since 2005. Sample sizes and response rates have grown over the years as the popularity of the PCI has grown. The 2009 round of the survey, whose results are expected to be released about the same time as this VDR, received responses from more than 10,000 firms. This VDR will draw on the 2006-2008 rounds of the PCI Survey whose main features include:

- The PCI survey is a mail-in survey. Each year the team at VNCI and VCCI mail out tens of thousands of questionnaires, and follow up with additional letters. As a voluntary mail-in survey asking sensitive question, the response rate was initially very low. As the PCI became better known, the response rate has increased to about 30 percent for the 2008 round of the survey. In order to examine how well the final sample matches the population it is drawn from, the team compares the PCI data against median data from the Tax Authority or Enterprise Census. After re-weighting the PCI survey to reflect differences in province population, the sample generally “looks like” the population, with a few exceptions. PCI firms tend to be slightly older (15% vs. 10% registered before Enterprise Law) and slightly bigger (30% vs. 16% greater than 5 employees) than firms in the overall population of enterprises, and to be slightly more profitable. As a whole, however, the large sample size and general similarity to the overall population of firms, makes the PCI data very useful for examining a wide range of governance and institutional issues.
- While the increase in the response rate makes the PCI survey increasingly valuable for examining the cross-section of governance challenges reported by firms, it poses challenges for examining changes over time. In the increase in response rate is due to changing levels of confidence that responses will be held confidential. For this reason, the panel element of the sample, that is set of firms that answered the survey in different years, is particularly valuable. There were more than 2,000 firms that participated in the PCI survey in both 2007 and 2008, and 635 that responded in 2006, 2007, and 2008.
- The data for the PCI survey can be found at <http://www.pcivietnam.org/>.

*Source:* \*General Statistics Office, *Vietnam Household Living Standards Survey*. \*\*Edmund Malesky. 2008. *The Vietnam Provincial Competitiveness Index: Measuring Economic Governance for Private Sector Development. 2008 Final Report*. Vietnam Competitiveness Initiative Policy Paper #13. Vietnam Chamber of Commerce and Industry (VCCI) and United States Agency for International Development’s Vietnam Competitiveness Initiative (VNCI): Hanoi, Vietnam.



measured autonomy. Chapter 5 focuses on the legal and judicial system, for which the lines of devolution are not as clear-cut—the law making process arguably needs less devolution, while the judicial system needs greater independence in order to be able to do its job effectively. Chapter 6 examines the institutions of oversight. These include the bodies whose job descriptions include, but are not limited to, providing a form of external oversight over the rest of society.

Whether it is a purely governmental function, such as investigating and prosecuting corruption, or a non-binding role in bringing information to the public's eye, as could be played by the media and civil society, or a mixture of both, as with the National Assembly, these institutions of oversight can play a crucial role for Vietnam's system of accountability in the next decade. The centrality of information for accountability systems, and some challenges going forward, round out the report.

## 2. CENTRAL GOVERNMENT

*Even a highly devolved system needs a central state apparatus to advance society's goals by providing public goods, regulating externalities, addressing information asymmetries, and ensuring equity and stability. The shift from director to rule-maker and from the main purchaser of skills to one that must compete with the private sector presents new and difficult challenges for the central state apparatus. Public sector salaries do not seem to be greatly out of line with those in the private sector, but motivating the civil service calls for increased transparency and competition in the way human resources are managed.*

*Management and oversight of financial resources through the public financial management system has improved markedly, but long lags for the release of certain information, incongruities between capital and recurrent budgeting, and limited capacity for internal and external auditing pose continuing challenges for the transparent and efficient management of public finances. Progress that has been made in public financial management has emanated from the consensus among stakeholders on the value of reforms. In contrast, the tension between accountability of civil servants and stability of career paths poses a challenge for civil service reforms. The lack of a clear constituency pushing for change makes this sort of reform particularly difficult and reliant on high level backing.*

The devolution of authority that has transformed many aspects of economic life in Vietnam has limits. While many decisions are best left to decentralized actors—firms, farmers, consumers—others should reside with the state. Providing public goods, controlling externalities, addressing information asymmetries are the classic functions of the state. Setting the rules and enforcing them, providing national public goods and using the power to tax in order to pay for it all, must all be done by the state. No matter how much devolution of authority takes place, there will always be the need for a strong and efficient central bureaucracy to hold it all together. Indeed, the very concept of a public administration that is part of, but not the entirety of, the state has been introduced through the devolving of responsibilities that characterizes Vietnam's reforms.<sup>4</sup>

Yet, the devolution of authority in other areas has important implications for how the state manages itself and mediates the new relationships. Through the devolution to firms and households, to lower levels of government and to autonomous service-delivery units, the government is gradually being transformed from the director to the rule-maker. In order to remain efficient in its new role, however, the state will also need to face new challenges brought about by the devolution of authority. With expanded freedoms for firms to employ resources on the terms they negotiate themselves, the state must compete for human resources. With decentralized economic activity comes the transformation from implicit budget financing through price controls and subsidies to rule-based financing through taxation, and pressure to use those finances

efficiently. Information, fundamental to all decision making, becomes ever more important when the authorities are devolved.

This chapter explores the implications of Vietnam's devolving system for the central government apparatus, and how the central government can adjust. The chapter will first summarize how the central state's internal organization has been realigned for its new role. Second, we examine the management of the overall public administration reform process. Next, we take up the question of how the state staffs itself, ensuring sufficient—and sufficiently qualified—human resources to perform its new role. Next, we examine how the institutions of public financial management are being adjusted for the state's new role and the economy's new relationships.

### *The Role and Organization of the Central State*

With the devolution of authority from the central state to other entities—local governments, administrative units, service delivery units—the role of the central state in bringing uniformity and consistency to the whole government apparatus becomes more challenging. Indeed, the tension between the self-governance of the different entities and uniformity of government administration calls for a shift in way the central government itself operates.

The transformation of the central state in Vietnam has included changes in internal organization and a re-definition of functions and tasks. In 1988, the central state apparatus started to be streamlined, with a reduction in the number of management bodies, and in 1992 larger changes were in store: the new Constitution and Law on the Organization of the Government began to replace the system of direct management by administrative decree with management by law. In 2001 the organization and functions of the central government were more clearly specified—revisions to the Law on the Organization of the Government provided a conceptual distinction between state administrative functions and activities of service delivery units. In addition, the Law made clear that independent agencies attached to the Government or the Prime Minister could no longer promulgate legal normative documents. The effort to centralize certain authorities was sensible—devolved authority in law making was generating a confused and conflicting body of laws, as will be discussed in Chapter 5.

The changes introduced by the Constitution and the Law on the Organization of the Government have had visible results, reducing the number of ministries, ministerial-level agencies and independent central-level agencies. (Table 2.1). Current discussions related to functional reorganization tend to focus on the possible merits of simplifying the structure of ministries,

**Table 2.1. Ministries and agencies at the central level**

Reasons	Ministries and ministerial-level agencies	Independent agencies attached to the Government or the Prime Minister
1986	67	48
1992	27	31
1997	23	25
2002	26	14
Since August 2007	22	8

Source: Nguyen Phuoc Tho, 2007. Thai Vinh Thang, 2007a, 2007b.

for instance further reducing the number of ministries. While the merging of ministries and units can generate upheaval in practice, other reforms may be less ambiguous in their results. Aiming for better coordination of policy making and planning across ministries and agencies, for example, can help to minimize confusion and ensure that policies achieve their desired objectives.

### *Managing the Public Administrative Reform Process*

Recognizing that adapting to its new role calls for an overhaul in various aspects of public administration, an ambitious set of reforms began to receive attention in the 1990s. Public administration reform as an integrating concept was officially endorsed by the Party Central Committee in 1995. Then, in 2001, the Public Administration Reform Master Plan 2001-2010 set out a program of reform in four strategic areas: institutional reform, organizational reform, human resource reform, and public financial reform. The original objectives included improving the quality of legal normative documents on public administration, decentralization, defining of functions, modernizing public financial management, e-government, civil service reform—quite an ambitious program indeed. A mid-term revision of the PAR Master Plan provided more concrete objectives for some areas, such as training, morale, salaries and management of civil servants. The plan supported both devolution, as with the program of decentralization, and getting the central government to do its work better, as with administrative procedures reform.

The reform program did not want for high level backing, and because of the broad coverage of the PAR Master Plan, its management required the involvement and coordination of various central level agencies and ministries. A central PAR Steering Committee chaired by the Prime Minister and including ministers of Home Affairs, Justice, Planning and Investment, and Finance and the Office of the Government, was

established to manage the process. The reform program was also supported by a secretariat and steering committees at the province and ministerial levels.

The objectives of the PAR Master Plan were many, and there have been some successes. Administrative procedures were simplified and made more transparent, and new approaches such as the one-stop shop and integrated one stop shop were widely applied, and performance management system and citizen's report cards were introduced on a pilot basis. Public administrative services have become more accessible, transparent, and accountable than they were in the past, and as will be discussed later in this chapter, transparency and efficiency of public finance have improved.

While the successes are notable, there has also been, at times, slow translation of policy into actions. Because implementation of PAR was decentralized to administrative units, there is limited national or local cross-sector coordination of plan formulation and implementation. At times there was a lack of adequate participation by stakeholders outside the public administration system such as the people's elected bodies, private sector and civil society. As a whole, public administration reform has been viewed as a collection of technical measures to improve efficiency rather than a fundamental effort to change the rules of the game of the public administration, to make the administration accountable to society and the people. Many feel that where there have been successes in public administration reform, they have been mostly at the national level and in some better-off urban areas, while implementation in poor, rural and mountainous areas has lagged.

As Vietnam approaches 2010, a review of the Public Administration Reform Master Plan 2001-2010 to help understand better the successes and failures is clearly in order. Identifying challenges and pitfalls and analyzing the lessons learned in designing the Master Plan, and disseminating and discussing with stakeholders, notably the

users of public administrative services and enterprises, will help inform the approach to public administration reform in the next ten years.

Indeed, such a review need not be a one-time exercise. Developing a system to continuously and systematically review the strengths and weaknesses of the implementation of the public administration reform agenda, for example by attaching a monitoring and evaluation framework to the next 10-year PAR Master Plan, could help identify implementation challenges as they arise. At present there are indicators to track progress in some areas, but other areas are less well evaluated. Importantly, the current system of indicators focuses on monitoring inputs and outputs of policies, but little attention is given to outcomes such as the effect of reforms on citizens and enterprises.

The institutional structures for managing the public administration reform program also need to be revised, as the PAR Steering Committee was dissolved not long ago. Despite gaining increased resources and authority over the years, the PAR Steering Committee nevertheless lacked capacity, with just a few full-time staff, dampening its impact in coordinating the overall reform process. The need to strengthen the role of the heads of administrative agencies contributed as well to the decision to dissolve the PAR Steering Committee.

The breadth of coverage of reforms under the PAR Master Plan presented another challenge, and many reforms which originally fell under the umbrella of public administration reform are now sensibly pursued as agendas in their own rights. Reforms related to legal development and public financial management (two of the key areas of the current Master Plan) require technical expertise found outside the Ministry of Home Affairs and, not surprisingly, progress on these fronts has happened almost independently from the PAR Master Plan. The revision of administrative procedures is also covered by its own plan and is being led successfully

by the Office of Government. Finally, measures to prevent corruption in the public administration—specification and evaluation of tasks of managerial positions, salary reform, staff rotations, income and asset declarations—are included in the Anti-Corruption Strategy to 2020, which has its own action plan and its own governance arrangements.

### *Human Resource Management*

One side-effect of Vietnam's booming economy has been the impact it has on the ability of the government to staff itself. Even the most advanced economies have long wrestled with how to ensure that the state has an efficient and qualified civil service. Faced with growing competition from the private sector, and with the need to respond effectively to global integration, the government in Vietnam faces a fundamental challenge: How to attract, retain and motivate high performing people into the civil service.

Indeed, competition may be contributing to a problem that vexes civil services in many countries, and is often discussed in Vietnam, the brain drain. With the development of the market economy and with international economic integration, more attractive opportunities outside the government may lure many qualified and talented people away from the public administration. While it is natural, and even laudable, for talented people to be interested in business and other forms of employment outside the state, competition that is too one-sided risks leaving the civil service under-qualified, under-motivated, or both. During the period from 2003 to 2007 period, more than 16,000 cadres and civil servants, about 40 percent of which were in Ho Chi Minh City, voluntarily left government agencies.

While it is tempting to focus on salaries as the key variable by which the state and the private sector compete for talent, many other factors also contribute. A survey conducted by the National Academy of Public Administration (NAPA) in 2006 found a range of influences. (Table 2.2).

**Table 2.2. Why do civil servants intend to leave the government?**

Reasons	All (%)	Female (%)	Male (%)
Experience not as expected	20.8	29.2	16.7
No encouragement, no award, no development	36.1	41.7	33.3
Improper remuneration	50.0	70.8	39.6
Being discriminated against	13.9	12.5	14.6
Seeking a chance to show off capacity	18.1	8.3	22.9
Seeking better opportunities	12.5	16.7	10.4
Other reasons	19.4	16.7	20.8

*Note:* The survey covered 460 civil servants in the Ministry of Agriculture and Rural Development, the Ministry of Fisheries, Nam Dinh Province, Hoa Binh Province.

*Source:* “Building capacity for gender mainstreaming and research within NAPA.” (NAPA, 2006)

When asked why civil servants consider leaving the public service, the level of remuneration was the most important for both men and women. But many respondents also felt that the public service offers too little opportunity for them to use their talents, and too little encouragement for their efforts. These two basic aspects of the management of civil servants—remuneration and motivation—will be discussed in turn.

### Remuneration

How has the remuneration of civil servants changed over the years? Because of the complexity of the calculation of salaries, and the fact that some components are not widely known, this is not an easy question to answer. However, the most fundamental component, the minimum wage, is public information. Table 2.3 shows the size of adjustments to the minimum wage compared to several other baselines. The minimum wage has increased some 200 percent since the beginning of 2000, while the Consumer Price Index has increased only about 84 percent. The minimum state salaries have clearly outpaced inflation. However, as the state competes with the private sector for staff, it must do more than keep up with inflation. Over the same period of time that the basic minimum wage has increased 200 percent, GDP per capita has risen 238 percent.<sup>5</sup>

For a variety of reasons, understanding how state salaries compare to the market wage is much more complicated than just examining the minimum wage. As discussed in Box 2.1, the salary structure for civil servants in Vietnam includes a range of allowances, bonuses, and additional income beyond the basic salary. According to surveys undertaken in 2006, the basic salary comprised only about 30 percent of total remuneration. In addition, changes in the coefficients over time mean that even the base salary does not track the minimum wage perfectly. Finally, since labor markets may be segmented by profession and by location, focusing on national averages may mask important variations, particularly in high-cost areas and for skills which are in high demand. It remains an open question as to how state salaries measure up after the complex system of allowances is taken into account.

The VHLSS 2008 provides an excellent source of data for answering this question, since it includes data on total remuneration, including bonuses and allowances, as well as information on a host of other individual and family level characteristics. Simple cross-section regressions confirm that on average, higher levels of education translate into higher salaries, as does age and marriage. Everything else being equal, skilled workers make more than unskilled workers, and those in the South East Vietnam are paid the most. The

**Table 2.3. Increase in civil servants' minimum wage vis-à-vis the cost of living and GDP growth**

	Minimum Wage (VND)	Increase in Min. Wage (%)	Increase in CPI (%)	Increase in Nominal GDP Per Capita <sup>3</sup> (%)
January 2000 - December 2000	180,000	16.7	-0.9	9.0
January 2001 - December 2002	210,000	38.1	4.6	18.1
January 2003 - September 2005	290,000	20.7	19.8	50.3
October 2005 - September 2006	350,000	28.6	6.5	14.7
October 2006 - December 2007	450,000	20.0	13.9	16.0
January 2008 - April 2009	540,000	20.4	19.1	27.6
Since May 2009	650,000	n/a	n/a	n/a
<i>Cumulative: January 2000 - December 2008</i>		200.0	83.8	228.3

*Source:* Own elaboration, based on data from MOHA and GSO.

results also show that after accounting for all of these factors and more, state employees earn more, on average, than private sector employees with the same characteristics. Figure 2.1 shows the coefficients from these regressions for each of the last three rounds of the VHLSS.

One methodological problem that vexes such analysis is that while factors such as experience and education may well indicate how productive someone will be, other factors, such as hard work and intelligence, are not easily measured. To account for these factors requires repeated observations on the same person. In essence, this technique removes the impact of all factors that vary only by individual, including the difficult to measure attributes of hard work, attitude, intelligence, etc. After accounting for these effects, the difference between civil servants and formal private sector salaries vanishes in significance, as is shown in Figure 2.2. One interpretation of these findings is that much of the state premium can be explained by these unobservable characteristics. This finding may speak well for civil servants in Vietnam, if the higher wages are due to better endowments of attributes that are difficult to measure such as intelligence and hard work.

Whether or not state salaries are higher on average, this average effect likely masks considerable variation by profession, education, and maybe even by geography. The data suggests that while on average state salaries are better than private salaries, the differences are much smaller in Ho Chi Minh City and Hanoi than in the rest of the country.

Similarly, for occupations that command high salaries in the private sector, such as in banking, finance, and corporate law, a perceived mismatch between private and state salaries can have important implications that stretch beyond the brain drain. Civil servants who feel they are underpaid may more easily succumb to the temptation to enrich themselves outside of the rules. Allowing higher salaries for vulnerable positions, and making salaries commensurate with risks and with market alternatives, can help mitigate one factor that contributes to corruption.

Even if low salaries are contributing to the brain drain or contributing to corruption, increasing salaries across the board is neither a panacea nor feasible.<sup>7</sup> The salary and wages expenditure for government personnel already accounts for nearly

### Box 2.1. Remuneration of civil servants

A civil servant's salary consists of several components, making it difficult to reach simple conclusions about the level of salaries vis-à-vis the private sector.

**Salary.** This is the minimum wage multiplied by a coefficient that depends on the sector, the position and seniority. The minimum wage is common for all civil servants. When the new salary system took effect in April 1993, the common minimum wage was VND 110,000 and the range of coefficients was 1.0/1.78/8.5 (minimum/average/maximum). The common minimum wage has been adjusted several times since 1993, reaching VND 350,000 in October 2005. The coefficients were also modified in 2005, when the range of coefficients was decompressed to 1.0/2.34/10. According to surveys conducted by the Prime Minister's Research Department before 2006, the salary only represents about 30 percent of the income of civil servants.

**Allowances.** There are eight types of allowances: area allowance (0.1–1.0 times the minimum wage); hazardous, difficult and dangerous duty allowance (0.1–0.4 times the minimum wage); mobility allowance (0.2–0.6 times the minimum wage); responsibility allowance (0.1–0.3 times the minimum wage); leading post allowance (0.1–1.3 times the minimum wage); seniority allowance for army and public security officers (5–6 percent of salary); special allowance for remote and border areas (30–100 percent of salary); and allowance for zones with deficient infrastructure (20–70 percent of salary). Since 2005, there are four additional allowances: over-rank tenure allowance, holder of more than one leading post allowance, profession or work related responsibility allowance, and special armed forces allowance.

**Bonuses.** The government leaves the individual agencies much freedom to determine the amount of bonuses after paying taxes to the state. Nevertheless, annually there are instructions from the government on how to determine bonuses, their types and amounts. In some cases bonuses are divided on an equal basis among civil servants, and in other cases they are paid proportional to the salary of the civil servant. Based on the surveys of the Prime Minister's Research Department, allowances and bonuses together represent about 10 percent of the income structure of civil servants.

**Supplementary income.** Civil servants can receive supplementary income from the agency where they work and from organizations and individuals, normally in the form of money put into an envelope. There are different types of supplementary income: received on a daily basis for services delivered to the public (ranging from VND 5,000–10,000 to VND 100,000–200,000); received on a monthly basis in the form of lunch fee and soft income (VND 100,000–200,000 for most agencies, and 200,000–500,000 VND for SDUs); received on an yearly basis, for work achievements (VND 1,000,000–2,000,000) and on the occasion of the lunar New Year (VND 200,000–1,000,000), the solar New Year (VND 100,000–500,000) and National Day (VND 100,000–500,000).

**Additional income.** Civil servants can obtain additional payments for doing certain types of work in state agencies (e.g. projects, participation in approval committees, scientific research) or doing part-time work for organizations outside the government or directly with the market. Taking additional jobs to supplement state income has become common for civil servants and for the labor force in general.

*Source:* The current salary system in Vietnam's public administration (NAPA and CIEM, 2006)

half of recurrent government expenditures. Yet, improvements can be made while living within a budget by making the salary scales simpler, by targeting increases on the skills profiles for which salaries are most out of line, or by matching salary increases with reduction in the number of state employees. In addition, making salary increases selective, and matching them to

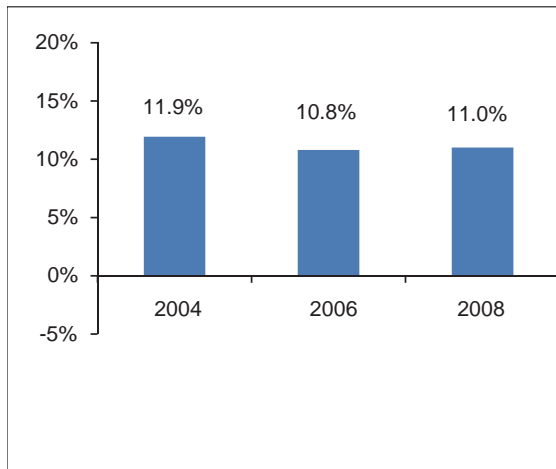
improved qualifications, skills or responsibilities rather than length of service, would help.

#### Motivation

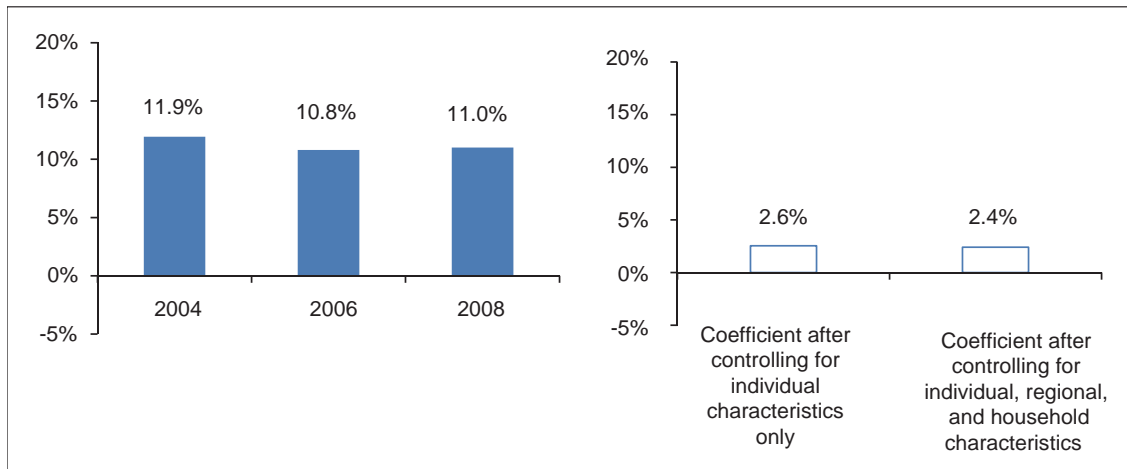
Beyond salaries, other aspects of human resource management are equally important, perhaps more important, for a high-performing public



**Figure 2.1. Average state salary premium over formal sector alternatives**



**Figure 2.2. Average state salary premium over formal sector alternatives, accounting for unobserved characteristics, 2006-2008**



*Note:* Chart on the left shows coefficients from repeated cross section regressions of log remuneration, including allowances and bonuses, on a state dummy and a range of other variables covering individual characteristics, household characteristics, and regional and provincial dummies. The coefficients are all highly significant. Chart on the right is based on fixed effects regressions with respondent dummies to remove variation in wages attached to the characteristics of the individual. None of the coefficients on the state employment variable are significant in the chart on the right.

*Source:* Own analysis based on VHLSS, based on the approach of Cuong, 2008.

sector. Officials that feel they work in a system where promotions and other personnel decisions are well-deserved and based on transparent criteria will be more motivated to work hard and maintain high ethical standards. International studies of how aspects of the public sector relate to corruption, for example, have found that the degree of (perceived) meritocracy in the civil service was among the best predictors of public sector performance. (Box 2.2). Moreover, the same research emphasizes the importance of getting the basics right, through uniform systems of control and competitive recruitment before embarking on sophisticated performance management. Indeed, the need for uniformity within much of the civil service provides a good example of the sort of decisions that are best kept centralized, rather than devolved.

Ensuring equal opportunities for advancement based on merit can help to motivate the civil service. The stark difference in responses between men and women in the Table 2.2 might

be partially explained by the fact that women are much less likely to occupy higher level positions in public administration. In that sample, women were much less likely to occupy managerial positions.<sup>8</sup> These patterns are typical of public service in Vietnam. Although 31 percent of civil servants are women, only 12 percent of head of departments and equivalent are women, and only about 3 percent of chairpersons of People's Committees of all levels are women.<sup>9</sup> In addition, a 2005 study by the Ministry of Home Affairs suggested that women civil servants received less training than men, and were less likely to change jobs or be promoted. While these differences may stem from many factors, they do suggest that the potential contributions of a large portion of the population are not being fully realized.

The new Law on Cadres and Civil Servants<sup>10</sup> has adopted the principle of meritocracy, but the big challenge now is to translate this principle into concrete recruitment and managerial processes, and then to put them in practice—not

**Box 2.2. Lessons from international research: meritocracy is at the heart of performance**

While the body of research on the determinants of private sector performance is immense, understanding public sector performance in terms of efficiency and integrity is less straightforward. But some research has been carried out to empirically answer the question of what attributes of public sector management contribute to public sector performance. One study\* used cross-national data to examine how competitive salaries, internal promotion, career stability, and meritocratic recruitment affect bureaucratic performance in 35 less developed countries. The results show that meritocratic recruitment is the most consistently significant determinant of public sector performance.

Another study\*\* focused on variation in performance across public sector bodies within a country, using public officials surveys in three transition countries to ascertain which aspects of internal organization made the largest contribution to (self-assessed) performance. The study, which used data for Romania, the Slovak Republic, and the Kyrgyz Republic, examined aspects of human resource management, internal administrative procedures, and the use of specific incentives to improve quality. The results of all three countries suggested a very robust role of meritocracy in personnel decisions for improving performance, and a more indirect role for internal administrative procedures. Interestingly, the use of specific incentives to improve quality had very little explanatory power. Ensuring good work through merit-oriented personnel decisions was more powerful than any of the other attributes.

Finally, a study from Indonesia echoed these findings, arguing that one should avoid putting too much effort on performance-related pay if the other more important building blocks of civil service reform are not in place. Performance-pay is secondary to improving motivation, and can be complicated and costly to implement.

While the challenge of improving meritocracy is formidable these studies, from a variety of countries and using a variety of methodologies, show that the importance of the task is beyond dispute.

\* James E. Rauch and Peter B. Evans (2000). \*\*James H. Anderson, Gary Reid and Randi Ryterman (2003). +Soren Davidsen (2007).

an easy task. Although entry-level recruitment is based on competitive examinations and personal interviews, there is much emphasis on theory and knowledge, with relatively little attention to experience, competencies, skills or appropriateness of those skills for the position. Moreover, entry-level recruitment suffers from untrained interviewers and opaque evaluation criteria and recruitment results, creating opportunities for recruitment outside of the rules. The recruitment for non-entry level positions is based on grade promotion examinations, but the merit orientation is undermined by the lack of competition from external candidates. External competition has only been applied on a pilot basis to some very senior positions. For non-entry positions in particular, greater competition and transparency, and more openness to external competition, could increase the pool of applicants

and help to bring in fresh ideas from outside the public service.

Building meritocracy requires good information on a civil servant's performance and links to career success. At present, however, the methods for assessing performance provide little link between performance and ratings, and performance appraisals are not strongly used as a tool for rewarding good performance through promotion and appointment, or for punishing bad performance. The performance evaluation system would be improved if the evaluations could be made more objective. Self-assessments by the civil servants and non-anonymous peer reviews by colleagues are the core elements in the performance evaluation process. There is also an evaluation by the immediate supervisor, who typically rarely feels compelled to contradict the

outcomes of the self-assessment and the peer review. More importantly, a quota system sets the proportion of the top ratings to be between 80-95 percent, which implies that a very large percentage of civil servants receive the top rating regardless of their performance level.

The performance evaluation system could also be improved with the development of job descriptions and competence frameworks. If job descriptions are generic, weak or nonexistent officials will not know clearly what their job is and management may have difficulty judging performance of subordinates. Job descriptions and competency frameworks can help in the recruitment process, support proper performance appraisals, and provide a goal to which training plans can be directed.

Beyond introducing the merit-principle, there are two other directions emerging from Vietnam's efforts at civil service reform. One is the separate treatment in the new Law for cadres on the one hand, and civil servants on the other. This could suggest a clearer division between political appointees and career civil servants, a fundamental element of reform in many countries. While the balance between political appointees and non-political career civil servants varies from country to country, the conceptual distinction between the two is useful, as it helps clarify the key difference between making policy and implementing policy. In Vietnam, the Party retains a key role in personnel management, and this is unlikely to change in the near future. Yet, other countries with single-party structures also make this key distinction between political positions, which focus on setting state policy, and non-political positions, which focus on implementing policy.<sup>11</sup> In China, for example, one of the purposes of their civil service law is said to be to make "a reasonable separation of the Party and public administration."<sup>12</sup>

Second, limiting the scope of the Law on Cadres and Civil Servants to core government

employees, and therefore allowing for different regimes for employees of service delivery units, also has the earmarks of a devolving system. Indeed, reducing the rigidity in salary structures for some sectors, such as in health and education, makes sense especially since service delivery units are increasingly self-financing.<sup>13</sup> (This will be explored further in Chapter 4.)

In short, while the devolving of responsibilities—to firms and farmers, to local governments and to service delivery units—may appear to have eased the strain on the central government, the pressure to improve performance in terms of efficiency and integrity remains. The challenge of regulating human resources management to attract and retain talent is now at a critical juncture. Ensuring adequate remuneration levels, while living within a budget, is one challenge—meeting that challenge will be necessary, but not sufficient, for the modernization of Vietnam's civil service. Providing an open and supportive working environment, and one in which good performance is rewarded, is another. While the new Law on Cadres and Civil Servants rightly establishes some new directions—the merit-principle, beginning to identify political versus non-political appointments, and allowing variations across service delivery units—the implementing regulations establishing how some of these new directions will be implemented are key. Even the best set of laws and regulations, however, will still face challenges. The tension between meritocracy, which calls for differentiating rewards according to performance, and career stability, one of the attributes that many civil servants find attractive, makes such reform difficult in countries around the world. Moreover, many would stand to lose from some types of reforms, such as increasing the differentiation in performance ratings, while the benefits are diffuse. While the net benefits of reform are positive, the lack of a clear constituency pushing for change will make such reforms a challenge indeed.

**Public Financial Management**

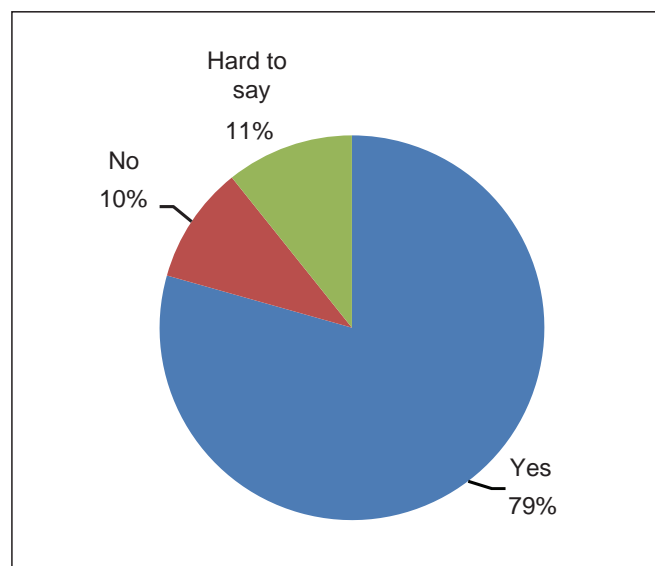
While the central state apparatus is ultimately made up of institutions, people, and the legal powers entrusted with them, resources are needed to carry out its mandate. Ensuring that resources are raised and spent wisely and transparently is a core, and not at all a trivial, task of states everywhere. The population not only entrusts their government with extraordinary powers, but with their money as well, and the system of public financial management safeguards this trust.

Among the many forms of corruption that Vietnam is wrestling to contain, misuse of public resources is the form of corruption that raises the most ire with the population. When respondents to the VHLSS Governance Module were asked whether they consider certain behaviors as “corruption,” people had the least tolerance for abuse of public assets. (Figure 2.3) Modern financial management systems are designed to constrain such practices. The question here is not what is needed to make for a perfect financial management system. Rather the question is how

to improve the system in such a way as to both limit illicit practices and to build faith in the population that such practices would be difficult to hide.

As responsibilities are devolved even within the public administration, the function and mechanisms of public financial managements need to evolve, as well. And indeed, they are changing. An ongoing program of reforms is aimed at creating a more robust control environment better suited for a devolved system, with a greater emphasis on transparency and accountability. Importantly, the successes that have been achieved in public financial management are largely due to the unusually high degree of consensus on the direction of reform throughout the public sector. The value of being better able to track and manage the flow of resources is apparently clear not only to those leading the effort, such as the Ministry of Finance and State Treasury, but also to those implementing the reforms in line ministries and local governments, and those with newfound roles in oversight, such as the National Assembly and the Provincial Peoples’ Councils.

**Figure 2.3. An official misuses public funds or assets for private benefit: is it corruption?**



Source: Own estimates based on the VHLSS Governance Module 2008.

Overall the public financial management arrangements and their implementation leave a moderate, but not excessive, risk that funds will not be properly controlled or will not be used for intended purposes. The recently published Country Financial Accountability Assessment (CFAA), which was prepared jointly by the Government of Vietnam and the World Bank with the support of the donor community<sup>14</sup> highlighted many of these changes. The legal framework is fairly comprehensive and provides a good foundation for government budgeting and execution at the central and local levels, and improvements have also been made to the budgeting system, the system of controls, inspection and auditing of financial compliance and accounting, and budget oversight. However, further reducing risks calls for addressing challenges, both long-standing issues and some that have arisen from Vietnam's devolved character.

### **Budget Formulation and Execution**

On the budget formulation side, budgets are becoming more realistic than in the past, although there remains a large difference between budgeted and actual expenditures and revenue. Some expenditures are funded by budget carried forward from earlier periods—these expenditures are not included in the original budget, but are accounted for in the final outturns. In addition, revenues may be underestimated, a particularly important factor for revenue from crude oil, which accounts for about 20 percent of total revenue, and from land, which has also seen a surge in prices. Another reason is related to the devolution of authority that is the central theme of this VDR. User fees and charges of many service delivery units contribute to the lack of clarity in the state budget coverage. Bringing these many factors under better control can help add to the accuracy of budget forecasts and make budgets more useful.

Although improving, the way that capital and recurrent expenditures are integrated into a single budget remains one of the main weaknesses of

Vietnamese public financial management. The recurrent and capital investment budgets are still prepared separately, by the Ministry of Finance and the Ministry of Planning and Investment, respectively. As capital expenditures usually require recurrent expenditures for operation and maintenance, this bifurcated process hampers the effective management of resources. Perhaps as a consequence, the composition of public expenditure is at times unbalanced, with the share devoted to capital accumulation too high for some sectors to credibly allow for subsequent recurrent costs. Moreover, the processes for prioritizing expenditures is less effective than it could be if the exercise was not conducted separately for capital and recurrent spending.

The system of accounting standards is also improving. An updated and improved Chart of Accounts is being developed which will provide consistency of classification of revenues and expenditures in budgeting, accounting and reporting with expenditures classified on an administrative, economical and functional basis. A roadmap for adoption of public sector accounting standards has been issued, which will provide the basis for preparation of government financial statements. Similarly, while reforms in the management of revenue are progressing with clearer allocation rules and decentralized responsibilities, bringing the classification of revenue in line with international standards would further improve transparency.

In some areas, however, standards are still lacking. Although there are positive controls in the government payroll system with segregation of personnel and payroll functions and maintenance of continuous employee records, payroll is still calculated manually. Systematic and regular (monthly) reconciliations between personnel staff records and payrolls would help ensure validity of payroll changes and early detection of errors and fraud. In the longer term, implementation of modern computerized personnel and payroll systems would help to enhance the control of payroll expenditures which, after all, constitute a significant proportion

of the government recurrent budget expenditures. Indeed, broader application of information technology can improve transparency in other ways: TABMIS, an integrated computerized financial management system rolled out in 2009, will provide the capability to record and control commitments, improve cash flow management and arrears management, and strengthen expenditure management and controls and, ultimately, improve the transparency of the overall system.

With the devolution of authority in the enterprise sector in Vietnam, the need to strengthen accountability in new ways becomes more pressing. State owned enterprises, which remain significant in Vietnam, often do not publish audited annual financial statements and annual reports. Strengthening accountability to the public, not only to the government but to taxpayers and investors, is a key goal of the public financial management system. Detailed annual reports are standard mechanisms for understanding how resources are being spent and how profitable and productive these entities are. Bringing these reports in line with international standards, and mandating annual audits would help bring into the light this sector of the economy that is so large, yet opaque.

Among the most important reforms Vietnam has undertaken in the area of public financial management are those supporting budget transparency. Currently, the Government discloses annual budget documentation, in-year budget execution reports, summaries of state audit reports, and contract information. Actual expenditures at the central, provincial and district levels are disclosed and the country's quarterly estimated budget execution reports are posted on the Ministry of Finance website within a month of the end of the quarter. The collection and use of contributions made by individuals and organizations must also be publicized, as well as several aspects of the finances of state-owned enterprises.

Despite significant progress, there is still considerable room to improve transparency in public finance. Budget proposals are not disclosed until after the budget is adopted by the legislature. This, together with the lack of a formal mechanism for public consultation on the budget, limits public participation. Similarly, although basic budget information is posted on the web fairly regularly, annual accounts and audit reports are issued with a substantial lag, up to 18 months after year end. With such a lag, public oversight, essential in a devolving system such as Vietnam's, is made considerably more difficult. In addition, while data is ultimately publicized, it is generally accompanied by only very limited analysis. Impact assessment of budget implications of new policy initiatives would help inform such decisions.

### **Monitoring and Oversight**

With a set of reforms as complex and technical as public financial management, it is easy to lose track of the big picture. Many countries have addressed this challenge through the rigorous adoption of concrete indicators of the quality of public financial management systems based on international standards. The Public Expenditure and Financial Accountability (PEFA) assessment provides a tool for identifying weaknesses in the public financial management system and developing a coherent approach for addressing those weaknesses. Importantly, the PEFA exercise is not an outsider's judgment, but a collaborative assessment by both the government and external experts. Recognizing these advantages, many countries in East Asia have either already completed their first PEFA assessments (e.g. Thailand, Philippines, Lao PDR, Indonesia) or are currently conducting them (e.g. Cambodia). Worldwide, more than eighty countries or sub-national governments have already finalized a public financial management assessment as part of PEFA. (Table 2.4.)

Monitoring progress ex-post is fundamental, but it is equally important to have a strong system

**Table 2.4. Economies that have finalized Public Financial Management assessments under PEFA**

Afghanistan	Indonesia	Rwanda
Albania	Iraq	Samoa
Armenia	Jamaica	Sao Tome and Principe
Azerbaijan	Jordan	Senegal
Bangladesh	Kenya	Serbia
Benin	Kosovo	Sierra Leone
Botswana	Kyrgyz Republic	Solomon Islands
Burkina Faso	Lao PDR	South Africa
Burundi	Lesotho	St. Kitts & Nevis
Cape Verde	Liberia	St. Lucia
Central African Republic	Madagascar	St. Vincent and the Grenadines
Chad	Malawi	Swaziland
Comoros	Mali	Switzerland (Lucerne Canton)
Cote d'Ivoire	Mauritania	Syria
Democratic Republic of Congo	Mauritius	Tajikistan
Dominican Republic	Moldova	Tanzania
El Salvador	Montenegro	Timor Leste
Ethiopia	Morocco	Tonga
Fiji Islands	Mozambique	Trinidad and Tobago
FYR Macedonia	Namibia	Tuvalu
Gabon	Nepal	Uganda
Ghana	Norway	Ukraine
Grenada	Pakistan (several provinces)	Vanuatu
Guinea	Papua New Guinea	West Bank and Gaza
Guinea Bissau	Paraguay	Yemen
Haiti	Peru	Zambia
India (Himachal Pradesh State)	Republic of Congo	

*Note:* Table shows only countries (or sub-national governments) that have finalized their PFM assessments. For some countries there have been multiple assessments.

*Source:* : "Status on applications of PEFA Performance Measurement Framework. Update by the PEFA Secretariat as at October 7, 2009." <http://www.pefa.org>

of oversight during the execution of budgets. At present, inspections are essentially input and compliance oriented with limited attention to identification of systemic problems. Inspectorates report that their functions are hampered by the lack of staff and resources and a lack of expertise in sound auditing practices.

Some inspectorates are redefining and developing their inspectorate functions to move towards an internal auditing model. With increased decentralization of public financial management (see Chapter 3), implementing internal auditing is becoming more important. Although internal auditing has been recognized in the State Audit Law, there has been less progress in providing implementation guidance. A whole new set of skills is needed for the inspectorate system to perform this new responsibility of internal auditing.

There have also been improvements in external oversight. A separate finance and budget committee in the National Assembly was created in 2007 to improve the oversight of budget estimates and final accounts and the National Assembly conducts live televised discussions of the state budget. This is facilitating oversight of the budget processes by social organizations and unions, employees and people. To realize the full potential of these mechanisms, however, the time reserved for scrutiny by the National Assembly, Provincial People's Councils and committees should be longer to provide adequate time for quality budget scrutiny and discussion. Moreover, better cooperation between committees and government oversight bodies would strengthen the quality of analysis and decision making.

Oversight by State Audit of Vietnam (SAV) has also strengthened. Originally established

in 1994, SAV was transformed in 2005 into an independent institution reporting to the National Assembly and is now responsible for auditing all agencies and organizations using state budget, money and property, for detecting corruption cases, and for assisting the National Assembly in budget oversight activities. Based on the latest available data, coverage has expanded although some key entities have not been audited for several years. In July of 2009 SAV released a report stating that their audits of the 2008 budget implementation identified 6.9 trillion VND of mis-used public funds.

Improvements in the qualitative dimension of audits are also taking place. The SAV's audit approach to financial and compliance audits is being improved, and performance audits oriented towards examining the economy, efficiency and effectiveness of the budget have started to be incorporated in the regular audits of the SAV. Nonetheless, there is still significant room for improvement. Financial audits suffer from "audit exclusions," i.e. exclusion of certain areas or accounting transaction groups from audit examination, which limits the quality of audits. The results of the compliance audits show non-compliance in the majority of cases, but the impact and outcome of these ex-post audits remain limited.

With its expanding mandate, SAV needs to be equipped to its job well. Despite improvements in the availability of auditors, the number is still not commensurate with the task. To help fill the gap, SAV has been allowed since 2003 to contract private sector auditors. In addition, SAV is entitled to two percent of the actual amount collected for the State Budget discovered by the SAV, providing incentive for vigorous auditing. Other efforts to improve the work of SAV are summarized in Box 2.3.



**Box 2.3. Extending the scope and quality of audits**

Despite considerable advances, State Audit of Vietnam recognizes that more can be done to perform its mandate thoroughly and professionally. The mismatch between the large number of entities that need to be audited and the capacity to carry out such audits is striking. An annual average of 40-50 percent of the consolidated budgets of localities are audited, with only about 30-40 percent of districts being audited. This is a difficulty that cannot be immediately overcome, since building such capacity will take time.

To meet these challenges, SAV is focusing on six key tasks:

- i. Diversifying the types of audits in accordance with the Law on State Audit, focusing in the short term on audit of financial statements and compliance audits.
- ii. Implementing standardization, regularization and specialization in order to improve the quality and consistency of audits. Recognizing that in order to professionalize its activities and create public confidence in the audit results, SAV aims to make audit documents simpler, more user-friendly and practical. To encourage good practices, they intend to “annually select, commend and reward the gold-quality audits, to honor excellent and brave auditors, devoted and creative officers, as well.”
- iii. Making activities of audits transparent and public. Ensuring the independence of auditors and in carrying out their tasks, SAV plans to closely cooperate with agencies of inspection, investigation, and journalism.
- iv. Enhancing decentralization while adhering to the principle that responsibility and authority are closely connected so there is no mis-match between accountability and authority.
- v. Strengthening the professional ethics of auditors.
- vi. Modernizing the organization and operation of the audit agencies, through promotion of scientific research and application of advanced technologies and audit methods.

*Source:* “The State Audit to extend the scope and improve the quality of audit.” August 8, 2008. Ministry of Finance website. <http://www.mof.gov.vn>.

### 3. LOCAL GOVERNANCE

*Devolving authorities to sub-national governments has been a key part of Vietnam's reforms in the past two decades. Both powers and accountability have increased, but not always in equal measure. While much of the devolved power has gone to the provinces, most of the new accountability mechanisms have centered on communes. The Grassroots Democracy Decree was a key milestone in improving accountability at the local level, but implementation remains uneven. Planning at the local level is more participatory than in the past, but is often pro forma. While competition among provinces is good in many ways, the existence of spillovers calls for better regional planning and suggests the need for a continued, but re-oriented, role of the central government.*

*Vietnam's progress in creating property rights over land, for which local governments have considerable authority, is unmistakable. Yet, land-related disputes, primarily over the terms of resettlement and compensation for involuntary resettlements, have been increasing. Improving the mechanisms for estimating "market" prices for involuntary resettlement, as is being done in Ho Chi Minh City, may help reduce the number of disputes over compensation. Relying less on involuntary resettlements for projects that are essentially private would help even more.*

A key part of Vietnam's move from a highly centralized hierarchical state designed for central planning toward a more nimble set of arrangements suited for markets has been the decentralization of some responsibilities and powers to lower levels of government. Arguably, the lower levels of government are "closer to the people" and better able to provide the mix of services that people in that area demand. At the same time, some functions of the state belong at the central level, for reasons of efficiency, fairness, or practicality, or will involve some intermediary level of cooperation across the newly empowered lower levels of government. In some cases, capacity to implement certain policies in an efficient and transparent manner may be weaker at lower levels of government. Decentralizing in the right way, coupled with relevant capacity building interventions, is a key aspect of institutional reform.

The extent of devolution, both fiscal and administrative, from the national government to the provinces, is by any objective measure quite large. And as provincial and lower levels of governments were granted additional powers and responsibilities, measures were also taken to strengthen the manner and degree of potential oversight, through local elected bodies, the People's Councils, enhanced transparency, and greater participation. Most of the new mechanisms of downward accountability, however, have taken place at the commune level, while much of the devolved power has gone to the provinces. One challenge, therefore, is the misalignment of accountability with new arrangements.

A second challenge is, of course, implementation. Supplementing top-down models of administrative controls with downward accountability through

participation and transparency requires a cultural shift that can not be achieved quickly. Vietnam's framework for decentralized governance was given firm legal footing with the passage of the Grassroots Democracy Decree, which recognized the importance of publicizing information and including active participation of the citizenry in making decisions. A decade after the Decree, however, there are limited results. While the principles of greater participation and more access to information are clear, the mechanisms for participatory planning and for information provision are less clear.

A third challenge is that the newly empowered provinces have less incentive to coordinate their activities than when there was a guiding hand at the central level. To some extent, competition among provinces is a good thing, especially when they compete to create the most favorable business environment. But when the decisions of one province have an effect on another, whether positive or negative, the lack of regional cooperation can lead to inefficiencies.

This chapter will explore the nature and implications of Vietnam's geographical decentralization to provinces, districts, and communes. The interface between the decentralized governments and the citizens and firms, participation in planning and budgeting, information provision, and new tools for strengthening downward accountability will be running themes. The chapter will conclude with a discussion of one of the most extraordinary powers vested in the decentralized governments, the allocation of land.

### *Fiscal and Administrative Decentralization*

A hallmark of Vietnam's reforms since Doi Moi has been the process of fiscal decentralization. On the revenue side, an increasing proportion of taxes have been assigned to local governments. In 1996, provincial governments were assigned 100 percent of some taxes, namely those on land, housing, natural resources and various fees and charges, and were allowed to share other taxes, such as VAT, enterprise and personal income taxes

and remittance tax, with the central government. Districts and communes were similarly assigned some revenues, albeit relatively minor ones such as the trade license tax, slaughter tax, various other fees and charges, and "people's contributions." They also received a percentage of provincial revenues predetermined by law. In 2002, with the issuance of new State Budget Law, the system of equalization transfers from the central to the provincial level was advanced, and provincial governments were allowed to borrow for infrastructure investment. Importantly, the provinces obtained significant discretion over the assignment of revenues to the lower levels.

On the expenditure side, starting in 1996 spending powers over a wide range of activities were assigned to provincial governments, and to a lesser extent to district and commune governments. In 2002, provincial governments were given even more explicit powers to prioritize resources, including determining budget allocations to different sectors and to the lower level governments. That same year, the share of expenditures decided at the sub-national level was almost half of total public expenditure. According to a World Bank study, Vietnam was the most expenditure-decentralized country in East Asia after China and Japan.<sup>15</sup> By the simple measure of share of expenditures decided at the sub-national level, Vietnam is a highly decentralized country.

Despite the intention to decentralize to the lowest levels, many funds are still managed by the provincial governments. There are only a few programs (such as Program 135) where communes are assigned to be the budget holders. The extent to which funds transferred to provinces for use by districts and communes are actually allocated down to those levels varies considerably. This situation is gradually improving, although capacity of the lowest levels to manage funds effectively remains a concern, as illustrated in Box 3.1.

The fiscal decentralization process in Vietnam has been pro-poor—provinces with higher poverty headcount ratios receive larger per

**Box 3.1. Obstacles for the decentralization to the lowest levels—the case of Bach Ninh and Ha Nam provinces**

A case study of Bach Ninh and Ha Nam provinces shows that there are several obstacles for the decentralization to districts and communes, mainly related to public financial management systems.

- Although training on public financial management has expanded, so have the capacity demands of districts and communes. Ha Nam has arranged part-time training courses in finance and accounting for staff from 116 communes, and chief accountants' training courses for financial staff at district and provincial levels. There remain, however, significant demands to increase public financial management capacity.
- Provinces currently do not have the power to transfer budget from revenue surplus to communes with budget deficits.
- The allocation of budget estimates to the lowest levels provides budget users too little time to allocate and assign budget estimates to their subordinate bodies, especially for the commune-level budgets. This causes difficulties in the accounting and managing of budget execution.

*Source:* CFAA (2008)

capita fiscal transfers from the central level.<sup>16</sup> Equalization transfers are given to all provinces based on budget allocation norms including criteria covering population, the poverty rate, and whether the province is in a disadvantaged location, among others. Since 2006, capital expenditure transfers are allocated based on these criteria and other pro-poor criteria such as the presence of ethnic minorities, levels of local revenue and the number of districts determined to be in disadvantaged locations. The National Targeted Programs (NTPs) also contribute to a pro-poor allocation of funds. The NTPs provide exemptions of education fees to poor households, distribute free health insurance cards for disadvantaged people, and support communes facing extreme difficulties. Finally, provinces with expected revenues below their minimum expenditure needs are exempted from sharing with the central government the proceeds from otherwise sharable taxes.

The pro-poor approach to fiscal transfers is not popular among all provinces. Indeed, those that are net contributors to the state budget feel that fiscal decentralization is excessively pro-poor. In-depth interviews conducted in 2007 with officials from seven provincial governments<sup>17</sup> found that net contributors highly appreciate

decentralization, but think that the tax sharing system is too extractive, leaving inadequate resources for the more successful provinces to maintain their high growth rates. They also complain that the regular expenditure allocated by the central government to education and healthcare is based on the officially recorded population, and therefore they need to use their own resources for unrecorded migrants.

Significant administrative decentralization has also taken place in the area of public investment. In 1999, provincial governments were empowered to decide on small and medium investment projects, and district and commune governments were allowed to decide on the same type of projects, if assigned by the provincial government and authorized by the Provincial People's Council. Later in 2005, provincial governments were given the authority to decide on the largest public investment projects out of a list set by the Prime Minister. Provincial governments have gained substantial decision-making authority on private and foreign investment, too. In 2005, provincial governments were given the authority to issue licenses for foreign investment and in 2006 to assess and approve ODA capital investment projects.

Districts and commune governments have been recipients of powers with regard to one specific public investment program called Program 135. Originally established in the late 1990s as a targeted anti-poverty program, providing supplemental funds for poor communes, Program 135 was expanded to 1,644 poor and mountainous communes in 2006. In 1998, with the launching of this Program, district governments were entitled to receive central-level funds for infrastructure investment projects in communes facing extreme difficulties. In 2006, with the second phase of Program 135, full authority was devolved to the commune governments to manage the investment projects of Program 135.

While these achievements are important, implementation often does not match the more ambitious goals of Program 135, such as full commune “ownership” of the projects and project selection. In one study, for example, 15 out of 20 infrastructure projects were owned by the district, not the commune.<sup>18</sup> Generally, the district provides a list of projects that could be funded, and the commune authority organizes endorsement of the list. At best, the communes contribute to project design, for example by influencing the location of the project, but they hold little sway over selection of the projects.

Some degree of decentralization in human resource management has also been allowed. Provincial governments have been given the power to plan staffing<sup>19</sup> and to recruit, appoint, organize assignments, evaluate, inspect, and even increase the salary grades and allowances of civil servants in local governments, within bounds. Since 2009, district governments can also undertake these management tasks, but only if assigned to do so by the provincial governments. There has also been an important devolution of power to the heads of units within all local governments, who have become responsible for the performance of their staff and for their evaluation.

Finally, planning processes and land use decisions have been decentralized as well. The nature of decentralization and the exercise of the decentralized responsibilities in these two areas are explored separately in this chapter.

### Accountability at the Provincial Level

Overall, provincial governments have been big winners in the decentralization process, much more than district and commune governments. Many of the strongest mechanisms of downward accountability—responsiveness to citizens through participation, enhanced transparency, oversight—have taken place at the commune level, under the overarching “grassroots democracy” regulations, which will be analyzed later in this section. But are the accountability relationships in line to ensure that provincial governments respond to local needs and desires in the best way?

At the provincial level, important forms of downward accountability have been advanced. In 2004, regulations on public financial transparency required local governments to publicize the estimates and uses of annual state budgets, transfers received from the higher levels, and the collection and use of “people’s contributions,” a form of voluntary tax. But there are other mechanisms in place that can also enhance the transparency of provincial governments, such as the mandatory income and asset declarations by high ranking local officials, and the obligation to reply to requests for information to the people within 10 days.

One important milestone in the accountability of provincial governments has been the empowerment of elected bodies, the Provincial People’s Councils, to approve the assignment of revenue sources and the allocation of the budget among the three sub-national levels, the norms and regimes on expenditure and budget allocation, and the collection of fees, charges and people’s contributions. The oversight of the finances of provincial governments has also been

strengthened through the establishment of the State Audit of Vietnam, the mandate of which includes conducting external audits of all state budget revenues and expenditures, including those of the local governments.

In contrast, there has been limited progress regarding direct public participation in decision-making processes on the use of provincial budgets. Since 2004, draft public consultations for provincial socio-economic development plans have been required, but specific and clear guidelines are still missing. As explained elsewhere in this chapter, however, even if strongly anchored to public consultations, these plans are still weakly linked to budget allocations.

Provincial governments are also subject to forms of upward accountability in their budget decisions. There are certain quotas and standards determined by central-level authorities that must be applied by provincial governments when they allocate their budgets to ensure that certain development goals are met. For poorer provinces like Quang Nam and Tien Giang, the proportion of pre-determined expenditures in local budgets can be as high as 80-90 percent. Even in some better-off provinces like Khanh Hoa and Vinh Phuc, this pre-determined expenditure accounts for more than half of the total budget.<sup>20</sup> This situation limits the extent to which provincial plans and budgets can respond to local needs.

A 2008 public financial management assessment of Soc Trang province confirms that decisions on allocations to different sectors and transfers to lower levels are still subject to a number of national directives and norms which ultimately limits the discretionary powers of the province.<sup>21</sup> The study found that this is even more the case for districts and communes—they have been given management responsibilities and made upwardly accountable but have limited influence on priorities in resource allocation and service delivery targets. Another recent study shows that the limited “decision space” of local officials can affect the attraction of foreign investment and

the success of provincial economic zones (Box 3.2). The same study exhibits the willingness to experiment on a small scale that epitomizes Vietnam’s approach to reforms.

While provinces have some decision space over human resources, it has bounds. The management of human resources at the province level must adhere to the many standard rules and processes specified in the Law on Public Officials and Civil Servants, and to the many corruption prevention measures specified in the Law on Anticorruption. The plans on staffing must be approved by the Provincial People’s Councils and must meet the quotas and norms determined by the central government. Salaries must also be in accordance the guidelines of the central government.

Available evidence shows that in practice the autonomy of provinces with regard to “key personnel” is substantially constrained. In-depth interviews conducted in 2007 in seven provinces<sup>22</sup> found that the degree of autonomy of provincial governments in terms of selecting, appointing and promoting “key personnel” was quite limited, as the Party Committees at provincial and higher levels play important roles in making these decisions.

### **Accountability at the Commune Level**

Although somewhat less empowered than the province or district levels, the commune level has been the locus of considerable experimentation with downward accountability systems. The Ordinance on Grassroots Democracy, originally passed in 1998 and strengthened in 2003 and 2007, focuses on the commune level of government and outlines four basic rights, drawing on Ho Chi Minh’s famous dictum: the right to be informed, the right to be consulted, the right to decide, and the right to supervise. These rights apply to a wide variety of public activities at the commune level, such as the use of the commune budget and people’s contributions, socioeconomic development plans, public investment projects and plans, land use management, legal documents, and administrative procedures, among others.

### **Box 3.2. Innovation in exercising powers at the local level-The Chu Lai Open Economic Zone**

A recent paper examined the experience of one of Vietnam's experiments aimed at spurring rural development, an experiment that has lessons both for the limitations of decentralization and for understanding the conditions under which innovation can take place.

High hopes were placed in the 27,000 hectare Chu Lai Open Economic Zone in Quang Nam Province when it was established in 2003. By decentralizing policy and fiscal authority to leaders in the Chu Lai Open Economic Zone, it was thought local officials would have the regulatory space and incentives to experiment with policies and institutions and ultimately spur development in that area. After three years, however, most felt that the results were not yet inspiring. Nevertheless, nine provinces have received permission to implement the Chu Lai Model.

The researchers identified several key limitations that need to be addressed in order for such an approach to succeed. First, they argued that Chu Lai's exclusive focus on attracting foreign investment crowds out attention to domestic private sector development. While a sound regulatory environment is certainly one attraction to investors, it is not the only one—the paper argues that Chu Lai's problems attracting foreign investment in manufacturing and light industry are primarily a function of its location and investment incentives, rather than the quality of its regulatory environment. As a consequence, Chu Lai devoted scarce infrastructure resources to address perceived requirements of unlikely foreign investors (e.g., an international transshipment port), rather than the current needs of domestic private enterprises.

Second, the researchers found that Chu Lai's legal design is incompatible with policy experimentation and institutional innovation. In response to the experience of the 1990s, during which rural industrial zones did not perform as well as their urban counterparts, policymakers aimed at what was perceived to be the reason for the uneven success, the absence of fiscal and policy decentralization to local officials. Chu Lai was intended, therefore, to give local leaders increased fiscal, policy, and legal authority. In reality, however, Chu Lai's legal framework divides fiscal and policy decision making authority in almost all important areas between local officials and the central government. As a result of the consensus decision making process, which includes ministries with conflicting interests in Chu Lai's experimentation and success, Chu Lai's attempts to innovate have stalled.

*Source:* Eli Mazur, David Dapice, Vu Thanh Tu Anh. "The Chu Lai Open Economic Zone and Rural Development: Central Planning's Laboratory for Policy and Institutional Innovation." UNDP Policy Dialogue Paper 2008/2, Ha Noi, July 2008.

Encompassing information, consultation, participation in decision making, and supervision on commune-level activities, these rights provide a solid framework for examining the system of downward accountability at the commune level. In the decade since the experiments with grassroots democracy began, two key questions are (i) how deeply and inclusively it has been implemented, and (ii) what the effects have been. The first question is easier to answer than the second.

The VHLSS Governance Module gives an indication of how well people feel informed about commune level activities, and the results show room for improvement. Around half of

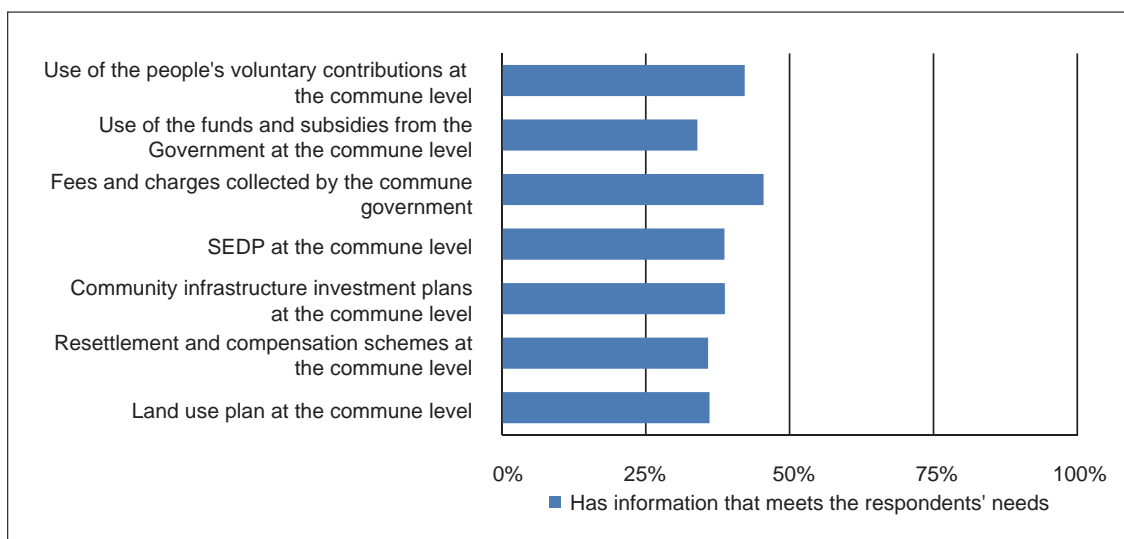
the households in Vietnam reported having no information on commune budgets and plans. The vast majority of the others have either very little or little information, and the majority of those with information report that the information does not meet their needs. Although those who are interested in commune level budgets and plans generally say they have access to a little information, fewer than half say that they have information that meets their needs (Figure 3.1).

The reasons why information does not meet the needs are diverse. A small sample survey of 500 citizens undertaken in Ha Noi, Quang Binh, Ninh Thuan and An Giang in 2009 highlighted a range of challenges to information provision at the

local level.<sup>23</sup> Some citizens face challenges due to literacy or language issues, education, or the distance they need to travel to get the information. The means of delivery was reported by some to be a problem—loudspeakers are still favored by some respondents, but are not helpful if placed far away or not functioning well or if the citizens

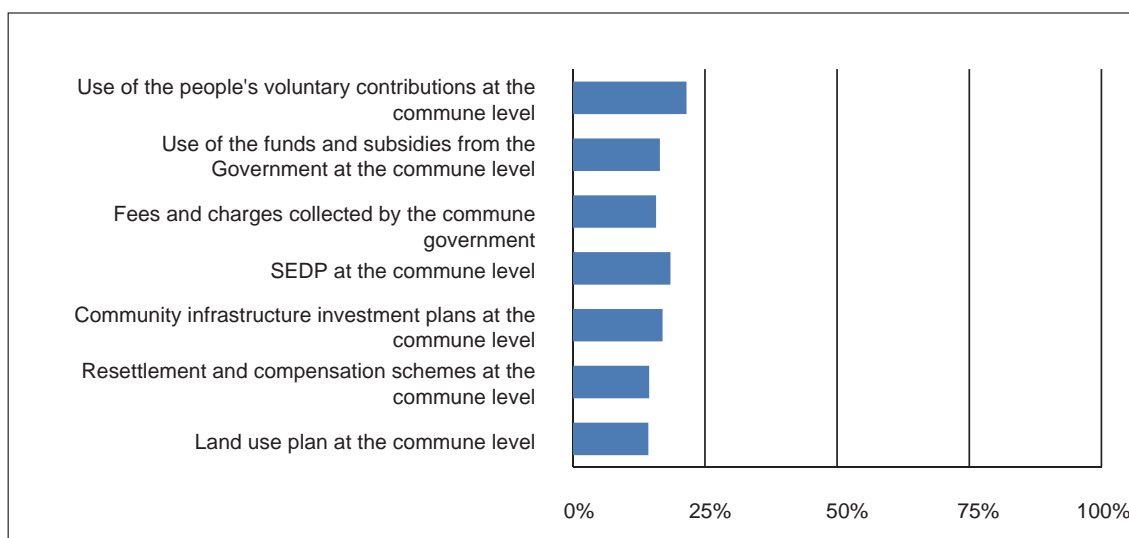
are deaf or cannot understand the language. If the means of delivering the information is oral, such as through the loudspeakers, it may be difficult to recall the information when needed: multiple dissemination channels are needed. Finally, some reported that the attitude and capacity of staff was not helpful.

**Figure 3.1. Information that meets households' needs on commune budgets and plans (among those with interest)**



Source: Own estimates based on the 2008 VHLSS Governance Module

**Figure 3.2. Households who provided opinions on commune budgets and plans during the period 2006-2008 (among those with interest)**



Source: Own estimates based on the 2008 VHLSS Governance Module



The second right established in the Ordinance on Grassroots Democracy was to the right to be consulted. The VHLSS Governance Module asked respondents about their involvement in various sorts of law making or policy making processes. The vast majority had not provided any opinions on commune budgets and plans, and the most often cited reason was that the respondent had not been consulted. (Figure 3.2) It is difficult, however, to envision a model of consultation that would ensure that every citizen felt consulted, or to know what a reasonable baseline would be in this case. Other reasons people cited for not providing opinions on affairs of the commune include that it is too complicated, noted by 7-8 percent of those who had not provided opinions, or that their opinions would not be taken into consideration, cited by 10-13 percent of those who had not provided opinions.

The other key rights established in the Ordinance on Grassroots Democracy were the right to decide

and the right to supervise. These processes are most deeply instituted in the areas of the country that are participated in Program-135. Under the program, the general population in each commune would participate in the selection of projects that best reflect their priorities. Program 135 is notable for simultaneously devolving authority, and introducing new mechanisms of downward accountability.

Due to its prominence as an anti-poverty program and for the ambitious efforts at expanding participation, considerable attention has been paid to studying the implementation of Program 135. The measures aimed at strengthening participation have been implemented fairly thoroughly in some areas, but less thoroughly in others. A 2009 survey Program 135 communes in four provinces found that participation in decision-making related to infrastructure projects is very high among those who are aware of infrastructure work, but the involvement was primarily for selecting the sites for the projects.

**Table 3.1. Participation of households in decision-making and supervision of infrastructure works in P135-II communes in the provinces of Lai Chau, Lao Cai, Binh Phuoc, and Soc Trang**

Type of infrastructure work	Households aware of infrastructure works (%)	Households providing inputs to infrastructure works, <sup>24</sup> out of households aware of works (%)	Households participating in work site selection, out of households providing inputs (%)	Households participating in construction of works, out of households providing inputs (%)	Households participating in supervision of construction works, out of households providing inputs (%)
Electricity works	54	67	88	21	2
Transportation works	74	50	86	13	11
Schools	71	33	97	8	5
Water supply works	73	41	92	43	0
Health stations	61	17	93	13	0
Markets	87	27	100	0	0
Communal houses	78	26	100	0	0
Irrigation works	85	50	88	52	10
Average	73	39	93	19	4

Source: Report on Results of Citizen's Report Card Survey on People's Satisfaction with P135-II (Quyen et al, 2009)

Participation in decision-making during the construction of works was not as high, and participation in supervision was very weak (Table 3.1).

While the level of participation in Program 135 projects seems high, an understanding of how this mechanism is really producing downward accountability requires answering two additional questions: what is the baseline against which to measure participation, and just how does the participation work in practice?

To answer the first question, one study set up a counterfactual, asking not only about Program 135 projects with participation and monitoring by the people, but also at other projects in the same communes. The results, which are presented in Table 3.2, show that these other projects also have fairly high degrees of participation in selecting projects, and also are usually monitored by the people. However, for both cases, the frequency of participation and monitoring is somewhat higher for projects financed under Program 135.

Answering the second question, how participation actually works, calls for a different form of analysis. A study undertaken in early 2009 used semi-structured interviews with a range of district and commune officials, Program 135 Management Boards and Supervision Boards, village leaders, representatives of mass organizations and citizens to examine the balance of power between district and commune authority in project selection, and which level ultimately decides which projects are to be funded, and

takes responsibility for implementation and supervision.<sup>25</sup>

Using the guidelines set up for Program 135 as a baseline, the study examined two projects in each of 25 different communes, five each in Lai Châu, Cao Bang, Quang Binh, Gia Lai, and Soc Trang. The findings were mixed. The commune's involvement in project management has undeniably increased with the second phase of Program 135, and the relationships between commune and district authorities in projects implementation has intensified. These are important achievements. At the same time, the commune's role and capacity has often not reached the level needed for full transfer of responsibility and ownership. Confirming the findings of other studies, project selection in particular remains at the level of the district. Some of the new mechanisms of accountability have also not taken hold as strongly as hoped. Participation has in many places not been integrated in the decision-making progress, as local authorities associate participation with risk (of lack of control) rather than with opportunity (of better implementation).

While the importance of Grassroots Democracy for Vietnam's step-by-step approach to devolution and accountability is undeniable, and there have been concrete achievements, the studies of Program 135 and data from the VHLSS Governance Module both show that some of the new mechanisms of downward accountability are still taking root. Table 3.3 outlines some of the difficulties as reported by two other

**Table 3.2. Participation in decision-making and supervision of commune-level infrastructure projects; communes in the provinces of Lai Chau, Lao Cai, Binh Phuoc, and Soc Trang**

	Projects under P135-II	Projects implemented at P135-II communes but financed by other programs
Percent of projects having participatory meetings to select project	86.6	80.0
Percent of projects being monitored by people	81.9	72.4

Source: Report on Results of Citizen's Report Card Survey on People's Satisfaction with P135-II (Quyen et al, 2009)

**Table 3.3. The voices of citizens and commune-level officials: What are the difficulties with the implementation of “grassroots democracy”?**

	Difficulties Related To Government	Difficulties Related To People
8 Communes in Thai Binh Province	<ul style="list-style-type: none"> <li>• Commune governments do not understand well the importance of democracy in discussions and decisions.</li> <li>• Most commune government leaders do not have enough professional qualifications, and lack the incentives to organize discussion meetings with people.</li> <li>• Officials are not active in facilitating and empowering people to participate in discussions and decisions.</li> <li>• Some contents are brought to discussion with people just formalistically to comply with the law, and some other contents are not brought to discussion.</li> <li>• The contents of the publicized information are not suitable for the locality, and the forms of publicity are rarely applied or applied insufficiently.</li> <li>• Some officials do not want people to know more, or to empower people to supervise them.</li> <li>• Sometimes people are not invited to supervise or the government does not let them participate in supervision.</li> <li>• Commune governments do not widely mobilize, trust and empower CSOs to participate in providing information to the people and exercising supervision.</li> </ul>	<ul style="list-style-type: none"> <li>• People’s awareness on the contents of grassroots democracy regulations is not perfect.</li> <li>• People have little interest in the right to know and the right to discuss and decide.</li> <li>• People are busy “earning their bread” and they have more of their own issues to be paid attention than to community issues.</li> <li>• People concentrate on the regulations related to their economic benefits, and put no interest on regulations serving the general development of the locality</li> <li>• People have low educational qualifications, preventing them to understand well issues.</li> <li>• People are afraid that the meeting will be organized to ask them for their contributions in cash or in-kind, and hence very few attend.</li> <li>• In meetings with few participants, people are hesitant to show their viewpoints.</li> </ul>
4 Communes in Son La, Thai Binh, Gia Lai, and Tra Vinh Provinces	<ul style="list-style-type: none"> <li>• Commune authorities have a weak understanding of the strategic objective of grassroots democracy, and they perceive democracy as a sensitive issue.</li> <li>• Officials are afraid that by empowering people they will lose power and authority</li> <li>• Low dedication of officials to the grassroots democracy regulation</li> <li>• Lack of specific funding for the implementation of grassroots democracy</li> <li>• Salaries of officials are minimal, failing to attract capable candidates and motivate them to devote to public matters such as grassroots democracy.</li> <li>• Commune governments are subject to very low degree of upwards accountability on grassroots democracy activities.</li> </ul>	<ul style="list-style-type: none"> <li>• In richer communes people are mostly interested in their personal economic matters and less interested in public matters.</li> <li>• In communes with lower sense of community, less people are attracted to the meetings.</li> <li>• In poorer communes and communes with few migrants, people are less active in the discussions and tend to agree with everything presented to them.</li> </ul>

*Source:* Survey on Grassroots Democracy Regulation – Implementation Situation and Organization Capacity of Social Organizations in Thai Binh Province (DOHA and VUSTA of Thai Binh Province, 2009); Mobilizing Rural Institutions for Sustainable Livelihoods and Equitable Development, Governance Institution - the case of the Grassroots Democracy Steering Committee (CAP, IPSARD, 2008)

important surveys on the implementation of Grassroots Democracy. These difficulties do not only have to do with the implementation of the regulations by the commune government, but also by factors related to the people, such as their limited interest, low technical qualifications and even reluctance to express their viewpoints.

With challenges for grassroots democracy ranging from awareness to organizational culture, from weak capacity to practical challenges, the progress that has been made despite these challenges is remarkable. Indeed, the application

of community driven development in the management of commune-level investment projects has been shown to have positive effects on development outcomes (Box 3.3).

Raising the awareness of commune officials, building skills, and increasing financial support for grassroots democracy could help improve implementation. As seen in Table 3.3 the limited awareness of officials on the strategic importance of grassroots democracy is a core constraining factor. In addition, officials might be more proactive in consulting people if they were

### Box 3.3. The development impact of participation

Vietnam offers a natural experiment that comes as close as possible to a “clean” assessment of the consequences of participation. This natural experiment took place between the late 1990s and 2005, as a large number of communities throughout the country had access to both Community Driven Development-type (CDD) programs and similar programs involving limited participation. Because both types of projects were implemented in the same communities, controls for “the social and cultural context within which beneficiaries live and organize themselves” can be included. Both types of programs were run by the Vietnamese government, both involved a similar menu of subprojects and both mobilized a similar volume of resources per community. But the CDD variant had been promoted by development practitioners who strongly believed in the virtues of participation, and wanted to create a demonstration effect. The CDD variant therefore included clear protocols to consult and gather the views of the involved communities at several stages in the process, from the selection of subprojects to their physical implementation to their financial oversight. The experiment ended in 2005, as the government became convinced that the participatory variant was indeed superior, and adopted it for the next phase of its nationwide program for local development. Since then, local communities in Vietnam continue to have access to multiple local development programs, but all of them are of the CDD type.

This paper used Vietnam’s natural experiment to assess the ways in which participation modifies development outcomes at local levels. The assessment focuses on 24 communities which had been exposed to both types of programs, and had implemented a total of 162 subprojects under both CDD-type and less participatory approaches. From a methodological point of view, the assessment relies on a combination of statistical and participatory approaches. On the statistical side, detailed information was gathered on the characteristics of the communities, the nature of the subprojects, the expenditures incurred and the profile of the persons in charge of implementation. On the participatory side, focus groups of villagers and local officials were gathered (separately) to collect their views on the features and impacts of subprojects implemented under the two programs.

Not surprisingly, the findings fall somewhere in between the upbeat beliefs of development practitioners and the healthy skepticism of academics. On the other hand, there are no major differences between the assessments of the villagers and those of local officials. After controlling for the observable characteristics of communities, of subprojects and of the persons in charge of their implementation, it appears that participatory projects lead to better outcomes overall. But they do not accomplish miracles across the board. The gap between the two types of programs is statistically significant for some outcomes, and not for others.

*Source:* “What a Difference Does Participation Make? Evidence from Communities with Multiple Programs in Vietnam” (Quang Hong Doan and Martin Rama, 2009)

provided the financial resources to implement the grassroots democracy activities, and if they had a better understanding themselves of the requirements of grassroots democracy.

Another set of solutions is to enhance the motivation of the people to engage in participation and supervision at the grassroots level. This, of course, requires outreach to ensure that all citizens know their grassroots democracy rights. But that is not sufficient. As seen earlier, a significant percentage of citizens do not engage in discussions in the commune because they think that their opinions would not be considered. To improve this situation, the feedback from the consultations should reach the authorities making decisions which are often not the commune governments, and the outcomes of the consultations and supervisions should be reported back to the people.

### *Planning Processes*

The planning process in Vietnam has a long history, emanating from the days of central planning, in which the plans specified in great detail what all of society, including firms and farmers, were expected to contribute. As Vietnam has increasingly devolved powers to those firms and farmers to make their own decisions, and enjoy rewards or suffer consequences based on their decisions, the role of the plan has shifted. While plans still include targets, it is increasingly, if not universally, understood that these are just targets. And while the ultimate rate of growth of the economy or of certain sectors can not be achieved simply by virtue of that fact that it is in plan, the foundations for reaching those targets can be laid through careful planning of infrastructure and investment, based on a clear understanding of the needs and desires of citizens and firms. As responsibilities for provision of services and the means to finance them have been devolved to lower levels of government, and as some of the responsibilities for investment planning have also been devolved, some evaluation of how the accountability relationships have shifted is also in order.

The changing role of the plan in a market-oriented economy is not consistently understood by all of the relevant parties. A case study<sup>26</sup> focusing on Dien Bien, Dong Thap and Ninh Thuan provinces found that planning work was seen as the sole responsibility of the planning sections and units rather than the work of all officials. This has minimized inputs from technical units who play important roles in setting up more realistic targets. Nevertheless, the former top-down approach to planning in general has changed fundamentally with Doi Moi. In 1989, decisions on the socioeconomic development plans of the local levels were decentralized, and later in 2003 local governments of all levels gained more responsibilities in the co-ordination, budget allocation and finalization of the socioeconomic development plans in their respective localities. The central authorities, the Ministry of Planning and Investment and the Ministry of Finance, now only provide the general development orientation and the budget constraints (first step), and planning agents (provinces, line ministries) prepare their detailed plans and submit to the Ministry of Planning and Investment (second step). In that sense, the planning process is much less top-down than in the past. But by some accounts, the balance of power between each successive level of government and the one above it remains uneven.

And yet, the vision of the role of planning varies from one extreme in which old methods of planning are continued out of habit, to the other extreme in which planning is viewed as obsolete, no longer useful in a market-oriented economy. The truth lies somewhere in between: while some aspects of the old methods of planning may be obsolete, particularly with regard to economic output targets, other aspects of planning are even more important for a decentralized economy.

By most accounts the planning process in provinces is indeed somewhat participatory, although the vision of full participation may not be reaching its potential. A case study of local planning in Hoa Binh province<sup>27</sup>, for example, found relatively little active participation of

local people in the planning process, although they are recently improving on this front very progressively. The targets set in the plan tended to be allocated from the provincial level, and were not really discussed at the local level or grounded in realistic analysis. Moreover, targets themselves tended to concentrate on input and outputs of the whole economy, as was the tradition under central planning, rather than accepting these as outcomes of institutional and other factors as in a market-oriented economy. Planning in a market economy is more oriented toward equipping society to perform, rather than directing their performance.

Another case study of the provinces of Da Nang and Bach Ninh<sup>28</sup> found limited stakeholder involvement in the formulation of master plans in capital construction. Although the internal planning process has become increasingly transparent, information sharing within the government system itself is not always extensive. Despite legal provisions<sup>29</sup> mandating community participation during the formulation of detailed investment master plans, consultation with the public is limited, mostly taking place in areas deemed to significantly affect the public. Part of the reason may be weaknesses in the information systems that support the planning process. These systems continue to favor the administrative reporting system and tend to be better oriented for the old style of planning. There is no systematic collection of data at the village and commune levels.

The degree to which lower levels of government are willing to invest in new capacity for participation and information provision will depend in part on how much authority they have to exercise these approaches. If higher levels of government are reluctant to decentralize planning power to lower levels, or if the level of decentralized budget allocation is low, then the pay-off to local officials for engaging in participatory approaches will be low. While the degree of decentralization to the provincial level has been substantial, the relatively lower degree of authority and budget granted to

lower levels tempers enthusiasm for the new mechanisms of accountability. One role of the central government in a devolving system is to help build the capacity of local governments and to expand communications channels so they can learn from each other.

That consultations take place is not in doubt—the policy set down by the Prime Minister requires consultations during the 5 year Provincial SEDP planning process. Lack of participation in the planning process comes from several sources. Various initiatives in local planning reform by UN agencies in different provinces have shown that institutional setup is an important constraint to making participatory planning a reality at the district and commune levels. Planning agencies are well set up at national and provincial levels, but they become very thin at district and commune levels. At the district level, there is a planning and finance section whose main role is to carry out only financial management with little attention given to planning. At the commune level there are no full time planning staff—during planning season, the planning task is done by whoever is assigned the task by the commune People’s Committee, for example the commune statistician or commune secretary. In addition, time is very short because provinces have less than two months to prepare plans and submit to the Ministry of Planning and Investment; communes usually have around 10 days for preparing their annual commune development plans. Time constraints, shortage of skills and even lack of full time planning staff have all contributed to the lack of participatory planning at the grassroots level.

There is also a misconception among some about people’s participation in the field of development. Some officials think that people would have little understanding about development plans, and genuine consultations are costly in terms of both time and budget. On the other side, many people simply may not be so interested. In the VHLSS Governance Module, only one in three respondents expressed interest in the commune level SEDPs and infrastructure investment plans.

Yet, even a small number of interested citizens could potentially help make consultations a success.

Participation and consultation can be both vertical, as between planners and local people, and horizontal, as across agencies and the latter form of consultations are also weak. At sub-national levels, people tend to work in their comfort zones, rather than in a cross-sectoral setting, leading to duplications and limited joint effort to address common issues. UNICEF's experience in promoting cross-sectoral planning in selected provinces to tackle children's issues comprehensively has shown that it is not easy to reach a consensus on a common issue that needs collective action. Lack of skills and incentives combined with absence of any formal mechanism for joint work is a major challenge to establishing and strengthening horizontal linkages across agencies. It is important to note that the current practice of one annual SEDP planning meeting at the provincial level is not enough to identify problems and reach consensus on tackling it using a cross-sectoral approach. Furthermore, limited skills of Departments of Planning & Investment and People's Committee that are mandated to coordinate developmental works at the local level is another constraint towards establishing inter-sectoral linkages.

Capacity issues are also apparent in the link between planning and budgeting, both recurrent and capital, and ensuring that sectoral plans are in line with relevant policies. While provinces are given the autonomy to plan their own SEDP, there is not much support from the central level to make it evidence-based and to ensure that the plan is realistic in terms of resources. Other challenges include a lack of clarity on the annual planning guidelines and the short time frame given to provinces to prepare and submit plans.

The case study in Hoa Binh provides some useful lessons about the proliferation of parties that don't necessarily coordinate. While Hoa Binh is strongly committed to reforms with support from donors, there is a fairly weak linkage between

planning and budgetary allocation, and in turn between the plans for investment and recurrent expenditures. The fact that different programs have different reporting requirements makes it harder than it needs to be for local governments. Moreover, there is little communication between investment budget planners, the Ministry of Planning and Investment and provincial level Departments of Planning and Investment, and those that plan the recurrent budgets, the Ministry of Finance and provincial Departments of Finance, leading to little linkage between the two types of budgetary allocation. The result is that, at the present, local planning generates a wish list, rather than a strategy vision for management.

Understanding how well devolution and the new mechanisms of accountability are working in a systematic way would be enhanced by a monitoring and evaluation process for local planning and budgeting, but at present these processes are not well developed at the local level. The Hoa Binh case study, for example, found little practical use of monitoring and evaluation, and as a result the evaluation of past planning exercises could not help inform future exercises. In some cases this was due to a lack of understanding of both the role and the process of monitoring and evaluation, leading to inappropriate selection of indicators, especially the focus on input indicators such as numbers of schools built or number of pigs raised, rather than outcome indicators. Indeed, the understanding of planning inherited from the old system may be contributing to the lack of integration of monitoring and evaluation in the budget process. There is still a tendency to consider targets as goals in themselves, rather than as outcomes generated by policy and therefore as indicators for monitoring progress and adjusting policy. Finally, the case study identified the lack of good data on outcomes at the district and commune level for realistic and evidence-based planning as a key constraint.

The large interest of donors in strengthening participatory planning and budgeting at the

### Box 3.4. Consultative planning and budgeting in Hoa Binh

Hoa Binh province is very committed to planning reform and with support from JICA and SDC has started to show positive progress in the way they undertake planning and budgeting. Hoa Binh started to streamline planning process by drafting “planning guidelines” at the commune level and district levels, which includes several aspects of better planning practice, such as participation of local people in the process of planning, emphasis on the evidence-based situation analysis, as well as prioritization of policy intervention, and active consultation activities for their 5 year SEDP (2006-2010). A case study of these planning reforms identified four key elements of success:

- *Clear framework.* Reform of planning at the local level requires a clear decentralized planning framework and *clear political willingness to delegate power.*
- *Management tool.* Understanding of the Plan as a management tool, with indicators to monitor and adjust policy, is key to reforming the planning exercise.
- *Transparent communication.* Success in reforming local planning calls for closer and more transparent communications and consultations. This includes horizontal communication (among different sector departments) and vertical communication (two-way communication between the grassroots peoples and higher administrative levels).
- *Stronger capacity.* The capacity of local authorities to undertake participatory approaches may be weak, but can be strengthened through direct training. In the longer run, the incentive to invest in capacity for participatory approaches will be higher if decentralized budget allocations are higher.

*Source:* Japan International Cooperation Agency and Swiss Development Cooperation

local level could have unintended consequences, if not managed properly. As described above, many programs supported by both government and donors are directed at exactly those areas that tend to have the weakest capacity to implement. This makes sense since these are the areas with the highest rates of poverty, but in the absence of careful coordination local officials could find themselves inundated with not only responsibilities, but with multiple sets of instructions on how to implement their policies. In the Hoa Binh case study, for example, donors endeavor to harmonize approaches for local planning reform, to share closely information and activities between two implementation agencies.

Finally, the mechanisms of downward accountability that have been put in place, especially at the commune level, are also important for another purpose. Corruption is more difficult to hide in an open transparent environment, so preventive measures such as these can also help to control some forms of

corruption. (The local level People’s Inspections Boards also play important roles here, as will be discussed in chapter 6.)

### *Regional Planning*

The previous section examined the devolution of authority to lower levels of government and attempts to institute new mechanisms of accountability through greater participation and transparency. These mechanisms help to make the newly empowered sub-national governments responsive to their constituents. As provinces recognize the draw that an unobtrusive business environment can have on investment, the autonomy to make policies friendly to growth can engender some positive competition between provinces. The annual launch of the Provincial Competitiveness Index, a ranking of provinces based on the competitiveness of the business environment, attracts more attention every year—everyone wants to improve their rankings and no one wants to be near the bottom.



In this respect competition between provinces, as it is between enterprises, is healthy. Yet, competition between provinces is not always beneficial. Indeed, the devolution of authority to lower levels of government raises new challenges, since decisions in one province can have important impacts, positive or negative, on others. When there are such “spillovers”, then some degree of cooperation is called for. For example, the power to license FDI has been decentralized to provinces and with the benefits of FDI in mind, provinces often aim single-mindedly at bringing in new investors. The increased local revenue and jobs that industrialization are thought to bring are clear and nearly immediate, while the longer-term environmental consequences and often opaque and cross-border. Indeed, the cross-border nature of many environmental problems are what generate the spillovers that make independent planning, by each province in isolation, inefficient. The water consumed in one province may include run-off or industrial pollution from another province. In such a case, development planning spanning multiple provinces would be needed both to achieve the most efficient outcome, and to ensure fair allocation of the costs of planning decisions.

There are also positive spillovers. Growth in one province could be beneficial to its neighbors, if the proper infrastructure is in place. Infrastructure planning is another clear case where regional planning can help improve outcomes—roads that dead-end at the province border don’t benefit either province. For major roads projects organized by the Ministry of Transportation such planning is already routine, but many major infrastructure projects are launched independently, leading to duplication of efforts. Often a single province will not have the critical mass of population or economic activity to sustain its own port, for example, but if groups of coastal provinces cooperated they could sustain one. Similarly, a seaport or airport in one province, without roads leading to neighboring provinces, misses an opportunity to benefit both.

Regional planning, therefore, calls for a 20 or 30 year outlook. The infrastructure and trade logistics support that are needed will vary depending on the sort of development that is envisioned down the road. At the same time, decisions being made now often have important environmental and social consequences. Although many policy makers think in terms of a trade-off between fast growth and sustainable growth, this is a fallacy since fast growth that does not account for environmental costs is illusory. If the objective of public policy is multi-dimensional, such as increasing income, improving quality of life, and preserving the environment, then some of the rapid growth in income may give the illusion that things are rapidly improving, while environmental degradation countermands this fact. Regional planning will not address all of these challenges, but can help to maximize positive spillovers and minimize negative spillovers across provinces.

Concerns about what are perceived to be negative impacts of decentralization have led some policy makers to question whether decentralization has moved too far too fast. Yet, the benefits of devolving authority can be achieved while minimizing the costs if regional planning were to become the norm. But in a decentralized system, how can provinces be encouraged to plan collectively? There are many answers, but the one that makes sense depends on the types of inefficiencies that regional planning is expected to address.

When the benefits of regional planning are mutually beneficial, provinces may be expected to work together of their own volition. This is particularly the case with positive spillovers. If a group of provinces can agree where the port should go and how the road network should be organized, then all benefit. The role of the national government in such a situation can be to facilitate the regional plan, even if not directing it. In some countries this is done by providing matching funds for multi-province initiatives.

When the costs and benefits are asymmetric, however, then the role of the national government can be much stronger. For example, if industrial development in one province pollutes the water of another province, it is not likely that the two will reach agreement on a fair solution. National standards for industrial pollution may be part of the solution, but there is also scope for national intervention to encourage regional planning. For example, policies that require regional plans for sub-groups of provinces that share the same watershed areas can help to ensure that development goes in the right way.

**Land Use**

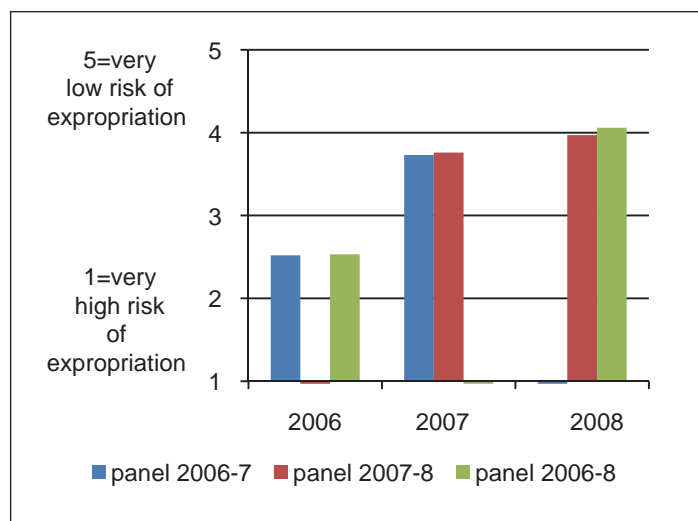
Given the paucity of property rights over land two decades ago—there was no market for land and land prices were not recognized by law—the episodic bursts of significant reforms during those decades have improved property rights greatly. Successive revisions of the land law introduced prices in 1993, strengthened rights for investors (but not small-holders) in 1998, and finally in 2003 established that market prices should be used and laid out detailed rights and obligations of both land users and state bodies. A

further advance in 2007 came with a decree that provided concrete conditions for recognizing land use rights of current land users even if they lack legal documents. While previously recognized in the law, the 2007 decree added detail making it easier to interpret. The decree also stipulated public and transparent procedures to perform involuntary land conversions. Several other key milestones have been reached in formalizing what was previously a very informal system of property rights, and in strengthening due process, transferability, control and protection.

These improvements in land rights seem to be recognized by the enterprises that participated in the PCI survey. Figure 3.3 shows the average assessments of property rights over the period from 2006 to 2008. Three overlapping panels all tell the same story: firms felt much less risk of losing land to expropriation in 2008 than they did in 2006.

Strong property rights convey many benefits. Owners of property have an incentive to maintain the property and to invest in it to earn the maximum return possible. A system that ensures that the behavior of others does not

**Figure 3.3. Confidence in land property rights**



Source: : Own estimates based on the VNCI and VCCI, Provincial Competitiveness Survey, Overlapping Panels.

### Box 3.5. Leveling the gender playing field with joint land titling

When the 1993 Land Law established private use of land, land use rights certificates (LURCs) issued to households only contained enough space for one name. Typically, the man's name was used which seriously jeopardized women's rights to land, and in turn limited their ability to gain credit or hold on to assets upon dissolution of the family. In 2000 the Family and Marriage Law opened the door to joint titling of all kinds of registered assets, including land and houses, but these provisions could not be implemented until the Land Law of 2003 called for recording of both the names of the husband and the wife on the LURC. While this may be true for new or updated LURCs, it is not true for the majority. According to the 2008 VHLSS only 35 percent of land titles include the woman's name. Nevertheless, introducing joint land titling provides a good example of a reform that supports stronger institutions such as property rights while also supporting another of society's goals, gender equity.

In October 2009 the Government issued Decree 88, on issuing certificates of land use rights, housing and other assets that are attached to the land. The guiding circular, issued by the Ministry of Nature and the Environment calls for one name as the household representative to be registered in the certificate for the household's land. This provision would have the effect of limiting opportunities for women to have their name in the certificate, since the husbands are typically chosen as the household representatives. This circular, which will not take effect until December 10, 2009, may yet be amended in order to include both the names of the husband and the wife on these certificates. Such an amendment would help ensure that joint land titling, a significant mechanism for securing property rights for half of the population, will not be adversely affected.

*Source:* The World Bank. 2008. "Vietnam: Analysis of the Impact of Land Tenure Certificates with Both Names of Wife and Husband."; Tran, Thi Que, 2001. "Land Reform and Women's Property Rights in Vietnam." Center for Gender, Environment and Sustainable Development, Hanoi, Vietnam.

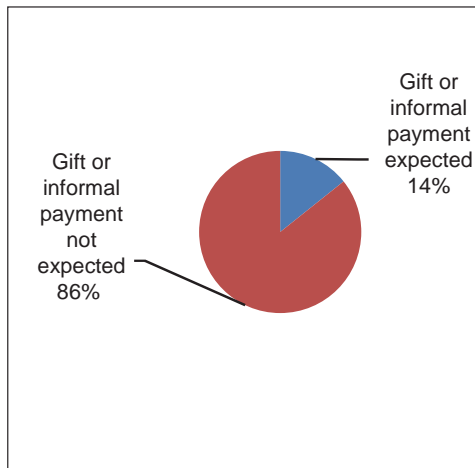
diminish the value of one's property without fair compensation provides a disincentive for welfare-destroying externalities. A fluid market for property, allowing property to be transferred to others, ensures that property will be used for the purpose that generates the maximum economic benefit. A considerable body of research points to strong property rights as a fundamental contributor to long-term economic growth. Ability to take advantage of the benefits of property is also key to equity in society, as explained in Box 3.5.

The improvements in property rights described above are, therefore, potentially extraordinarily important. As Vietnam's economic system comes to increasingly rely on devolved decision making, with arms-length transactions made between firms, confidence in property right will become even more important in a firm's investment decision calculus.

In any system, there will be cases where an individual's or firm's property needs to be taken for public use because the public benefit outweighs the private loss. Such situations are often referred to as "takings." In most countries property can be taken for public use only after paying fair compensation to the owners or right-holders. Such a process can still be consistent with strong property rights if the definition of "public use" is clear and properly circumscribed, if there is a clear and proper understanding of "fair compensation", and if the system allows the owner to contest the decision.

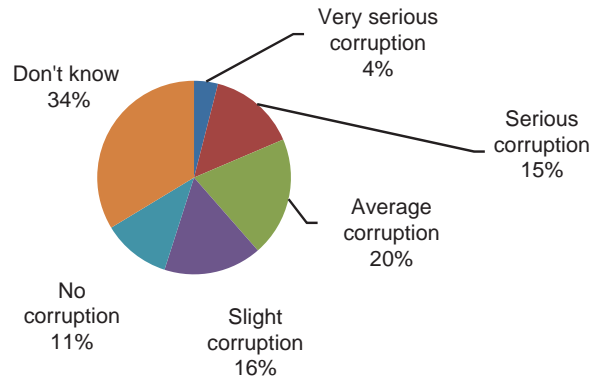
In Vietnam, land issues cut across the devolution process in many ways. The authority to decide on the use and management of land was devolved to the local authorities. The Provincial People's Committees, especially, have gained significant powers on land-use management. They can now make decisions on land recovery, allocation,

**Figure 3.4. Informal payments by firms for Land Use Rights Certificates in 2006**



Source: Own estimates based on the GSO Enterprise Survey 2006

**Figure 3.5. Opinion on level of corruption in issuance of Land Use Rights Certificates (among those who used the service since 2006)**



Note: Based on the subset of respondents who used the service since 2006. The number of observations was 1,352.

Source: Own estimates based on the VHLSS Governance Module 2008

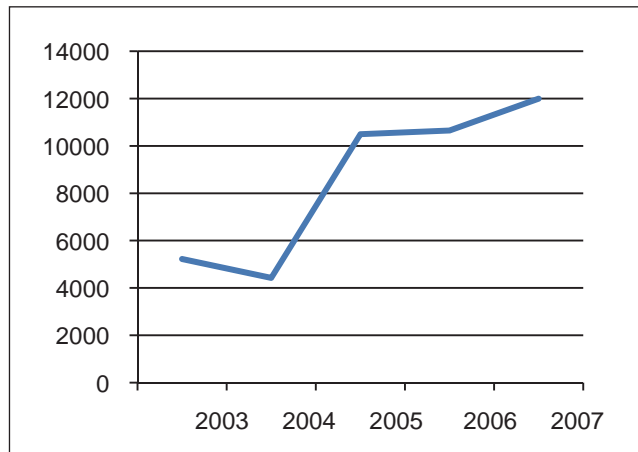
conversion and lease to organizations, religious establishments, overseas Vietnamese and foreign organizations and individuals. Their district-level counterparts can decide on the same issues but for households, individuals and groups of citizens. The Commune People's Committees have almost negligible powers in this regard as they can only decide on the lease of land belonging to the agricultural land fund for use in the public interest.

The process of decentralized land-use management has coincided with a vigorous conversion of agricultural land into non-agricultural land such as industrial zones, export processing zones, urban areas, tourist and commercial areas. The goals of accelerated industrialization and urbanization and increased foreign investment have helped to drive this shift.

The shifting of land use from one purpose to another, or from one land-holder to another, did

not emerge in a balanced way. In this conversion processes, provincial governments officials have strong incentives to favor investors. As provincial governments gained more revenue sources and more authority over how their revenues could be used, the incentive to favor tax-paying investors became stronger.<sup>30</sup> Indeed, in the early 1990s when land prices were first defined, they were determined to be 10 to 30 percent of the price in the land transfer market. With such a wedge between prices, rent seeking by investors was inevitable, and even today corruption in land issues is viewed by many to be rife. (Figure 3.4)

Among the leading causes of concern raised in the Vietnam Fatherland Front's report to the National Assembly, cited in the opening chapter, was the concern over allocation of land and resettlement once land has been re-designated for a new purpose. Indeed, dissatisfaction of land users dominates the league tables of complaints. Depending on the source of information, from 70 to 90 percent of complaints involve land.<sup>31</sup>

**Figure 3.6. Formal complaints related to land issues**

Source: MONRE

Moreover, the number of formally registered complaints on land disputes has increased significantly over time, more than doubling in five years. (Figure 3.6). People have not only complained through formal submission of complaints, but even by going to the residences of party leaders and the state, and to the sessions of the National Assembly and central agencies during the elections of the National Assembly and People's Councils. In one case in the summer of 2007, a demonstration took place in front of the Ho Chi Minh City People's Council, where a few hundred peasants from the Mekong River Delta demonstrated for 27 days.

In some sense, it is not surprising that land issues would generate complaints. As a rapidly growing country in the process of shifting from a primarily agricultural to a primarily industrial system, it is inevitable that land will be reallocated among uses. Indeed, a devolved system with regional specialization calls for development of certain types of infrastructure, notably a road network, that ultimately requires redirection of land from private to public uses.

To shed some light on the reasons for the dissatisfaction, this section will address three

aspects of land conversions: whether to convert land from one use to another, how to change land use fairly and efficiently, and the accountability systems that can help ensure that the system works as designed.

It is important to note that just because a project is worthwhile, this does not necessarily mean that any involuntary procedure needs to be used. Given a high enough price, many land owners would voluntarily sell their rights to use land. Indeed, a test for whether the land is being allocated to its most efficient use is whether voluntary trades have been exhausted.

Two problems increase the likelihood of needing special mechanisms for obtaining land in some circumstances. First, a large project such as a road will cover many different pieces of land, and to be viable an agreement would need to be reached with all of the land owners. With this fact in mind, some may hold out until the last minute for an exorbitant sum. Second, a land owner who is knowledgeable of the plans for the public investment may hold out for a very high price. Such rent seeking distorts incentives and ultimately benefits those with the best connections and the best information. For both

of these reasons, a reliance on wholly voluntary transfers may not yield the best outcome when it comes to public investment projects.

The set of circumstances that define when land can be taken by the state in Vietnam include not only cases that would traditionally be interpreted as for the public good, such as the building of a road, but also cases where the benefits are arguably private. The 2007 decree specifies that land can be involuntarily taken in the following circumstances:

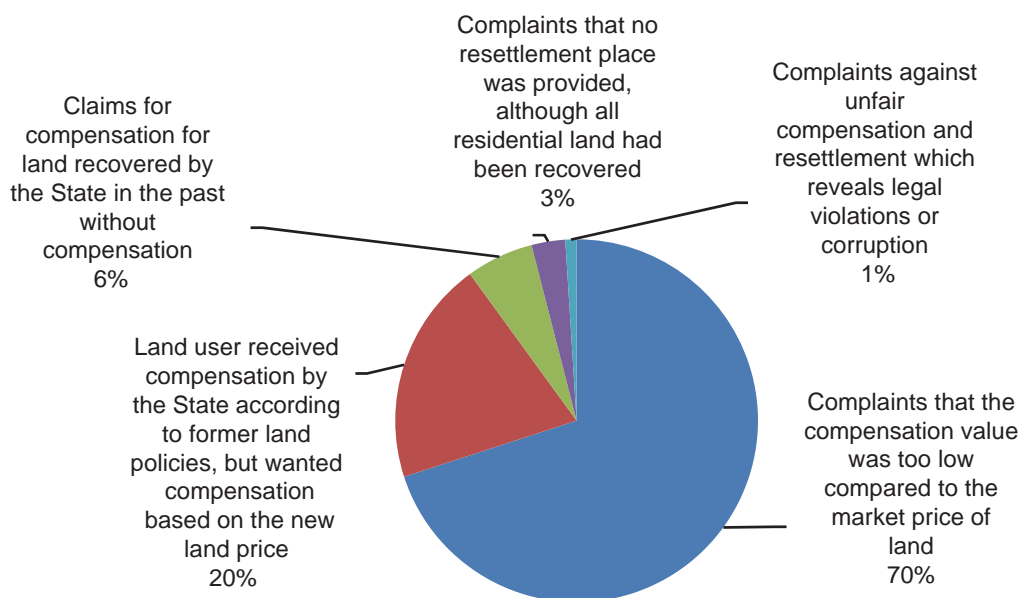
- Land converted to use for the purpose of national defense, security, and national, public interest
- Projects invested by official development assistance funds of foreign governments or international organizations
- Projects invested 100 percent by foreign direct investment
- Investment projects of infrastructure construction for industrial zones, economic

parks, hi-tech parks, urban development or rural residential areas, tourism, areas and cattle-breeding farms

- Investment projects for economic development funded by domestic capital or domestic-foreign joint venture capital with investment amount in the highest amount group (so-called Class A project).

Taking land for public investment will generally satisfy the “public benefit” criteria, since public investment projects such as roads are public goods. But it is unclear why involuntary resettlement is an option for some of the initiatives, simply because they involve foreign investment or are large projects. And indeed, it is the latter type of involuntary conversion that generates the most controversy. A former official from the Ministry of Natural Resources and the Environment analyzed many complaints and lawsuits and found that nearly all cases of disputes are related to investment projects that bring commercial benefits, while the number related to public, non-commercial, uses such as

**Figure 3.7. Administrative complaints against land compensation and resettlement for land recovered by the State, breakdown by cause**



Source: MONRE (2005)

public buildings, defense and security works, were negligible. The inequity of forcibly giving up one's land so that another can profit does not go unnoticed.

If there is a justified and legal need for a public taking of land (involuntary conversion), a new set of questions arise regarding how to go about it and what the level of compensation should be. An analysis of the causes of land-related complaints published by the Ministry of Natural Resources and the Environment a few years ago shows that the most important cause of dissatisfaction is the low compensation to land users for the land which is recovered. (Figure 3.7). Another study, based on a survey of land users in three provinces whose land was recovered, found similar results—there may be other annoyances, but insufficient compensation leads the league. (Table 3.4)

Although the 2003 Land Law requires compensation payments to be based on a land price framework close to the market value, the reality is that compensations are often below market prices. In 2005 price differences between the administrative price of land and market prices in Hanoi could range anywhere between 10 and 100 percent of the market price.<sup>32</sup> Group discussions in a Yen Kiem commune of Ho Chi Minh City in 2007 suggested that the compensation price is normally equal to 20 to 30 percent of the market value. In the Dinh Du

commune in Hung Yen Province, people think that the compensation price is 30 to 40 percent of the market value.<sup>33</sup> Similarly, while firms reported less risk of the expropriation of land (Figure 3.3), they did not report any less concern that compensation would be fair.

Setting the prices administratively, even if meant to be based on market prices, raises several new conundrums. First, the “market” has been very thin, and volatile at that, so estimating market prices is no easy task. Second, there is asymmetric information. Farmers do not know the value of the land for their livelihood or the value of land going forward. This is particularly a problem when land is converted from agricultural to industrial use—asymmetric information about land prices means asymmetric bargaining power.

The 2003 Land Law allowed direct land price negotiation between the investor and the land user for voluntary land conversion, which applies to investment projects other than those for national and public interest, defense and security purposes or economic development projects of great importance. One of the main strengths of voluntary land conversion is that it creates the opportunity for a more equal sharing of benefits between the investor and the land-user, as the latter is empowered, resulting in fewer complaints. It also speeds up the execution of the land conversion, as procedures

**Table 3.4. Complaints in land recovery (percent of land users whose land was recovered)**

Survey areas	Causes				
	Low compensation price	Improper resettlement	Lack of job, decrease of income	“Suspended” project	Others
All three survey areas	95.1	47.3	31.2	42.5	43.2
Hồ Chí Minh city	89.2	35.4	23.0	25.1	23.3
Hung Yên	99.2	55.4	43.0	45.1	63.3
Thái Bình	100.0	57.6	20.5	83.3	42.5

*Source:* Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land Use and Environment Pollution (VUSTA and VIDS, 2008)

**Box 3.6. Land-users' discontent with resettlement areas**

Focus group discussions and in-depth interviews with affected land-users in Ho Chi Minh City, Hung Yen and Thai Binh provinces reveal that most of the households that still have agricultural land do not want to live in the resettlement areas and thus resettlement flats were usually re-sold.. Those land-users who have opted to live in the flat, are not content either, as the design of the resettlement flats is not consistent with their customs because there is no surrounding garden land. The price for land and flats in the resettlement areas tends to also be high and people feel the support levels for movement and resettlement do not meet the minimum demands of the people whose land has been revoked. In some cases, people were forced to move even in the absence of resettlement areas, phenomena that have occurred with some land acquisition projects in Ho Chi Minh City and Hung Yen province.

*Source:* Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land Use and Environment Pollution (VUSTA and VIDS, 2008)

**Table 3.5. Percentage of households lacking production resources after agricultural land acquisition (%)**

Project sites	Lack of production land	Lack of capital	Lack of laborers
In 3 project sites	83.8	66.6	54.3
Ho Chi Minh city	59.5	44.9	49.5
Hung Yên	94.7	68.8	46.6
Thái Bình	97.2	86.1	66.7

*Source:* Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land Use and Environment Pollution (VUSTA and VIDS, 2008)

are very simple. In the view of some, a key problem is that there are no regulations yet for cases in which land-users demand unaffordable prices, thereby constraining access to land by investors. Because of this, most investors prefer compulsory land recovery. Arguably, however, if the investor is not willing to pay the price asked by the seller, then the productivity of the land for the seller is higher, and the land should not be taken involuntarily.

Another major source of discontent among land-users is inappropriate resettlement and support policies (Table 3.4). One set of problems have to do with the resettlement areas and the resettlement processes (Box 3.6).

Perhaps a more serious problem is that after their main source of income (land) is recovered by the

state, many people lack the necessary physical and human capital to continue generating income (Table 3.5). This is even more of a problem if the land-user spends compensation money for non-productive uses. In the study in three provinces, nearly a third of compensation was spent on daily consumption. This problem is naturally closely linked to that of compensation prices. If a farmer's human capital is tied to the land, the value of the land to that farmer will be more than just the market value.

Many of these issues are on track for improvement. In August, the Government issued a decree on Land Use Planning, Recovery, and Compensation.<sup>34</sup> The Decree strengthens both compensation and assistance for parties affected by land recovery, especially by requiring



**Table 3.6. Evaluation of participatory approaches on land acquisition activities in Ho Chi Minh City, Hung Yen, and Thai Binh provinces (% of people)**

Activities	Evaluation level		
	Good	Middle	Bad
Fixing prices for land, property and support	0.0	2.7	97.3
Deployment for each household	0.0	60.4	39.6
Public finance and organization	0.0	33.4	53.3
Financial transparency	0.0	36.3	63.7

Source: Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land Use and Environment Pollution (VUSTA and VIDS, 2008)

compensation to be aligned with the market price at the time of the land recovery decision. The Decree also calls for the establishment of Land Development Funds at provincial and district levels. They will play an important role in land recovery, clearance, compensation and resettlement.

While the devolution of rights over land to farmers and investors, and the devolution of authority to the provinces, have all expanded, accountability measures have generally been adopted well after the devolution of power to provincial governments. Some important accountability measures, such as anchoring compensation to current market prices, participatory urban planning, participation in draft plans on compensation and resettlement, have not been introduced until recently. Other important accountability measures, such as participation in the preparation of land-use plans of provincial governments, remain missing.

Focus group discussions and in-depth interviews in three provinces with affected land-users show that people are also discontented with the very weak participatory approaches applied to the planning of land-use, the setting prices for compensation, the decisions on resettlement arrangements, support for job training and job change, etc. Decisions follow normally the top-down approach. A survey evaluating participatory approaches in these three provinces

for some activities shows mainly negative results (Table 3.6).

The 2008 VHLSS provides national level data for the commune level on the level of awareness and participation of citizens in land-use plans and resettlement and compensation schemes. Only around one out of three citizens who said they were interested in resettlement and compensation plans reported that they have information that meets their needs (Figure 3.1), and only one in seven have provided opinions on such schemes (Figure 3.2).

If involved in a land-related dispute with an administrative agency, citizens face major impediments. The current system to settle administrative complaints suffers from lack of impartiality, as administrative complaints are first settled by the chairman of the local government against which the complaint is lodged. Other major impediments are the restrictions on the jurisdiction of the courts on land-related administrative cases, and the limited powers of National Assembly and the People's Councils, which at most can urge government authorities to settle the complaints (Box 3.7).

The lack of impartiality in the settlement of complaints may explain the fact that settlement decisions usually favor the position of the local government. The case study of Ho Chi Minh City, Hung Yen and Thai Binh shows that local

**Box 3.7. The current system of settling land-related administrative complaints**

The current system used to settle administrative complaints is regulated by the 1998 Law on Complaints and Denunciations, amended in 2004 and 2005. Under this law, individuals and organizations are entitled to lodge complaints against administrative decisions of all levels of government. Complaints are settled by the chairperson of the local government against which the complaint is lodged. After the first settlement, the complainant can further lodge the complaint to higher level government authorities—including heads of ministerial units and ministers—or initiate a lawsuit at court. The Prime Minister provides direction to the settlement of complaints, and retains the power to re-examine the final settlement decisions. The Government Inspectorate provides assistance and advice to all the government authorities in charge of settling the complaints.

The Law on Complaints and Denunciations mandates strict time limits for the settlement of complaints and the 2004 implementing guidelines of the Land Law requires local governments to publicize the decisions on the settlement of land-related complaints, and to notify those decisions to the concerned complainants.

The 2003 Land Law restricts the right of complainants to lodge land-related complaints to the courts, by making second-settlement decisions by chairpersons of Provincial People's Committees final. This restriction was also incorporated in the 2006 amendment of the Ordinance on the Procedures for the Settlement of Administrative Cases, in apparent contradiction of the Law on Complaints and Denunciations, which since 2005 allows judicial review after the complaint has been dealt by any administrative agency.

The National Assembly and People's Councils have the mandate to monitor the settlement of complaints by the government. Complainants are entitled to send their complaints to the National Assembly and People's Councils, but these institutions can only urge competent government authorities to quickly settle the complaints.

*Source:* Law on Complaints and Denunciations (1998, amended in 2004 and 2005); Land Law (2003) and its implementing Decree 181 (2004); Ordinance on the Procedures for the Settlement of Administrative Cases (1996, amended in 1998 and 2006)

governments provide responses to most land-related complaints. However, the responses are mainly to explain and convince the people to implement the decisions adopted by local governments, but decisions are hardly ever adjusted to people's requests (Table 3.7). This strong orientation towards the position of local governments might be partly explained by the lack of impartiality of the settlement system. Other reasons might have to do with the fact that some of the agencies dealing with complaints such as the District and Commune People's Committees hardly have any power to change decisions on land use management and consequently have no choice but persuasion. The case study found out that Provincial People's Committees usually transfer complaints to the District People's Committee and the land acquisition management board, and that District People's Committees

usually transfer complaints to the Commune People's Committee and the land acquisition project management board. Conflicts of interest abound.

As a whole, the government has made significant efforts to improve accountability measures in land-use management. However, the lag between devolving authorities to provincial People's Committees and establishing new accountability measures arguably led to avoidable consequences. Plans to revise the Land Law in 2009 and the Law on Complaints and Denunciations offer opportunities to strengthen accountability further.

Aligning compensation with market prices, a process already improved with the Decree of August 2009, is encouraging, but more can be

done to strengthen accountability. Improving regulations on voluntary conversions and extending these mechanisms to more types of land used for commercial purposes can avoid many complaints of land-users, as they are empowered to negotiate compensation. Similarly, although policies supporting job changes have improved in the laws, it becomes essential to ensure effective provision of vocational training and job-change support in practice. Many land users lose the necessary capital to sustain their livelihoods once they are involuntarily resettled.

Improving the legal framework and policies on participatory land-use planning of provincial and district People's Committees can also strengthen downward accountability. Moreover, strengthening the implementation of existing policies on participatory decision making on

compensation, site clearance and resettlement can help to avoid many problems. Finally, moving towards a more objective and impartial system on complaint settlement can not only make for a more efficient system, but build citizens' awareness about the procedures along the way.

Finally, the seeming incongruence between improvements in property rights over time and an expanding number of complaints related to land and resettlement is at first blush a puzzle. While there are undoubtedly many factors at work, this is consistent with a feature of economic development that is emphasized throughout this VDR: citizens are becoming increasingly demanding of better services and decision making that is more transparent and accountable to them, not only to higher administrative authorities.

**Table 3.7. Percentage of households having received feedback to their complaints on land recovery and types of feedbacks received (Ho Chi Minh City, Hung Yen and Thai Binh provinces)**

Organizations/Areas	Percentage receiving feedback to complaints	Methods of giving feedback		
		Adjust as per people's request	Explain and persuade	Coerce
Commune People's Committee	79.5	1.9	76.7	0.9
Land Acquisition Project Management Board	93.8	2.0	91.9	n/a
District People's Committee	20.8	1.9	17.0	1.9
Farmer Union	80.0	n/a	80.0	n/a
Other CSOs	1.7	n/a	1.7	n/a

*Source:* Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land use and environment pollution (VUSTA and VIDS, 2008)

## 4. ADMINISTRATIVE AND DIRECT SERVICES

*Delegation of responsibilities along functional lines, to providers of administrative services, such as civil registrations, and providers of services, such as health care and education, has been a key part of Vietnam's devolution. One stop shops have been widely implemented to ease access to administrative services, and they are largely successful. An ambitious program of administrative simplification, known as Project 30, is very promising and is receiving top-level political support—the business community has been instrumental in making the benefits of this effort understood to policy makers. As a whole, the system of administrative services is improving, although the pace of progress appears to be faster in richer provinces.*

*There has been considerable devolution of authority to service providers, although the tension between autonomy and the need for standards makes this devolution particularly complex. Information asymmetries are pervasive, and there is a need for strong systems of upward accountability through national standards in order to ensure quality. Misaligned incentives lead to overspending on drugs and some procedures. The entry of non-state providers of services is generally positive, but raises new issues of quality control. Mechanisms of downward accountability, particularly through the use of surveys such as the VHLSS and Citizen's Report Cards, can complement systems of upward accountability. As a whole, surveys tend to show improvement, but also show that citizens are becoming more demanding over time.*

*An increased reliance on self-financing raises concerns about the impact of devolution on the poor and disadvantaged. And the perception of corruption, particularly in health care, raises further concerns over equity.*

While decentralization is often thought of in geographic terms, powers and responsibilities of various sorts have also been delegated along functional lines. Without forswearing the state's responsibility to handle certain functions or deliver certain services, step-by-step reorganization of the way that these services are provided and governed can help improve outcomes in some respects. At the same time, the tension between autonomous service provision and the desire for uniform standards of quality accessible to the whole population presents a challenge for which there is no magic formula. Exploring the mechanisms for balancing

autonomy and accountability has been a feature of Vietnam's development experience for some time.

This chapter examines two different types of functional delegation for which devolution works in very different ways. The first is the delegation of responsibilities to administrative units, often under local government or local affiliates of central ministries. While the previous chapter dealt with the setting of policies at the local level, through planning processes, this section focuses on the devolved responsibility to implement some of those policies. Administrative units, which

provide services such as civil registrations and official documents, are not autonomous in the same way as some of the other bodies discussed in this VDR. Delegation of responsibilities to these units nevertheless has begun to reshape the interface between the state and the population, and begun to re-orient accountability to citizens and firms.

The second type of functional delegation covered in this chapter is the delegation of responsibilities to service delivery units, such as health care providers and schools. Consistent standards of quality have traditionally been ensured by direct provision of these services. But to improve flexibility of financing, and to take advantage of competition, responsibilities have been delegated to increasingly autonomous service providers. The tension between autonomy and accountability is especially important for such a vital set of services; a vacuum in accountability would undermine quality and challenge society's concept of fairness for the provision of these services.

### *Administrative Services*

In 2001, administrative units gained considerable decision-making power over a block grant from the government for administrative expenditures and staff costs. In addition, they were allowed to use cost savings to increase staff remuneration within certain limits. In 2005 these powers were further enhanced.

Although power has been delegated to administrative units to handle certain functions and to manage aspects of their operations, in many cases the central government has moved in the opposite direction, imposing centrally mandated mechanisms aimed at improving efficiency. Chief among these efforts is the process underway to reform administrative procedures with citizens and enterprises. Those reforms started in the 1990s and received a very strong push from top government authorities more recently in 2006, when Vietnam was about to join the World Trade Organization. Presently,

an ongoing program aimed at simplifying, publicizing and improving consultation regarding administrative procedures, is also receiving high level political support.

### **One Stop Shops**

The first set of reforms sought simply to make it easier for citizens and firms to deal with the state through the introduction of One Stop Shops. As the name suggests, the idea was to save citizens and firms from having to visit multitudes of agencies for their administrative tasks, from notarizing documents to registering land to business registration. The first one stop shop was piloted with donor support in 1996 in Ho Chi Minh City, covering a range of services: business registration, construction permits, land use right and house ownership certificates, cultural activity licenses, notarization, legal counseling and advice, citizens complaints and denunciations, and social affairs. In the late 1990s and early 2000s, additional pilots were established in Quang Binh, Quang Tri, and Ninh Binh provinces. By 2003, the concept had taken off. In that year, the Prime Minister issued a decision to make one stop shops compulsory in all 11,000 districts and communes of Vietnam, covering four departments at the province level, six procedures at the district level and four procedures at the commune level. Later in 2007, the one stop shop initiative was scaled-up to all departments and procedures at local levels and was made mandatory for the central-level too. Importantly, the 2007 regulations allowed and encouraged the introduction of "inter-linkage" one stop shop initiatives, which link different administrative levels and sectors, thereby further simplifying procedures for citizens and enterprises.

Implementation has steadily improved: by 2006, two out of three departments at the province level had established their one stop shops, and by October 2009 this had risen to 84 percent. At the lowest administrative levels the implementation of the one stop shop is nearly complete. As of October 2009, nearly 99 percent of departments

#### Box 4.1. The implementation of One Stop Shops in Dak Lak

To understand better how the One Stop Shop model is perceived by citizens in Dak Lak Province, the People's Committee and the Embassy of Denmark organized a user satisfaction survey of One Stop Shops in 14 districts and 30 communes. Based on 1,825 questionnaires and an additional set of in-depth interviews and group discussions with some 300 citizens in the spring of 2009, the research design also included a control group of communes that were outside of the project area. The study provides a valuable snapshot into the operation of the one stop shop in this central highlands province.

As a whole, the results were encouraging. Eighty percent of respondents were happy with the changes in public administration in their communes, especially the one stop shop model. Services such as issuing ordinary papers were appreciated by respondents and the researchers found that this had helped restore trust in the local government in rural communities, and especially among ethnic minorities. According to one respondent, "The attitude has much changed. Previously, they never answered any question and many ethnic people departed immediately if they were not answered. But now the officers are much nicer." Nevertheless, the study also found room for improvement in many communes regarding the sense of responsibility, competency, morality and attitude of the officers serving the one stop shop.

The convenience and simplicity of the one stop shop saved people from having to go through many "doors" as in the past and among other benefits enabled the poor and those who do not speak the Kinh language to access administrative services themselves, without having to pay for the help of others. Despite clear improvements in this respect compared to 2006, the study also found that 20 percent of respondents needed help from others to complete paperwork, and one in ten users of the one stop shop had employed "middlemen". A small proportion, 5 to 6 percent, also paid an extra "fee", beyond the customary fees.

While the one stop shop model potentially saves citizens time, the experience in practice ultimately depends on the complexity of the task, with land transactions taking the longest, as illustrated by the story of one respondent. "Our family has several slots of land and when our children went to college, we decided to sell some slots of land for college fees and living costs. However, to complete the procedure for land transfer, one stop shop officers at both commune and district asked me for many kinds of papers such as Certificate of Origin of Land and other kinds of certifications. I had to travel many times and spend months for this—at least two to four months. So in fact, in some cases, after we fulfilled the requirements, no more buyers could wait."

Problems can be compounded when one stop shop staff work part-time or do not keep to their posted hours. Describing an attempt to get a birth certificate for a new baby, one respondent said "I had to come there five times from Monday to Thursday but could not see them a single day so I stayed home on Friday. On the following Monday, I came for a regular weekly meeting at the commune and saw them and the paper was completed at once."

As a whole, however, the improvements are unmistakable. While only 60 percent of respondents were satisfied with the convenience of the one stop shop when they were first established in 2006, nearly 80 percent were satisfied in 2009.

*Source:* Viet Insight. "Public Opinion Survey on the Effectiveness of Commune and District One-Stop Shops in 14 Districts and 30 Communes of Dak Lak Province." Dak Lak People's Committee Department of Home Affairs and Danish International Development Agency. June 2009.

at the district level and 96 percent of departments at the commune level had applied the one stop shop model.

One example of an inter-linkage one stop shop, laid out in a 2007 circular, is that of a single

stop for undertaking related administrative procedures—business registration, tax registration and seal registration—under the responsibility of different departments: planning and investment, finance, and public security. In Binh Thuan and Kien Giang provinces, for

example, these initiatives helped businesses with registration. Several other localities have also deployed the inter-linkage one stop shop model in other fields: Ho Chi Minh City, Ha Noi, Da Nang city, Hai Phong city, Dong Thap province, and Phu Tho province implemented the inter-linkage one stop shop for granting certificates of land use rights and construction permits; Quang Ninh province organized an inter-linkage one stop shop in resolving files, administrative procedures with investors in the province, etc. The ability to select the mix of administrative services by different localities is a key element of devolution.

By most accounts, the one stop shops are successful.<sup>35</sup> For citizens and firms, the prospect of long lines and unanswered questions are less of a concern than they had been in the past, as illustrated by one large sample survey of users of one stop shops in Dak Lak province in 2009. (Box 4.1) In the Binh Thuan and Kien Giang examples, the time for business start ups reduced from 26 days to 15 days, and from 15 days to 5-7 days, respectively.

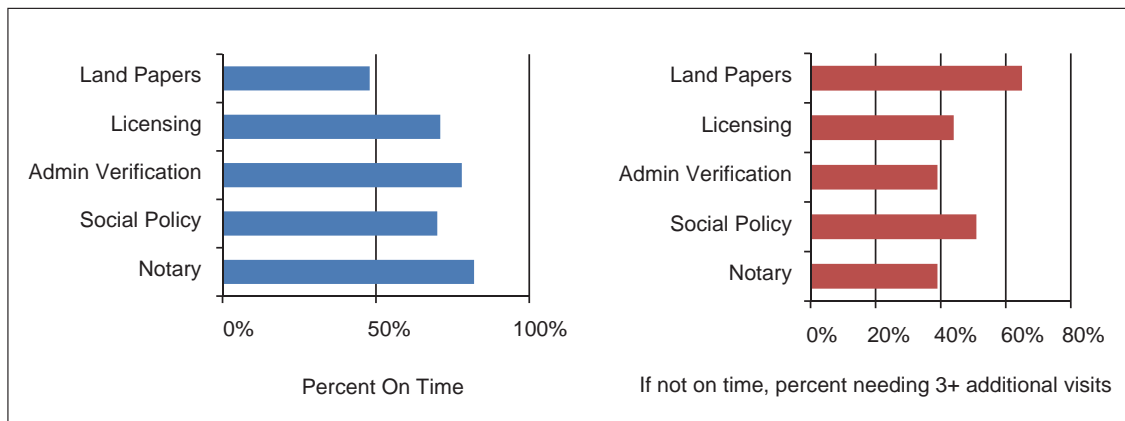
From the citizen’s perspective, the improvements resulting from the adoption of the one stop shop do come with caveats. One is that even if there

is only one stop, for complex administrative procedures the burden can still be formidable. Especially in the poorer rural communes, facilities are often inadequate and the lack of full-time staff can still lead to delays and frustrations. In the survey of one stop shop users in Dak Lak, most reported that the procedures were completed, but many reported that they were not able to complete the procedures on time. (Figure 4.1) In the case of land papers, more than half of respondents said procedures were not completed on time, and more than half of those said it took at least three more visits in order to complete the procedures.

**Information Technology**

Another major on-going reform contributing to the transparency and efficiency of administrative procedures is the application of technology in public administration. The 2006 Law on Information Technology requires state agencies to publicize on their websites all their administrative procedures, among other sorts of information. By now, all the 63 provincial governments have their own official websites operating very well. A 2009 Prime Minister Decision requires that by 2010, 100 percent of ministries, central-level agencies and provincial

**Figure 4.1. On-time performance at One-Stop Shops in Dak Lak**



Source: Viet Insight. “Public Opinion Survey on the Effectiveness of Commune and District One-Stop Shops in 14 Districts and 30 Communes of Dak Lak Province.” Dak Lak People’s Committee Department of Home Affairs and Danish International Development Agency. June 2009.

governments publicize through their websites all the information specified in the Law on Information Technology.

The provision of on-line public services is also progressing rapidly. In 2006, only 2 percent of provincial governments were offering on-line services for businesses, but by 2008 the percentage had risen to 13 percent. The 2009 Prime Minister Decision also set ambitious targets in terms of provision of on-line services. By 2010, 80 percent of ministries, central-level agencies and provincial governments and all centrally-run cities are required to provide some form of online public services to citizens and enterprises. Moreover, during 2009 and 2010 all of these agencies are required to prioritize certain online public services, such as granting of business registration certificates, granting of investment licenses, granting of permits for the establishment of branches and representative offices, settlement of complaints and denunciations, granting of house ownership and land use right certificates, granting of construction permits, etc.

A 2009 study conducted by the World Bank on the application of ICT in local governments shows that a large percentage of provincial

governments have included the introduction of different on-line administrative services in their ICT plans for 2010, although the percentage varies depending on the type of service (Table 4.1).

While the widespread application of e-government is laudable, its impact will be constrained by the limited use of internet in Vietnam. At the end of 2006, only 17 percent of Vietnam's inhabitants were internet users, mainly concentrated in cities, towns and industrial clusters. Many in rural areas are still unfamiliar with the internet. On the positive side, the number of internet users is increasing rapidly, having more than doubled since 2003. Since internet was officially introduced in the country in 1997, the number of internet users has annually increased by 30-40 percent on average. Nevertheless, there will always be a need to provide means of access that work for all, even those without access to the internet.

#### Systematically Streamlining Administrative Procedures

The application of one stop shops and e-government in administrative services aims to improve the interaction between government bodies and the population, both firms and

**Table 4.1. Percentage of provinces planning on-line administrative services for 2010, out of 36 surveyed provinces**

	Percentage of provinces
Registering and granting business licenses through the internet	75
Registering and granting construction licenses through the internet	72
Registering births and deaths	33
Registration of declarations and post-customs clearances	22
Providing online tax declaration service	67
Providing information about kinds of files, procedures, and handling letters of denunciation	69
Providing information about land procedure, land use plan and registering for land use right certificates	53

Source: ICT Development in Local Governments in Vietnam (IVTECH Consultant and World Bank, 2009)



citizens, focusing on the manner in which existing administrative procedures are applied. This addresses part of the problem. A second aspect of Vietnam's efforts to streamline administrative procedures focuses on the procedures themselves. This is the goal of Project 30.

The first phase of Project 30 required all ministries and local governments to gather statistics on paperwork. This phase, which closed on August 15<sup>th</sup> 2009, is now being followed by a second phase, in which ministries and local governments review their administrative procedures to identify a plan for simplification. As part of the second phase, a new on-line national database on administrative procedures was launched in October 2009. The database is an electronic registry of over 5,700 administrative procedures implemented at all four levels of the administration, 9,000 legal documents and 100,000 dossiers with administrative procedures, templates and forms. Publication of this database constitutes a major advance for Vietnam. In the final phase of Project 30, which will run from May to December 2010, ministries and local governments will have to simplify administrative procedures based on the results of the work done under the first two phases.

Project 30's success is important for two reasons. The immediate effect is to simplify procedures, opening space for firms to concentrate on the business of generating value added rather than filling out forms and waiting in lines. As Vietnam strives to compete with its middle-income neighbors, it will need to be sure its firms are not tied up in red tape. The second reason that success in Project 30 is important is for the impact it will have on the process of generating new administrative procedures going forward. There is a risk that after much progress in cutting red tape, creating more space for firms and citizens alike, new procedures could quickly be put in place to fill that space.<sup>36</sup>

A forthcoming Decree on the Oversight of Administrative Procedures is expected to help control this tendency. The Decree will ensure

the systematic and continuous application of the principles of efficiency, transparency and consultation in the development of new administrative procedures and in the revision of existing ones. The draft Decree requires all new administrative procedures of ministries and provinces to be developed in a consultative manner and to be time- and cost-efficient and easily understood by individuals, organizations and government agencies. Ex-ante impact assessments will be mandatory during the development of all new administrative procedures, and all existing administrative procedures will have to be reviewed ex-post on an annual basis by ministries and provinces. The review will have to incorporate the feedback received from organizations and individuals on administrative procedures. Importantly, the draft Decree requires the continuous publication of all new and existing administrative procedures in the new on-line national database.

Another relatively recent innovation strengthens downward accountability in a different way. Decree 20 of 2008 regulates the provision of feedback by organizations and individuals on existing administrative procedures. The Office of the Government, ministries and provinces must publicize the contact information for receiving such feedback and assign civil servants to receive the feedback. Public comments are explicitly required to be studied and handled, including by amending the administrative procedure. The results on the handling of comments must be publicized on the website of the agency and through other means.

### **Strengthening Downward Accountability**

Both the one stop shops and Project 30 aim to ease the administrative burden on citizens and firms and improve relationships between government bodies and the population. In the devolution paradigm that is the theme of this VDR, both of these efforts essentially focus on improving the efficiency of the administrative services units, to whom some powers have been assigned, while allowing the business community and citizens

**Box 4.2. Innovation in building downward accountability at the local level—  
Citizens Report Cards in Ho Chi Minh City**

In 2004, four cities received donor support to conduct surveys of citizens about their satisfaction with state provided services. Ho Chi Minh City stands out as the only one to repeat the exercise—at its own initiative and expense. The value of this new mechanism for accountability was recognized by the city’s People’s Council, who then mobilized the funds to repeat the surveys. This model, whereby the locally elected body sees the value in understanding performance from the perspective of users, shows how downward accountability for results and upward accountability for compliance with the rules, can work in tandem to help us understand the importance and challenges of administrative procedures reform.

Beyond the simple scoring of services by users, those behind the Ho Chi Minh City “Survey on Citizen’s Satisfaction with Public Services”, as they were renamed, went to great efforts to see that the results were used constructively. The surveys themselves—which collected information on difficulties and problems with using services, levels of satisfaction and dissatisfaction, levels of transparency and access to information, and feedback mechanisms—initially faced some challenges. The initial hesitancy, generated by concern about coming into conflict with other government bodies, was overcome by a plan to work closely with those bodies, holding consultations during planning to be sure that the questionnaires were right, and workshops afterward to ensure the results were properly understood. Concern about how the media would report the results was also handled proactively, with a press conference to make clear what the results did and did not say.

*Source:* Report on the Results of Citizens’ Satisfaction Index Survey 2008 for Public Services in Ho Chi Minh City.

to focus on more important issues. But what mechanisms have evolved, and need to further evolve, to strengthen downward accountability?

One is the increasing use of feedback mechanisms discussed throughout this chapter, the surveys of citizens and firms that provide a snapshot of how administrative procedures are being implemented in practice. Both the VHLSS Governance Module and the PCI Survey were implemented by donors and Vietnamese institutions working together, the General Statistics Office and Ministry of Planning and Investment in the case of the VHLSS, and the Vietnam Chamber of Commerce and Industry in the case of the PCI Survey.<sup>37</sup> The Citizen’s Report Cards carried out in Ho Chi Minh City in 2006 and 2008 provide an excellent model for feedback—demanded and paid for by the elected People’s Council and implemented by local think tanks and statistical offices. (Box 4.2) Elsewhere, Citizen’s Report Cards are being carried out with the support of INGOs in rural provinces of Ha Tinh, Dak Lak, and Lai Chau.<sup>38</sup> As one element of what is referred to as a “social audit”, the

citizen’s report cards are gaining prominence as a mechanism for downward accountability. Institutionalizing such efforts would help make accountability the rule rather than the exception. While it is understandable that poorer areas will have difficulty carrying out such studies without donor support, it is unclear why other large cities beyond Ho Chi Minh City have followed this model.

A second mechanism for downward accountability is the integration of civil society and media into the process of administrative procedures reform. Project 30 is notable not only for the ambitiousness of its goals, but for the manner in which the objectives are being advanced by the media and civil society. One of the largest online media organizations, VietnamNet, launched an online discussion of the topic in September 2009, allowing visitors to the web site to provide their opinions on the key problems of administrative reform—hundreds of readers wrote in the very first day with not only complaints, but constructive suggestions for how to improve matters. Encouraging unvarnished

better. Chapter 6 will explore these issues in more detail.

### Views of Citizens

National level studies suggest that streamlining and simplifying administrative procedures has had a positive effect. Citizens responding to the VHLSS Governance Module report low levels of difficulty when dealing with most administrative procedures, although more than one in four respondents reported trouble related to land and housing procedures. (Figure 4.2).

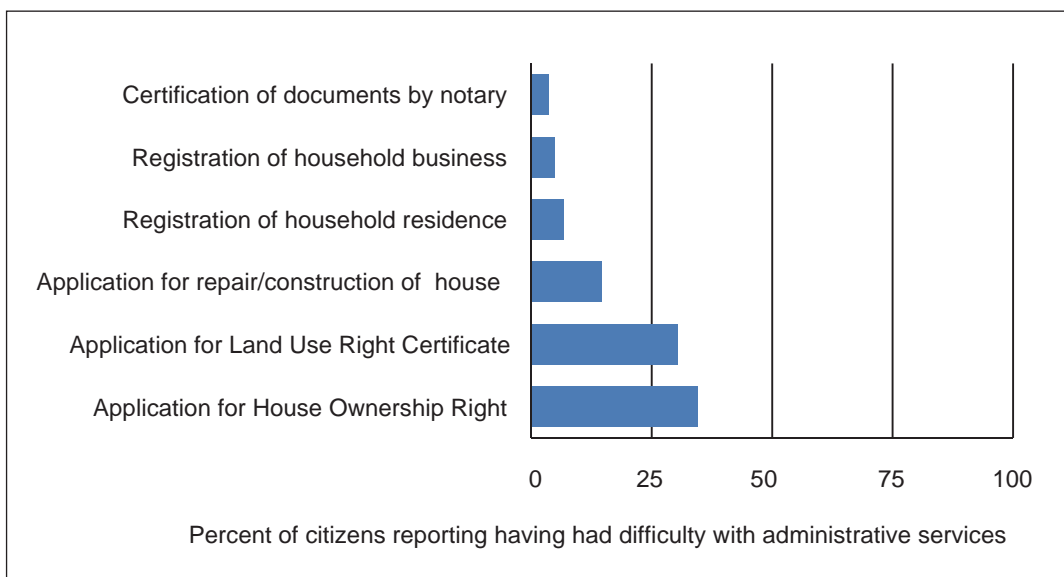
The types of difficulties encountered are indicative of the remaining challenges for improving administrative services. For applications for house ownership rights and Land Use Rights Certificates, the two administrative services with the highest proportion of users who experience difficulties, the time spent was the single most often cited reason for the problems. For both land use rights and house ownership rights, complaints about the procedures themselves—their complexity, opacity, or simply not knowing

the procedures—was cited by nearly half of respondents as the reasons for the problems. (Figure 4.3).

Being able to obtain information on the procedures would clearly ease frustrations of some of those who had difficulties. Citizens were asked how easy or difficult it was to find necessary guidance information. The same two services that were highlighted for the numbers of users who experienced difficulties, house ownership rights and land use rights certificates, were also those for which citizens found it relatively more difficult to obtain necessary guidance information. (Figure 4.4.)

The VHLSS Governance Module also included a direct question on trends related to administrative procedures. Among those who had actually used administrative services since 2006, (and even among those who hadn't), the overwhelming view was that these procedures had gotten easier. (Figure 4.5). While this sentiment was less strongly held in the case of land use rights certificates and house ownership rights than for

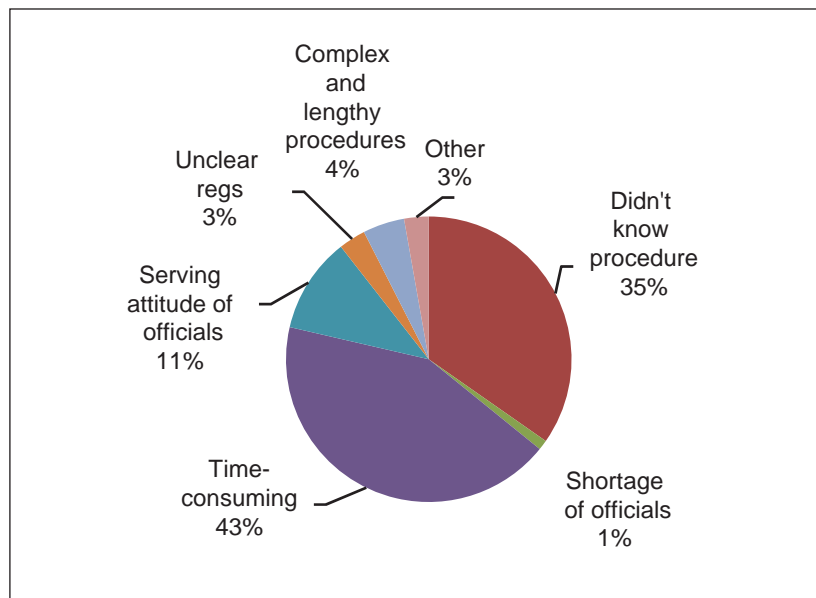
**Figure 4.2. Households that experienced difficulty when dealing with administrative services**



*Note:* Based on the sub-set of respondents who had used the service since 2006. Number of observations used for the chart ranged from 312 to 4,112.

*Source:* Own estimates based on 2008 VHLSS Governance Module

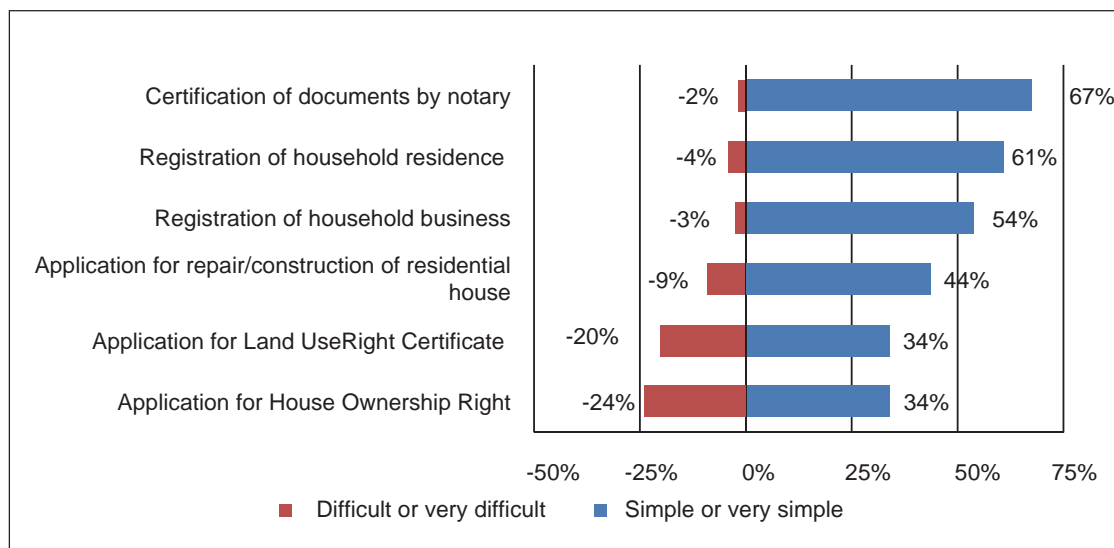
**Figure 4.3. Difficulties when applying for Land-Use Rights Certificates**



*Note:* The chart depicts the responses of only those respondents who encountered problems. The number of observations was 360.

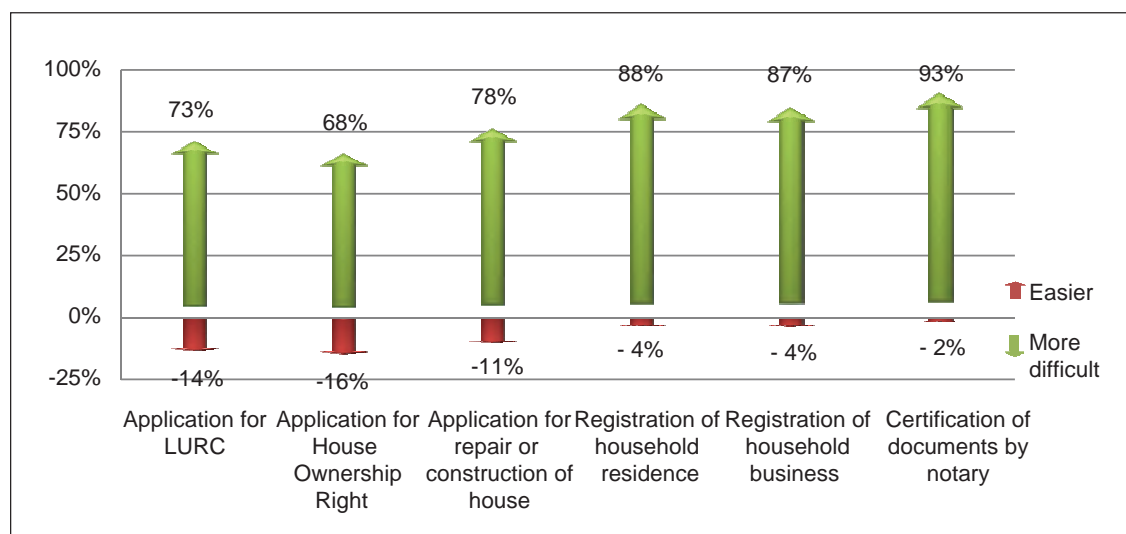
*Source:* Own estimates based on VHLSS Governance Module 2008

**Figure 4.4. Level of difficulty for households to find guidance information on administrative procedures**



*Note:* Chart shows the percentage of respondents saying information on procedures were simple or very simple to obtain, and the percentage saying information on procedures were difficult or very difficult to obtain. Those providing a neutral answer are not shown. Based on the sub-set of respondents who used the service. The number of observations ranged from 215 to 4,112.

*Source:* Own estimates based on 2008 VHLSS Governance Module

**Figure 4.5. Administrative procedures are getting easier, according to households (2006-2008)**

*Note:* Includes only respondents who had used the service since 2006. Chart shows the percentage of respondents saying procedures were easier than before 2006, and the percentage saying procedures were more difficult. Those saying there was no change are not shown. The number of observations ranged from 213 to 3,988.

*Source:* Own estimates based on 2008 VHLSS Governance Module

other administrative services, even for these services at least two thirds of those who had used the service said that things had improved.

While the view that administrative procedures had improved was widespread—in every province there were more reporting improvement than worsening—the degree of improvement was stronger in the richer provinces. This was particularly true for certification of documents by notaries and registration of household residence. Poorer provinces had more respondents

encountering difficulty with finding guidance information about these two services, more respondents facing difficulties and, perhaps not surprisingly, were less positive about the degree of improvement. People in poorer provinces were also less likely to avail themselves of administrative services in the first place.

Extrapolating these patterns into the future as Vietnam and its citizens become wealthier, it is clear that the pressure to further improve these services will not ease. As wages and

**Table 4.2. Satisfaction of citizens with a selection of administrative services in Ho Chi Minh City, 2006 and 2008**

	Construction Permit Issuance		Land-Use Right Certificate Issuance		Public Notary		Business Tax	
	2006	2008	2006	2008	2006	2008	2006	2008
Satisfactory	74.1	57.4	59.3	39.2	78.2	60.2	54.5	37.6
Neutral	9.4	34.3	7.8	41.4	10.6	36.9	17.7	46.9
Not satisfactory	16.6	8.3	32.9	19.4	11.1	2.9	27.7	15.5

*Source:* “Report On The Results Of Citizens’ Satisfaction Index Survey 2008 for Public Services In Ho Chi Minh City”

salaries increase, so will the value of time and consequently the cost of waiting. As Vietnam progresses in strengthening property rights, in the form of house ownership and land use right certificates, citizens will increasingly utilize administrative services. A growing demand for more administrative services, and more efficient administrative services, will be a fact of Vietnam’s development in the next decade.

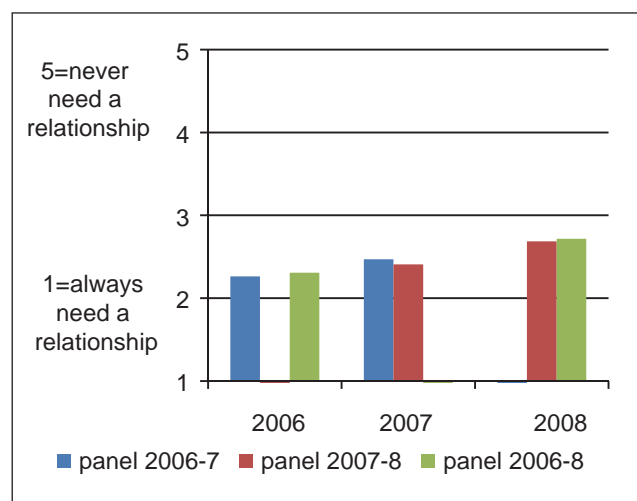
That citizens are becoming increasingly demanding is evident from another source, as well. Ho Chi Minh City’s Citizen’s Report Cards provide an example. The target sample group has not always been the same, since the objectives may be different from year to year. In both 2006 and 2008, however, the sampling and approach were the same. The survey covered citizen satisfaction with several administrative services and makes it possible to examine how citizen satisfaction is changing over time. (Table 4.2.) For each of the services the conclusion was the same: fewer people were dis-satisfied than in the past, but fewer were satisfied as well. As the report concluded, “if the objective is reduction of dis-satisfaction, it can be said that the administrative reform has achieved a certain

progress over the two years; but if the objective is to increase satisfaction, the current reform has not reached the expected objective.” If satisfaction is a moving target, if people are becoming more demanding, then absolute improvements may still fall short of the increasing expectations of the citizens.

**Views of Firms**

The business community also generally reported improvements in the business environment stemming from administrative reforms. By 2008, nearly 90 percent of respondents to the PCI survey said that the one stop shop model had been implemented locally, and nearly as many agreed that the provincial implementation of one stop shops is very efficient and beneficial to business. Two thirds of firms said that administrative procedures reforms to facilitate business procedures had been implemented moderately well. The panel data also suggests improvement. When asked about access to a wide range of documents, from local budgets to planning documents, to tax and business registration data, firms reported easier access and less need for personal relationships with

**Figure 4.6. Getting information without a relationship with provincial officials**



Source: Own estimates based on VNCI and VCCI, Provincial Competitiveness Survey, Overlapping Panels.

officials in order to get the documents. (Figure 4.6.) (Although the trend is favorable, the levels are still very high.)

Mirroring the findings for citizens, the firm level PCI survey also shows that the improvement is felt somewhat more strongly in the richer provinces. Compared to the poorer third of provinces, firms in the richer third were more likely to report improvements in paperwork, costs, numbers of visits required, and friendliness of staff. Perhaps as a consequence, firms in the provinces with lower poverty rates also were more likely to report that informal charges had reduced. It should be noted however, that even generally positive about the trajectory of administrative procedures reform, albeit less so than in the richer provinces.

#### *Direct Services for Citizens—Health and Education*

Among the core functions of the state, provision of services to the population is fundamental. Health and education are where government and the people interact most frequently and most directly. Providing such services efficiently is not only a matter of fairness and the sense of society's responsibility to its constituents, it is also a matter of direct economic importance since such services help ensure a healthy, productive, and satisfied population.

As in many countries, maintaining and improving the quality of services for a young, growing population, while operating within a budget constraint, has been a key challenge for Vietnam. The twin objectives of ensuring adequate funding and developing governance mechanisms that ensure accountability have shaped the evolution of institutional reforms in the education and health sectors, both of which have been the subject of considerable devolution of responsibilities, and the source of emerging challenges in ensuring accountability.<sup>39</sup>

Since the late 1980s and especially in 2002 and 2006, service delivery units in the public sector have achieved substantial autonomy in several

respects, beginning with financial autonomy. Service delivery units were given powers to generate revenues, by charging user fees on core services, setting fees within a band for non-core and on-demand services, and borrowing from commercial banks, among others. They have also been given significant authority over the use of their financial resources, both their self-generated resources and the state block grants. Three types of service delivery units with financial autonomy have been stipulated in the law: fully self-financed, partially self-financed and fully state-financed, depending on whether they recover full, part or none of their recurrent expenditures.

The reforms undertaken since Doi Moi have provided service delivery units not only with more autonomy on financial issues, but also on other aspects of their management. Heads of service delivery units have gained some degree of freedom to raise staff remuneration, and considerable control over human resources and the organizational structure of the service delivery unit. In the health sector, service delivery units have been allowed to engage with the private sector to establish joint ventures and business collaborations and to develop "elective" services for those paying additional fees.

Nearly all service delivery units in the health sector have now implemented the new autonomy policies. In 2007, 100 percent of public health services at central level and 88 percent at local levels had been granted autonomy under both the 2002 and 2006 regulations. At local levels, especially at district level, the "autonomization" of service delivery units has moved relatively more slowly due to insufficient equipment and human resources, and limitations in revenues as well as financial and management capacity.

The rationale for the adoption of the autonomy policy was to improve service quality through increased revenues, larger savings and stronger incentives for good performance. The case of the health sector shows that some positive effects have indeed taken place. Service

**Box 4.3. Decision space in health care**

How much devolution has there been in health care and what have the impacts been? One recent study went beyond the word written in the law, and sought to understand how things are working on the ground. Using a “decision space” approach, the authors used surveys of health officials to identify the de facto degree of devolution along a range of decisions, from personnel policies to financial management, in an effort to better understand both capacities and accountability in Vietnam’s decentralizing system. Their preliminary findings include:

Self-revenues can have an important impact on decision space. Since revenues received in the form of transfers from the central government come with restrictions regarding how they can be spent, provinces with a greater share of total revenue coming in the form of state (central) budget reported lower levels of decision space across the administrative functions analyzed. And since richer provinces tend to be less reliant on transfers from the central budget, richer provinces also tend to have more decision space. When examining the impact on capacities, however, they found virtually no correlation between the share of revenues from the central budget and the composite indicator on capacities.

While there is moderate decision space over financial management decisions, there is relatively less room to maneuver when it comes to organizational issues. The need for the Department of Health’s approval to reorganize departments within a hospital was cited by one respondent as an example of the lack of autonomy.

Institutionalized norms and standards, rather than performance, tend to determine a large majority of health sector budgetary allocation. The authors also found that a combination of resource capacity constraints and rigid administrative norms restricted decision space and were the main drivers of dissatisfaction with administrative arrangements.

In analyzing the use of data for decision making, the authors found that while there is great emphasis on collecting timely data, the use of that data for setting priorities, planning and monitoring is less well established. In addition, supervision of data quality is weak.

*Source:* Thomas J. Bossert, Andrew Mitchell, Nathan Blanchet. “Governance and Decentralization of Health Systems in Vietnam: Analysis of Provincial Organization, Decision Space/Accountability and Capacity.” Draft for discussion. August 31, 2009.

delivery units in the health sector have cut administrative costs by eliminating unnecessary expenditures and allocating a fixed expenditure budget to separate departments. Managers have become more dynamic and entrepreneurial, organizational structures have been enhanced and existing human resources have been used more efficiently.<sup>40</sup> Moreover, the quality of recruitment and appointment of key personnel has improved, and competitiveness among health service providers for quality, price and customer service has increased. For all of these improvements, however, the extent to which benefits can be realized depends in part on the extent to which autonomy truly exists. A range of factors, from features of the laws and supervision to organizational momentum

can constrain “decision space” for managers of health care facilities, as illustrated by one recent study. (Box 4.3.)

Some of the most important positive effects have taken place unevenly, benefiting certain facilities. In most central-level and provincial-level hospitals, the amount and varieties of revenues have increased. In contrast, the trend is not so clear for district-level health facilities. A 2008 study<sup>41</sup> found that revenues are increasing in half of district hospitals and decreasing in the other half. Revenues from health insurance are increasing at the district level, but user fee revenues are declining and revenues from “elective” services are limited.



Uneven patterns can also be observed in the mobilization of private investment and in the increase of salaries of staff in service delivery units. In the health sector, central facilities and those located in large provinces and cities tend to mobilize more private funds to upgrade facilities and equipment than hospitals in districts, uplands, remote and disadvantaged areas. Large income-generating hospitals can significantly expand upon the basic salary by a factor of 1.5 to 2.5 times, while many other hospitals are facing huge difficulties in generating additional revenues to increase salaries.<sup>42</sup> A case study of the Ha Tay province<sup>43</sup> shows that after one year of implementing the financial autonomy policy, 19 out of 21 hospitals have been able to add between 1 to 20 percent to basic staff salaries. Only two big hospitals, the Ha Tay General Hospital and the Ba Vi Hospital, managed to add 46 and 55 percent, respectively.

The result of these changes is that a two-tier system of service delivery seems to be taking

root, at least in the health sector: one capable of offering high quality services and attracting and motivating qualified staff, and another one much less capable. Migration of qualified staff to the locations with better-performing and higher-paying service delivery units could make the two-tier system even more pronounced.

While autonomy and the ability to spend own revenues somewhat more freely can generate positive incentives for health care facilities, they can also generate undesirable incentives. Because the generation of revenues can result in higher remuneration, there are strong incentives to over-provide services, particularly when payments to providers are based on fee for service, and to focus on providing those services that are more profitable. In the health sector, overuse of diagnostic tests, expensive technologies and drugs is apparent.

These incentives are generated for other reasons, as well. First, profit-sharing arrangements with

#### **Box 4.4. Competition and rent-seeking in pharmaceuticals**

Although total spending on health care in Vietnam is typical for countries at its level of development, out-of-pocket spending is much higher. While some of this is attributed to spending on hospitals visits, especially the official fees and informal payments, the impact of out-of-pocket spending on medicines has been largely neglected. Out-of-pocket spending on medicines are large and regressive. For the poorest quintile of the population, nearly 15 percent of non-food expenditures go for medicines.

As with other sectors, free entry is typically assumed to help ensure that profit margins are low. However, the market for drugs is not a standard commodity market, for three main reasons. First, there is a large information asymmetry, leading consumers to rely entirely on the advice of doctors, who often rely in turn on the marketing of sellers. Second, reimbursement rules from social insurance can distort the incentives faced by buyers. Finally, for both of these reasons, corruption in key steps of the value chain, including customs and hospital procurement, further distorts prices. The first reason is common to all countries, the second varies by country, the third one is serious in Vietnam. Taken together, the impact of these three market “imperfections” can be sizeable.

With issues this complex, it would be naïve to think that market entry is enough to remove distortions. The right policy mix entails a combination of measures. First, stronger information systems to avoid fraud include social security modernization to monitor doctors’ prescriptions, and customs modernization for more effective monitoring of shipments. Second, improvements in social insurance reimbursement rules entail stronger enforcement of referrals (i.e., requiring visits to lower-level hospitals first), and removing the bias toward imported medicines. Third, improving hospital procurement can be achieved by ensuring that winning bids be technically better or cheaper, whereas now they are often neither, and disclosing all bids, not only the winning bids.

*Source:* Nga Nguyet Nguyen and Martin Rama, forthcoming. “Competition in Vietnam’s Pharmaceutical Market.”

private providers for medical equipment and higher rates of regulated fees for the newer technologies create incentives to overprescribe services that require such equipment. In some public hospitals, medical staff working in the hospital have a direct and strong incentive to inappropriately refer patients for tests or other services from which they will personally profit. Second, the possibility to provide “elective” services for those patients paying additional fees creates incentives to become heavily profit-driven.

Inappropriate incentives from drug distributors to health facility staff may lead them to prescribe the more expensive drugs, or multiple drugs, or excessive quantities, even if unnecessary or inappropriate. Even if the drugs are appropriately prescribed, there is also some evidence that bidding and procurement processes, now undertaken at the facility level, do not always lead to the cheapest drugs being available for patients. This is a significant issue, for both

patients and the Government, considering that approximately half of total health expenditure relates to pharmaceuticals. While competition can help ensure reasonable costs for many items, systemic distortions caused by information asymmetries and health insurance reimbursement rules can neutralize the impact of competition. (Box 4.4).

Despite the powerful incentives to generate revenues and increase remuneration, in many cases the current system is proving to be insufficient to reward performance. In reality, few public health facilities have sufficient income to greatly increase pay. In addition, many facilities have set up internal spending regulations so that the amount of additional payments to staff are more or less proportional to the combination of salary coefficient and supplement rates, rather than using the opportunity to create real incentives for better performance as allowed in the 2002 regulations. A recent analysis by the Ministry of Health on the remuneration system concludes that while official salaries ensure a

#### **Box 4.5. Self-financed public schools and kindergartens in Ho Chi Minh City**

In 2008 the Fatherland Front Committee, in collaboration with relevant local government departments, undertook a study to analyze the effects of the policies of autonomy and socialization in the education sector in Ho Chi Minh City. In District 3 and Go Vap District, two secondary public schools and two public kindergartens under the self-financed modality were surveyed. The findings included:

All of the four surveyed units reported problems due to low income of teachers or low level of regulated fees. All of them directly or indirectly suggested that the low level of fees was a key underlying cause of their problems. One kindergarten reported that fees and salaries had been unchanged since 2002.

Several serious consequences were reported. The four units were suffering from high-turnover of teachers, excessive use of temporary teachers and resignations of teachers, clearly affecting the quality of teaching. Two units were found to be admitting pupils too easily, and as a result they had many students with low educational qualifications. One of the secondary schools, which had previously been public and then semi-public, saw a drop in the number of enrolled students after changing to the self-financed modality.

The surveyed schools and kindergartens made various recommendations for improvement. All of them requested more state financial support. Two units even proposed to consider eliminating self-financing public schools and kindergartens, especially those with a small number of children, and convert them to publicly financed schools. One secondary school suggested that an alternative could be to raise the tuition fees of some types of schools and reduce the tuition fees of other schools so that the fee level is the same for all types of public schools, regardless of the method of financing.

*Source:* Vietnam Fatherland Front in Ho Chi Minh City. 2008. “Overview of the Survey Results of the Socialization of Education in District 3 and Go Vap District”

stable minimum living for health workers, they do not encourage health workers to fully exploit their professional qualifications to protect the health of the people. The study finds that the current remuneration system in some cases does not appropriately reward people for their level of productivity.<sup>44</sup> Part of the explanation for difficulties in adequately remunerating staff has to do with the regulations on user fees. The user fee scheme established in 1994 has not yet been revised and many fees were set without proper costing or regular updating. All this has led to a gradual erosion of the surplus of revenues over expenditures required to cover the increases in official remuneration for autonomous public service delivery units, including almost all public hospitals and preventive medicine centers.

In the education sector, the picture appears quite similar. A recent study by the Fatherland Front Committee in four districts of Ho Chi Minh City has found that the income of teachers in self-financed public schools and kindergartens has increased, but not in line with their efforts and applicable policies.<sup>45</sup> The low levels of regulated tuition fees are reported to be a key cause, and consequences include high turnover of teachers, easy admissions, and loss of students. Some schools and kindergartens are even proposing to eliminate the self-financed modality.

User fees and insurance reimbursements at the levels currently regulated probably contribute to the fact (or at least the widely held belief) that total remuneration of staff in service delivery units is low. The practices of simultaneously working in the private sector and demanding or accepting bribes and “envelope payments” from service users in order to obtain additional income are reported to be very common among the staff in the health and education sectors. Both practices, however, have downsides. The former reduces the time and effort of staff in the public sector, and the latter results in inequalities and unethical behavior. (Box 4.6) Regulations explicitly prohibit health professionals from asking for bribes or gifts, but these regulations are not strongly enforced. There are also recent regulations explicitly prohibiting public health professionals from establishing or participating in the management of private enterprises such as private hospitals. Nevertheless, working after hours in private health facilities is currently allowed and encouraged.

#### Non-State Providers

Devolution in health and education extends not only to public service facilities, but to non-state providers, as well, including the private sector and civil society organizations (CSOs).

#### Box 4.6. The downsides of “envelope payments” in the health sector

The current policy on health insurance for the poor does not cover the cost of envelope payments which are common in Vietnam. Patients unable to make envelope payments may be underserved, receiving inadequate treatments or treatment of poor service quality. The “culture of envelopes” also leads to unethical behavior among medical personnel. Families with hospitalized members suffer intense anxiety about when to make payments, how much the payments should be, and to whom the payments should be made.

News articles confirm the existence and the magnitude of envelope payments. Anecdotes tell about doctors demanding payments of more than 1.5 billion VND before surgery; patients having to bribe the anesthesia team 200,000 to 500,000 VND, nurses allegedly giving poor care because the patient (or the patient’s parent in the case of children) did not provide an envelope of 10,000 or 20,000 VND; the elderly father abandoning treatment because of the number of envelope payments his family had to make; doctors requesting 100,000 VND for each member of the surgical team; requiring bribes for safe delivery or for care of newborn; delaying admission to the hospital or delaying a clear diagnosis and treatment until bribes were paid.

*Source:* Sarah Bales, 2008. “Human Resource Financing Issues in Health Sector”.

Participation of the private sector in the delivery of health and education services has been allowed since 1993 and 1994, respectively, and has steadily expanded. A policy of “socialization” of public services was launched in 1999, aiming at promoting the role of non-state actors in delivering health, education and other services. This policy was upgraded in 2006, by granting some preferential policies to non-state service delivery establishments such as reductions or exemptions in taxes and fees, and preferential conditions for state credit, land use and land lease. In addition to these preferential policies, non-state establishments were allowed to raise revenues from various sources and distribute

profits to their capital-contributing members.

Recently, the preferential policies for non-state establishments have been made stronger, for example with a tax holiday for four years. The new regulations have purportedly extended the preferential policies to private enterprises although there remains ambiguity about which types of CSOs can benefit from the preferential policies.

The number of private enterprises and CSOs engaged in the provision of public services has significantly increased over time. The number of private clinics recognized by the Ministry of Health reached 30,000 by June 2004. The

#### **Box 4.7. Role of civil society organizations in improving access to health and education**

CSOs can play a positive role in improving access to services and broadening the variety of services, as several examples illustrate. The NMBC (Nourishing Mind and Body Center) is a health-related CSO. Using exercises and other physical activities (DSTT methods) involving no medicines, members treat their illnesses and pains. Because learning and practicing DSTT methods is inexpensive, the center is particularly eager to reach poor people with ailments that can be alleviated or cured by the techniques. The center and its affiliated groups do not demand a fee; people wanting to use DSTT methods contribute nothing or whatever they can afford. Today, clubs and associations of practitioners and their trainers exist in more than 32 provinces and cities throughout Vietnam and practitioners number more than 130,000, including local authorities and Party members. The spread of DSTT indicates that people are benefiting, and the organization, through its numerous publications, has reached many more people.

In the education sector, the Disabled People Mutual Assistance Association (DPMA) provides another example. This CSO started in 1995 as a mutual assistance group for people with disabilities in Xuân Lộc district, Đồng Nai province. In 2001, the association established a facility for teaching vocational skills, fine arts, and other endeavors, and became one of the founding members of a national association of disabled people’s enterprises. In 2006, it started an informatics training center in which disabled people are charged lower fees than other students. The association has established other mutual assistance programs for disabled people and their families, such as a credit system to establish small businesses or go to school. DPMA also assists association members to find employment. DPMA now has seven chapters with 226 members. Government agencies have bestowed numerous awards on the association and its founder.

CSOs also play an important role in the response to HIV and AIDS in many ways: prevention, treatment, care and support, behavioral change communication, counseling and testing, harm reduction, and to a lesser extent, policy development processes. Local NGOs and HIV self-help have increased in the last years, with over 60 groups and 4,000 members in self-help groups. Informal networks are numerous and many members from community based organizations are participating in policy development processes and fighting stigma and discrimination towards people living with HIV. Key populations at higher risk, including injecting drug users, sex workers and men who have sex with men are more involved in delivery of services and referrals to vulnerable populations and to those in need of care and treatment for HIV.

*Source:* “Forms of Engagement between State Agencies & Civil Society Organizations in Vietnam” (VUFO-NGO Resource Center, DFID and Embassy of Finland, 2008). “Third Country Report on Following up the Implementation to the Declaration of commitment on HIV and AIDS” (Ministry of Health, 2008).

number of non-public facilities is much lower in the education sector than in the health sector. In the school year 2005-2006 there were a total of 747 non-state schools, out of which 81 percent were upper secondary schools. In the same year, there were only 16 private universities and colleges, capturing a modest seven percent of the total number of students enrolled in universities and colleges. The number of social and charity funds—the CSOs that are most focused on social service delivery—reached around 200 in 2005.

Allowing and encouraging service delivery by non-state actors can generate positive results, such as increased outreach to the population and a wider variety of services. Importantly, it can create competition for public sector services, and provide a measure of accountability along the way. In Vietnam, many of these positive outcomes are evident. The private health care sector has absorbed a large proportion of outpatients, relieving the overcrowding in public facilities and providing more convenient conditions for the public in need of health care. Some private hospitals have invested in advanced technologies, which allow patients to obtain more sophisticated treatments in Vietnam. The engagement of CSOs in service delivery has significantly contributed to improving access to health and education services, especially for the poor and disadvantaged groups. It has also helped expand the range of services, as described in Box 4.7.

Despite their positive contributions, private health facilities face important constraints for their establishment and operation: the high tax rate, the lack of convenient location for their development, the administrative procedures involved in the construction of private hospitals, and the shortage of adequate human resources.<sup>46</sup>

There are also constraints for non-state actors in the education sector. The study by the Fatherland Front Committee in Ho Chi Minh City found a scarcity of funds for allocating land to non-state schools and for undertaking land clearance and compensation. Many non-state schools are not

allocated land, but instead they are offered land for lease. Often those who lease land to non-state schools are not the original land-users, but individuals or organizations leasing land themselves from the land-users, which makes tenure risky. A 2008 World Bank study on higher education found that the regulations on the entry of private and foreign universities are restrictive and opaque. Licensing provisions for establishing non-public higher education institutions are still unclear and at times contradictory.

By their nature, private providers have a strong profit orientation. While the quest for profits helps drive economic growth, this does not always lead to optimal results. Most private health facilities in Vietnam only offer services for which costs are easy to recover, including lucrative tests and clinical imaging services. In many cases, they overuse high-level technologies and expensive medicines. They are typically located in areas with rich patients, such as large cities and better-off regions. There are a large number of unlicensed private practitioners, and public doctors providing private services account for about 70 percent of the total number of private doctors.

Lack of compliance with rules by private providers does not seem to be a widespread problem in the education sector. In the private schools and kindergartens in Ho Chi Minh City surveyed by the Fatherland Front Committee, the teaching staff was deemed to meet professional standards and was teaching the appropriate subjects as regulated by the Ministry of Education and Training. In education, the impact of profit-making incentives was mainly in terms of very high tuition fees, far above those in the public sector. However, this was not reported to be a problem, as tuition fees were determined in accordance with the financial situation of the majority of the parents.

Incentives to increase profits can also take place among CSOs—nominally not-for-profit organizations—because the current regulations allow them to generate revenues from various

**Table 4.3. Government and household expenditure in the health sector**

	2002	2004	2006
Government Expenditure (VND billion)	11,932	14,260	24,578
Household Expenditure (VND billion)	15,576	25,251	38,107
Government Expenditure (% over total)	43.4	36.1	39.2
Household Expenditure (% over total)	56.6	63.9	60.8

Source: 2008 National Health Accounts, MOH

sources, including from bank deposits and bonds, joint ventures or partnerships, and the provision of non-core goods and services, and to distribute the profits among the capital contributing members. In addition, the current incentive structure can result in the abuse of the very generous preferential policies granted by the government to non-state providers.

#### Financial Burden on Users

One potential effect of the policies of autonomy and socialization together is the increase in the financial burden on service users, possibly limiting access to services, especially for those

households with low income. With the growing reliance of public service delivery units on generating their own revenues and with the proliferation of for-profit private providers, the financial strain on service users becomes more acute. Because the first regulation granting broad autonomy of public providers (Decree 10) was issued in 2002, and because several milestones in both autonomy and socialization happened after that, 2002 serves as a reasonable starting point for examining the evolution of the financial burden on service users.

In the health sector, the overall expenditure of households has increased by almost 150

**Table 4.4. Household expenditure on health and education out of total household expenditure**

	2002	2004	2006	2008
Health expenditure				
All households	5.22	6.14	5.67	5.92
Urban areas	4.19	5.47	5.04	5.07
Rural areas	5.55	6.39	6.14	6.52
Poor households	4.37	4.80	3.88	4.72
Non-poor households	5.51	6.42	5.77	5.98
Education expenditure				
All households	4.48	4.65	5.64	5.36
Urban areas	5.38	5.19	5.82	5.37
Rural areas	4.19	4.46	5.51	5.35
Poor households	3.69	3.72	3.87	3.74
Non-poor households	4.75	4.48	5.74	5.44

Source: Own estimates based on VHLSS

percent between 2002 and 2006, and household expenditure represents a very high percentage of total expenditure in the health sector (61 percent in 2006). Government expenditure in the health sector has also increased, but not at the same pace as household expenditure, except during the 2004-2006 period. (Table 4.3). The percentage of poor covered by government-subsidized health insurance jumped from about 10 percent in 2004 to almost 40 percent in 2006.<sup>47</sup>

The VHLSS can provide additional insights on the financial burden on households. For both education and health services, the VHLSS shows that household expenditure on these services relative to their total expenditure has increased since 2002. Poor households bear a lower financial burden relative to their total expenditure than non-poor households, for both health and education services, although as a share of non-food expenditure the poor may pay more. Households in rural areas bear a significantly higher burden than their urban counterparts for health services. For education services, the burden borne by rural households was initially lower than that of the urban households but by now it is about the same. (Table 4.4)

The fact that expenditures on health and education relative to total household expenditure are lower for poor households may be partly due to government support policies for the poor and other disadvantaged groups. In the health sector, Health Care Funds for the Poor (HCFPs) play an important role in supporting poor households with their expenditures on health services. Provincial HCFPs were created in 2002 to cover the costs incurred by the poor, ethnic minorities and other disadvantaged groups. In 2005 HCFPs were used to purchase health insurance cards for the disadvantaged groups instead of being used for directly reimbursing public health care providers. Since then, the number and percentage of poor people covered by a health insurance has grown substantially. Resources of the HCPF are relatively well targeted towards the intended beneficiaries, with modest leakage. However the program has not yet covered all

the vulnerable groups<sup>48</sup>, and poor provinces are in a weaker position to adequately finance the 25 percent of the program not covered by the central budget.

In the education sector, there are programs designed to help poor children stay in school, consisting of exemption from and reduction of fees and contributions, provision of textbooks and notebooks and scholarships for very poor pupils. The components vary in terms of financing and coverage. Exemptions from school fees and contributions have received more funding and cover a larger share of the population than other components. However, as of 2005 the coverage rate of children benefiting from exemption mechanism remained quite low among the poorest and near poorest households, especially for primary school.<sup>49</sup> In 2008 measures were adopted to further protect the poor. A related measure was the establishment of concessional loans for students, to be implemented by Vietnam Bank of Social Policies. As of April 2008, around 600,000 students had received credit, for a total of 4.5 trillion VND.

Support to poor households is necessary but not sufficient. As explained earlier, there is a clear divide between urban and rural areas and between central and local levels. Households in rural areas and at local levels—even if they are not officially poor—suffer from a higher and more rapidly growing financial burden. One reform avenue that is currently being considered in this regard is targeted support for facilities in highly disadvantaged areas. For health curative care, the government is planning to make subsidies to facilities based on the rule that the lower the level or most disadvantaged the facility, the higher the subsidy, so as to compensate for the lower capacity for cost-recovery of the facility.

Adequate regulation of user fees levels can also avoid placing excessive burden on households and ensure access to services. As explained earlier in this chapter, the levels of the regulated user fees are generally low, even posing financial difficulties for the self-financed public providers.

**Box 4.8. Reforms in education user fees**

In June 2009, the National Assembly adopted Resolution 35 introducing several reforms on education financing. Some of the provisions of Resolution 35 aim at reforming user fees:

- For public preschool and general education, school fees must suit economic conditions of each area and the actual contribution capacity of people.
- To continue free primary education.
- For preschools, secondary schools and continuing education centers, school fees will be exempted for pupils who are children of people with meritorious services to the country, policy beneficiaries and poor households will be exempt from user fees, and will children of near-poor households will have fees reduced.
- For public vocational training and tertiary education, school fees shall be collected on the basis of sharing of training costs between the State and trainees. In the initial years, total school fees of public training institutions will account for a maximum of 40 percent of total regular expenditures, which will incrementally increase in subsequent years in line with the school fee policy renewal roadmap. School fees will be exempted and reduced for pupils who are children of people with meritorious services to the country and policy beneficiaries, and will be reduced by 50 percent for students who have completed lower secondary education to attend vocational training.
- The State will grant school fee subsidies for preschool, general education, vocational training and tertiary education institutions admitting pupils and students entitled to fee reduction and exemption.
- To grant school fee subsidies for children of people with meritorious services to the country and policy beneficiaries to learn at non-public schools and general education schools.
- Education and training institutions will be allowed to implement high-quality programs and collect corresponding school fees to cover training costs.

*Source:* National Assembly Resolution No. 35, June 19 2009, “On Guidelines and Orientations for Renewing Some Financial Mechanisms in Education and Training From the 2010-2011 School Year to the 2014-2015 School Year”

The concern lies more in the fact that several fees are largely unregulated. Public providers can decide freely on fees for “elective” services, and can set fees on non-core and on-demand services within a given band. Private providers, on the other hand, are quite free to set fees to the levels that maximize their profits. A survey conducted by the Health Strategy and Policy Institute in 14 provincial and district hospitals found that there are usually two different user fee schedules, one for normal services and one for “elective” services, and fees for such services vary substantially across hospitals. While this can help boost the revenues of providers, it can also have important financial repercussions for service users.

In the education sector, some reform of the levels of user fees have been adopted to mitigate the financial impact on students and their parents

of the autonomy and socialization policies. One of them is the prohibition on charging fees at the primary level. However, in reality, parents do pay fees in addition to other “voluntary” contributions, which are levied per child and vary little with ability to pay. Tuition fees at the secondary level are to be revised to better reflect market conditions and differentiate the fee levels depending on the contribution capacity of the people. (Box 4.8).

Finding a balance between setting fees that are reasonable and affordable for the majority of service users and ensuring the financial sustainability of service providers is clearly an important challenge for the coming years. Better adjusting and differentiating fees could be considered for the health sector, mirroring the recent reforms in the education sector. A more careful evaluation of the impacts of unregulated



fees, an expansion of policies to protect the poor, and the development of policies to directly or indirectly support households in rural areas and local levels also deserve due consideration.

### Accountability Through Standards

The increased autonomy gained by service delivery units and the prominent role of non-state providers in health and education, has arguably led to some positive results. But the tension between delegated power and the need to maintain standards calls for shifts in the accountability mechanisms to fit the new arrangements, both upward accountability for compliance with national standards and downward accountability to users.

Indeed, new mechanisms for upward accountability have been introduced in parallel to the autonomy policy. Heads of service delivery units have been made responsible for decisions on financial and human resource management. Furthermore, to ensure that revenues are used to improve services, the central government has imposed caps on staff salaries and has required all service delivery units to set aside 25 percent of their net revenues to invest in service quality before making additional payments to staff.

Some progress has also taken place in the adoption of national quality standards for staff and facilities, which constitute an important form of upward accountability. In 2004, minimum quality standards for primary schools nationwide were adopted, covering a wide range of aspects: physical infrastructure, teaching staff, school organization and management, social participation in education, education activities and quality, and expected education outcomes. The standards did not only guide resource allocation, but also served as a lever to facilitate monitoring, both at the central and the provincial levels. In 2007, performance standards for teachers in primary education were extended nationwide. The implementation of these standards was required to provide evidence-based assessment of teacher performance, as opposed to diplomas and seniority.

The Ministry of Education and Training recently issued criteria to evaluate the principals of schools at the secondary level. A total of 23 sub-criteria will evaluate the political quality, professional ethics, professional skills and school management abilities of the principals. The criteria describe a “good” principal as one who is “decisive, innovative, able to make proper decisions and responsible for his/her decisions”. The evaluations will be made by the principals themselves, their deputies, other school officials, teachers, and the head of the government agency that directly manages the principal. Importantly, the evaluations will be used for decisions on promotion, dismissal and other actions.

In tertiary education, improving external quality assurance and accreditation in tertiary education is a major goal of the government. A new department of Assessment and Accreditation, established within the Ministry of Education and Training, initiated a self-accreditation process for select universities. While these are important steps in developing a quality assurance system in Vietnam, accreditation is still a relatively new concept and not yet fully implemented. Strengthening quality control will be particularly important in the context of increasing access given to private universities.

Quality control over non-state schools is particularly weak. The study by the Fatherland Front Committee in Ho Chi Minh City argued that private-owned and community-owned secondary schools had not been fully managed by the district governments and controlled by the Ho Chi Minh City government, and that assessments had not been conducted to evaluate whether non-state schools were in accordance with the law.

An even more fundamental problem of asymmetric information exists in the provision of health care. Most patients do not have the knowledge to determine whether the clinical advice or treatment they receive is appropriate or of suitable quality, or what alternatives might be available to them and at what risk. This is particularly so when faced with an acute illness

or serious injury—second opinions can rarely be sought and trust in the facility and the health care provider are paramount. Mistakes by health practitioners can cause lifelong disability or premature death. In order to protect the public, some upward accountability is in order. A sound system of certifying not only health care facilities, but the people providing health services, can help ensure that those practicing medicine are qualified and competent, and to discipline those who significantly breach ethical and clinical standards of care.

A system of certification is necessary for all types of providers, including private ones. At present, many private services are not registered with the appropriate organizations to facilitate management of professional standards, and there are a large number of unlicensed private practitioners. Collection of information on the private health sector and the management and supervision of quality of care in private health facilities faces multiple challenges.

The Law on Examination and Treatment was approved at the fall 2009 session of the National Assembly. Among other tasks, the Law outlines how Vietnam's system of certifying health care practitioners will be handled. In the preparation of the Law, several options were put forward that illustrate clearly how devolution in different spheres can clash, and why central supervision remains essential.

One of the central issues debated regarding the new Law was the level of authority that should certify health care practitioners. While it may be expedient to delegate this task to the provinces, there are strong reasons why this task would be better handled nationally, although relevant functions can be undertaken by regional implementation centers under the direct authority and oversight of the national body.

As discussed in the previous chapter, while devolving powers and responsibilities to provinces and lower levels of government can empower them to select the mix of services

that match local preferences, some functions are best maintained at the national level. In the case of certification of health care practitioners, international experience suggests that sub-national systems tend to have problems with consistency and in ensuring mobility of health workers. Centrally developed standards and processes being applied in exactly the same way in each province would help to minimize this problem. This would mean that provinces would operate as if they were branch offices of a central organization, with no autonomy in the way they developed or operated the certification process. Moreover, Vietnam's international commitments also call for a system with a clear national (not sub-national) standards. Among other things, the ASEAN Mutual Recognition Arrangements require that the "National Regulatory Authority" (the Ministry of Health in the case of Vietnam) certify to other countries that a Vietnamese practitioner has not violated any professional or ethical standards while practicing in Vietnam. While foreign-trained practitioners and staff of central-level facilities will be the responsibility of the Ministry of Health, the new Law establishes a largely provincial system for other facilities. It will be very difficult for the National Regulatory Authority to provide this certification to other countries without taking a lot of time to check with each individual province unless a high-quality, centralized information system is established and consistent standards and processes are applied in all provinces. Each province would also need to maintain records of violations for the practicing lifetime of a practitioner.

An effective system of upwards accountability for health care practitioners will also require a complaints investigation and disciplinary system that is clearly linked to the certification system, although more minor complaints can be referred back to employers or local authorities. Again, the interplay between geographical devolution and functional devolution suggests that a national approach would be better in this case. If someone is practicing in more than one province at the same time, and one complaint is received, will one province have authority to

investigate the care provided by that practitioner in other provinces? Even if there is coordination between provinces to investigate, if other cases are discovered what authority will one province have to proceed with a disciplinary case on behalf of all other involved provinces? If the practitioner holds a national practice certificate issued by another province, which province will act on the complaint?

International agreements play a role here, as well. The ASEAN agreements described earlier require the National Regulatory Authority to monitor and assess foreign practitioners' practice and conduct in accordance with the professional and ethical codes of conduct and standards of practice while practicing in Vietnam, and to take necessary actions if a problem occurs. Meeting this requirement calls for an effective complaints and disciplinary system directly connected to the certification system.

While creating a compulsory certification requirement for all health practitioners, without which they cannot practice, can help to address the information problem described above, it also generates significant opportunities for corruption and for this reason it is important that measures to prevent corruption are specifically and actively designed and built into any system for certifying healthcare professionals.

Corruption could potentially occur in several ways. First, funds of the regulators (i.e., provincial departments of health or the central Ministry of Health) could be used inappropriately. Second, staff could abuse their power to require additional payments in order to agree to process an application for certification. This will significantly affect the fairness and transparency of the system from the practitioners' perspective. Third, people who do not meet the requirements necessary for certification could attempt to bribe staff so that they can get a certificate. This could affect the safety of the public, as untrained people could provide services for patients.

Addressing the risk of misuse of funds calls for sound financial management practices,

including internal auditing, internal controls over expenditures, and standard bidding and procurement processes. The other risk, bribing for licenses, can be found in any government body issuing licenses, and can never be completely erased. Risk can be minimized, however, by ensuring complete transparency in certification requirements, time frames for decision making, and official fees. Separating functions of those entering applicants' information from those making the ultimate decision, and allowing review of applications by experts in other regions from the applicant, can also reduce the risk of informal personal contacts influencing the decisions—this can be achieved more readily in a national organization that can distribute these functions to different centers. And for cases where applications are inappropriately denied, an independent appeals process would also be necessary.

Finally, there is the formidable challenge of establishing a culture of ethics. Establishing clear policies of dismissal for any staff members asking for favors or additional payments from applicants, and providing training of how to deal with offers from applicants is necessary, but not sufficient, for building an ethical culture. In the end, strong implementation of such policies, with clear signals from the top, is essential.

#### Accountability to Users

When quality is difficult to observe directly, as in the case of health care, mechanisms of upward accountability, such as the standards and regulations described earlier, are essential. At the same time, some aspects of publicly provided services are observable, and ultimately the population are the consumers of health and education services. Systems of downward accountability to citizens are clearly needed. These systems are emerging in Vietnam, with the introduction of surveys of users of services about their experiences. Indeed, one of the landmark pieces of legislation for the devolution of authority to service providers, Decree 43 of 2006, mandated the collection of feedback from users. There is, however, no regulation so

far requiring feedback from users of services provided by the private sector or CSOs.

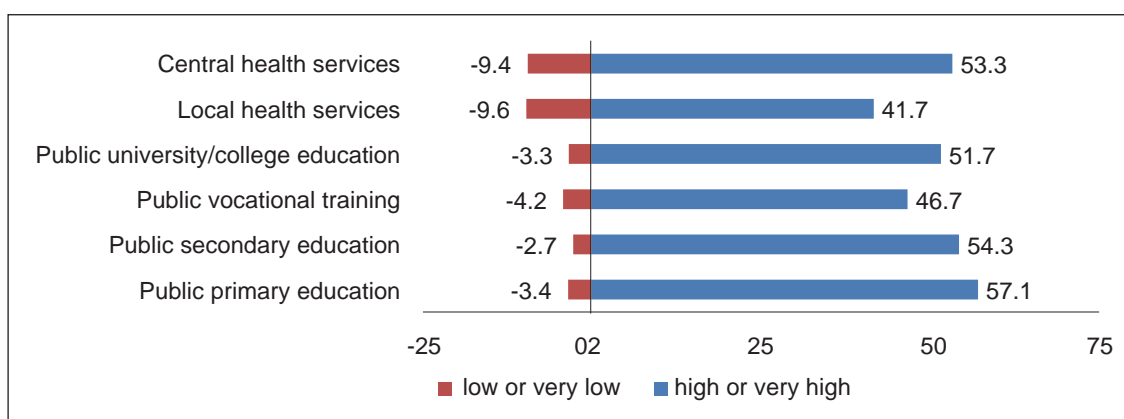
The 2008 round of the VHLSS collected information on a variety of governance issues, among them satisfaction with services such as health and education. Overall, the results were more positive than negative. A relatively small fraction of households said they were dissatisfied with these services, yet the fact that only about half of users stated affirmatively that they were satisfied shows clear room for improvement. (Figure 4.7).

There was some variation in satisfaction for different subclasses of respondents—everything else being equal, men were slightly more positive than women in assessing education, urban respondents were slightly less positive about education and locally run health services than their rural counterparts, and ethnic minorities were slightly more positive about locally provided health care and primary education, but less positive about central level health services. But while these factors explain some of the differences across respondents in levels of satisfaction, more of the variation is explained simply by the particular place where a person lives.

Surveys can also be used to track changes over time. As the VHLSS Governance Module was implemented for the first time in 2008, the approach to estimating changes over time was to pose a retrospective question, asking respondents simply whether things are getting better or worse. The vast majority of households think that health and education services have improved since 2006. (Figure 4.8). On average, men tend to be slightly more positive than women about the improvements for health and secondary education, although the differences are very slight. Interestingly, those with higher incomes were less positive about improvements in local health services, and urban residents were less positive across the board.

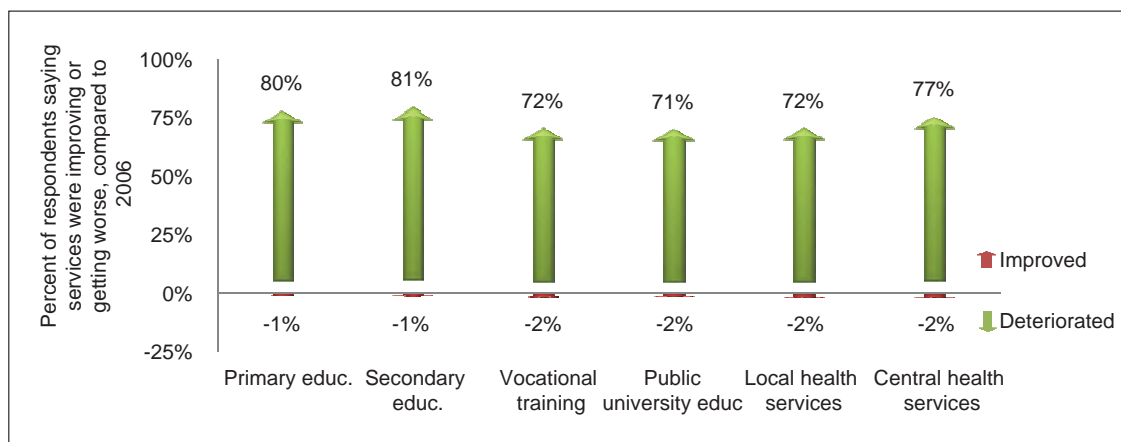
Although most people nationwide reported that health and education services were improving, there is scattered evidence that the fraction of the population that is satisfied has declined. The Ho Chi Minh City Citizen’s Report Cards, discussed earlier in this chapter, are a case in point. While 78 percent of respondents reported being satisfied in 2006, this had fallen to 69 percent two years later. Similarly, comparing the results of each of the cities that implemented the Citizen’s Report Cards in 2004 (Ho Chi Minh City, Hai Phong, Nam Dinh, and Da Nang), with similar

**Figure 4.7. Overall satisfaction with health and education services at the national level**



*Note:* Includes only respondents who had used the service since 2006. The number of observations ranged from 213 to 3,988. All educational levels refer to public education. Chart shows the percentage of respondents saying that their overall level of satisfaction was high or very high, or low or very low. Those saying “neither high nor low” are not shown. Responses of “don’t know” are not shown.

*Source:* Own estimates based on 2008 VHLSS Governance Module

**Figure 4.8. Health and education services are improving, according to households (2006-2008)**

*Note:* Includes only respondents who had used the service since 2006. Number of observations ranged from 745 to 6,304. All educational levels refer to public education. Chart shows the percentage of respondents saying that the service had improved or deteriorated since 2006. Those saying there was no change are not shown. Responses of “don’t know” are not shown.

*Source:* Own estimates based on 2008 VHLSS Governance Module

questions on health and education in the VHLSS Governance Module, the percentage saying they were satisfied generally declined. This was not so much the result of negative responses in 2008, as it was very positive responses four years earlier.

Finally, user feedback surveys such as the VHLSS Governance Module can help generate downward accountability even for sensitive topics such as corruption. The survey asked respondents their opinions on the levels of corruption in a range of services. The majority of households think that there is corruption in health and education services, with more than one in four of those with opinions saying corruption was very serious for central health facilities.

The primary form of corruption in the direct interaction between citizens and health care providers comes in the form of unofficial payments. Part of the challenge in tackling unofficial payments is that it is often unclear how these payments are perceived. When citizens were asked whether “a government official receives a small gift/sum of money after delivering public services or settling administrative procedures” is corruption, fewer than half (45 percent)

condemned this as corruption outright. Eighteen percent said it is difficult to say, and 37 percent of respondents said this was not corruption. Anecdotally, many Vietnamese say that it would simply feel very strange not to pay something extra when receiving certain services, especially health care. Tackling unofficial payments is clearly a challenge. On a positive note, an approach that seems to have had some success in other countries is to formalize the unofficial payments through official user fees, just as Vietnam has done. (Box 4.10)

There are more households that think that corruption has been reduced than think that corruption has increased in health and education services, except for central health services for which the two groups of opinions represent approximately the same percentages of the sample. For all services, however, the majority of respondents indicated that there has been no change in the levels of corruption for health and education services since 2006. The very positive trends reported in service quality (Figure 4.8) are not matched when it comes to corruption (Figure 4.9).

**Box 4.9. International experience in reducing unofficial payments**

Although policy options for discouraging informal payments in health systems are not well understood, some country experiences suggest that the introduction of formal user fees may help under certain conditions. Combining incentives and accountability seems to be the best medicine for reducing informal payments in health care. Since informal payments usually benefit individual staff rather than the institution, increasing user fees alone will have little impact on informal payments. If the users fee provide supplementary compensation to staff, and if other incentives and disincentives are in place, then informal payments can be reduced.

In a Cambodian referral hospital, the formalization of fees resulted in the near elimination of informal payments, as well as more predictable fees for patients and an increase in hospital revenue. Several features were critical to success: a transparent fee system designed to generate additional income for staff, staffing levels based on demand for services, and the establishment of a hospital management committee with staff representation.

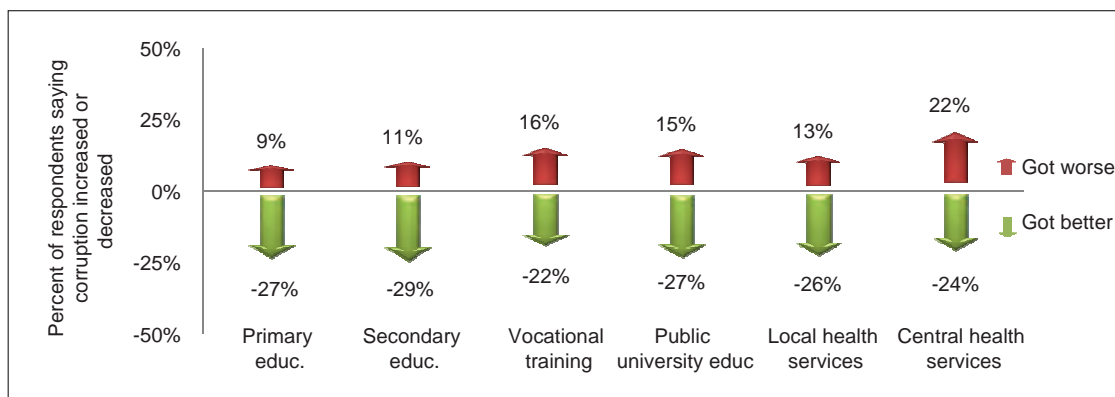
In the Kyrgyz Republic, a pilot program formalizing fees also had lessons. The fee reforms were part of a larger program which also introduced administrative sanctions for poor performance and provided information on fees to patients and providers. The combination of measures helped bring down the prevalence of informal fees from 60 percent to 38 percent in the pilot regions.

In Georgia, the Children's Hospital in the capital city was autonomous and was therefore able to set fees and supplement the fixed wages of physicians. Nonetheless, physicians continued charging informally and did not share the revenue with the hospital. In response, management instituted a combination of additional measures. Supervision of staff increased and physician contracts were shortened from three years to six months, with criteria for renewal linked to official fee generation. Official fees were publicly posted throughout the hospital. The combination of transparently tying earnings to activity, sanctions for improper behavior, and expansion of professional opportunities improved the performance of the hospital.

*Sources:* Barber, Bonnet and Bekedam (2004); Kutzin, Maeimanaliev, Ibraimova, Cashin, and O'Dougherty (2003); Lewis and Pettersson (2009); Garcia-Prado (2005).

As discussed earlier in this chapter, however, corruption takes many forms and not all are directly connected to the interaction between providers and consumers. In the case of the health sector, the bidding and procurement for pharmaceuticals at health facilities directly determines what drugs are available for patients, and therefore what patients pay. If the cheapest drugs that meet quality standards are not chosen to be available in the hospital pharmacy because of direct or indirect industry influences, this can significantly affect the overall costs of care—considering that approximately 50 percent of total health expenditure is on pharmaceuticals, this has serious implications for not only patients but also the viability of the social health insurance fund and the overall health system.

User feedback surveys such as the VHLSS Governance Module can provide valuable insights on service delivery at national, regional and even provincial levels, but not at the facility level. Yet, monitoring service delivery at the facility level is becoming increasingly important, since the facilities have received significant autonomy. With this idea in mind, the National Pediatric Hospital in Hanoi submitted a proposal for user feedback surveys to Vietnam Innovation Day 2009—More Accountability and Transparency, Less Corruption. If successful, the effort may provide a model for other hospitals in Vietnam interested in improving their responsiveness to patients and their families.

**Figure 4.9. Trends in corruption in health and education services, according to households (2006-2008)**

*Note:* Includes only respondents who had used the service since 2006. The number of observations ranged from 745 to 6304. All educational levels refer to public education. Chart shows the percentage of respondents saying that the service had improved or deteriorated since 2006. Those saying there was no change are not shown. Responses of “don’t know” are not shown.

*Source:* Own estimates based on 2008 VHLSS Governance Module.

#### **Box 4.10. User feedback from patients at the National Hospital of Pediatrics**

The National Hospital of Pediatrics (NHP), the largest pediatric hospital in the Northern Vietnam, is in charge of healthcare treatment for patients for all Northern provinces. It has 850 beds and 1,322 staff. Every day, the hospital receives around 2,000 patients, 80 percent of them newborn to six years old. There are another 2,500 parents accompanying the children. While the actual duration of the interaction between patients and medical staff is about 40 minutes, patients normally have to wait for at least three to four hours to complete the whole process (examination, consultation, testing, getting the result and prescription etc.). At least 55 percent of parents or care-givers of patients were not satisfied with the behavior of the medical staff.

Recognizing the importance of making patients and their parents happy with their treatment, NHP sought to improve their understanding of the reasons for dissatisfaction, proposing a mini-project to gather parents’ feedback to Vietnam Innovation Day 2009. The projects’ ultimate objective is to improve quality of healthcare services by improving communication between hospital staff and patients’ parents. The Board of Management hopes that the survey results will help them identify the kinds of interventions that are necessary to improve the situation.

The project is progressing well. A questionnaire was developed with technical support from experts from the Public Health University, and interviews with parents are being carried out by volunteer students from the Public Health University. In the first phase, 6,000 questionnaires are expected to be gathered by the end of November 2009 and will be used as a baseline of parent’s satisfaction. Initial reporting to the hospital management made by the surveyors during the survey process showed that even compared to the first days when the surveyors started interviewing the patients, there are noticeable improvements in terms of the service attitude of doctors and nurses towards their patients.

While the project is currently aimed at outpatient areas, there are plans to expand this initiative to inpatient and other areas of the hospital in the future. This is part of the hospital development plan to become a “Friendly Hospital” for children in Vietnam.

## 5. LEGAL AND JUDICIAL SYSTEMS

*The legal and judicial system plays an enhanced role in a devolved economic and governance system. A legal framework that is consistent, implementable, and well understood by the public and by those who enforce it can help prevent and resolve many disputes. Publicizing drafts of laws has been a clear advance in recent years, but more consultation and analysis in the preparatory phase would help to minimize inconsistent or unclear legislative language.*

*Although all of society benefits from clear legislation, individuals firms or citizens may have little incentive to undertake the costs of actively checking drafts. Business associations can help overcome this fundamental contradiction. The issue has clear economic importance since firms are more likely to invest and grow when the legal framework in which they operate is clear and predictable.*

*Although not used in Vietnam to the same extent as in many countries, the judiciary will become increasingly important with the expansion of arms-length transactions that define a devolved economy. The tension between independence and accountability makes judicial reforms particularly challenging, but independence is essential for credible dispute resolution. Independence will be especially important for disputes involving government bodies.*

*Legal awareness is important for protecting both individual rights and for advancing many of society's goals, including fighting corruption. Legal aid has expanded in the past decade, but the market for private legal services, particularly in disadvantaged regions, is at an early stage of development.*

The increasing reliance on decentralized economic production has been one of the hallmarks of the changes in the last few decades. Rather than producing and making decisions based on a central planner's understanding of what should be produced, using which inputs, and sold at which price, firms—and farmers and household producers—have begun to make these decisions themselves based on the profit motive. Not all are winners. The nature of the market-oriented system is one whereby some firms do well at producing value added and grow, while others fail. On average, however, the dynamism of the system generates more positive than negative results.<sup>50</sup>

Vietnam's high rate of economic growth attests to the strengths of a devolved, market-oriented, system for producing economic value. Competition among firms in both output and input markets rewards efficiency and innovation and discourages sloth. At the same time, competition among firms without some consistent understanding of the rules of competition, and without some arbiter of disputes would be akin to a football match with each team making their own rules and without a referee. The legal and judicial system is what provides that common understanding of the rules and fair settlement of disagreements. Moreover, legal and judicial



institutions serve the complementary purpose of protecting those who are most vulnerable, and thereby supporting and facilitating social development.

Vietnam's progress in reforming its legal and judicial system was pushed along by the process of acceding to the World Trade Organization (WTO). The requirement to take stock of the legal framework for business provided a clear anchor for many forms of reform, as well as strong incentive to move in the right direction. Accession to the WTO, however, did not ease the pressure to reform the legal and judicial system. On the contrary, as Vietnam approaches middle-income status, as firms continue to branch out into increasingly complex forms of production and as citizens become ever more demanding of services and legal rights, the pressure for improving the legal and judicial system will only increase. Even countries that have had market systems for centuries have to continually adapt to new challenges, and consistently strive to provide the right set of rules and the best mechanisms for settling disputes.

The effort to renovate the legal system to be more in line with a market economy has been truly ambitious. In the case of legal reform, however, progress begets more work, not less. Thousands of new laws and regulations at all levels of government have been generated to address the changing landscape of Vietnam's economy. The changes in the legal framework ultimately generates uncertainty for firms, households, and the government officials who must enforce those laws. The challenge now is no longer to be sure that there are the right laws to cover every issue, but to ensure that the legal framework is internally consistent, implementable, and is well understood by the public and by those who enforce it. Indeed, the three central topics of this chapter, legal development, the judicial system, and legal knowledge are closely linked. Laws that are clear and consistent are much easier to understand and interpret, so judicial performance improves when legal development improves. Importantly, well drafted laws, together with a

better understanding of the law on the part of the citizenry, can help stop some disputes before they happen. And citizens' active participation in the law making process can help ensure that new laws have the support of the populace.

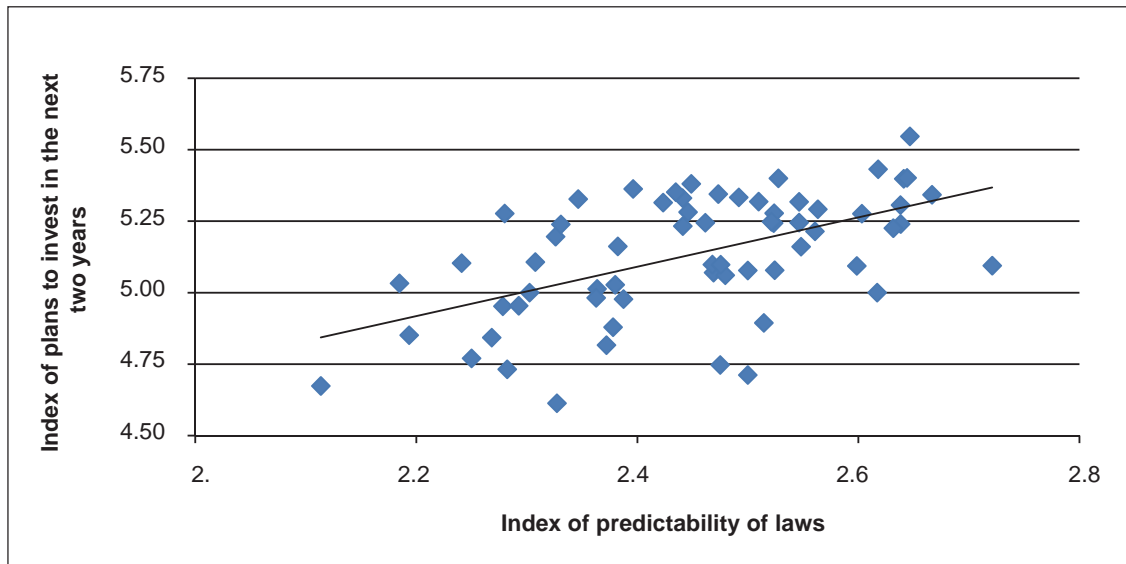
These challenges are well understood in Vietnam. The SEDP 2006-2010 notes that the legal framework does not currently protect the full rights of free enterprise, and two key Politburo resolutions in 2005 on legal development and judicial reform laid out an ambitious strategy for reform. Yet, the problems are not waning, but seem to be increasing in importance. In its address to the opening of the National Assembly in the spring session of 2009, the Vietnam Fatherland Front noted the dissatisfaction that many citizens have with the process of legal development. The government has likewise acknowledged the severity of the problem as a human rights issues in its response to the Universal Periodic Review in May 2009.

This chapter will examine how the devolved economy is generating new pressures on Vietnam's legal and judicial system, and how priorities for reform might be identified. The chapter will begin by examining how legal reform efforts are shaping the institutional environment in which firms and society in general operate, and what challenges might lie ahead. Next, the chapter will explore the mechanisms for resolving the disputes that inevitably arise and how Vietnam's effort to reform its judicial system is progressing, including the judicial settling of administrative complaints. Finally, we will examine the state of legal awareness, exploring how Vietnam can make sure that people are aware of the law and of their rights and responsibilities.

### *Legal Development*

Legal development is a subject of great interest to lawyers and judges, but should also be of interest to economists and business leaders since it can have profound economic implications. A stable and predictable set of implementable laws can give firms the confidence they need to undertake costly investments.

**Figure 5.1. Provinces with more predictable laws have more firms willing to invest**



*Note:* The dots represent the provincial averages of these two questions: “Which statement best characterizes your firm’s investment plans over the next 2 years? 1=Plan to close, 2=Plan to reduce size of operations considerably, 3=Plan to reduce size of operations, 4=Plan to stay at present size, 5=Plan to increase size, 6=Plan to increase size considerably.” And “How predictable are changes in economic and financial laws at central level affecting your business? 1=Never, 2=Seldom, 3=Sometimes, 4=Usually, 5=Always”

*Source:* Own estimates based on the VCCI-VNCI Provincial Competitiveness Index Survey 2008.

A good place to start an assessment of the state of the legal environment is to consider the perspective of firms. The severity of inconsistencies in the legal framework in Vietnam is made clear with data from the PCI survey. Firms that responded to the survey were very negative about the predictability of both national and provincial laws and regulations, but especially about the national level. In 2008, for example, only 13 percent of firms said that changes in economic and financial laws at the central level that affect their business were usually or always predictable, while 23 percent said such changes were never predictable.

The economic implications of inconsistency in the legal framework can also be illustrated with data from the same survey. In general, firms that find central level laws affecting them to be predictable tended to be more profitable than those describing the laws as unpredictable. More importantly, firms with confidence in the

predictability of laws were more likely to say they were planning investments in the next two years. Figure 5.1 shows that provinces where firms feel more confident in the predictability of laws also have more firms planning to invest. It is likely that firms were reflecting more on the implementing regulations than the laws themselves, since the legislative calendar of the National Assembly is known well in advance. The implementing regulations and circulars, however, are somewhat less easy to predict.

Four features can help to make for a predictable, high quality system of laws. First, the development of a law should be founded on a clear understanding of what problem the law is expected to address. Second, the draft should take into account other related legal documents, aiming to avoid inconsistencies that generate problems in implementation. Third, the draft should take into consideration the impact it will have on citizens and firms, ensuring that the

benefits outweigh the costs. Finally, potential problems in implementing the law should be identified and the draft revised accordingly. A law drafter's objective is simply to put together a law that addresses the problem it seeks to address, without generating too many additional problems in the process.

While the objective may be straightforward, the implementation is often not. Understanding the costs and impacts of a law that does not yet exist may require information and analysis that the drafter does not have. Fortunately, the introduction of some modern tools can help provide such information.

A key milestone was reached in 2008 when the Law on the Promulgation of Legal Normative Documents ("Law on Laws") was passed by the National Assembly, and in January of 2009 when the law took effect. The Law made two key advances in support of a law-making system geared toward predictable, high quality laws: mandating public disclosure of drafts of all legal normative documents 60 days before being passed, allowing public comment to be taken into consideration and requiring Regulatory Impact Assessments for all laws. Even before the Law on Laws took effect, the practice of posting drafts of all laws on the agenda of the National Assembly on the internet was well-established and had attained full compliance. The websites of the ministries are likewise used for such consultative processes.

Publicizing drafts of laws is a clear advance; it reduces uncertainty on the part of the public about what laws will say, and provides some opportunity for feedback about the draft's likely effects. However, focusing consultation on existing drafts runs the risk of focusing debate on details in the draft, even trivial ones, rather than the fundamental upstream questions of what the law is intended to achieve. Separating the function of policy-making from technical drafting, could help reduce this risk, with more consultation—direct, indirect or informal—and preparatory research feeding into policy-

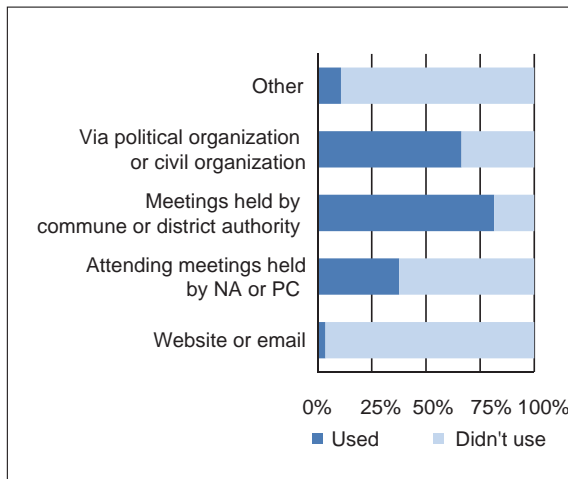
making and, only then, actual drafting. Indeed, in many countries dedicated legislative drafters, specialized in translating policy into legislation, help to minimize inconsistent or unclear legislative language.

While it is too early to assess the impact of the Law on Laws, the degree and manner through which citizens and firms participate in the law making process can be examined through the VHLSS Governance Module and the PCI survey, respectively. Both of these sources illustrate how the imbalance between the narrow costs of participation, borne by individuals, and the widely dissipated benefits that affect even those who do not participate, pose a fundamental challenge to broad-based participation.

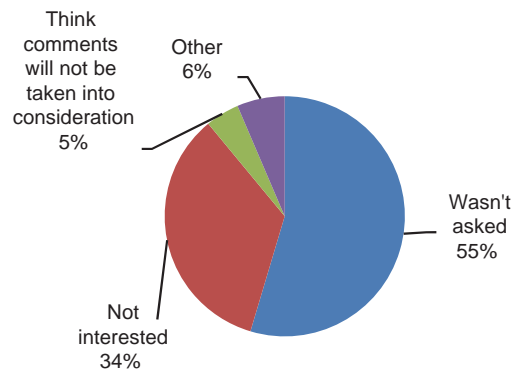
Very few respondents to the VHLSS—only three percent—indicated that they had provided any opinion on any draft legal document since 2006. This is not surprising since the time it would take to become acquainted with the issues and voice a persuasive opinion to policy makers would typically outweigh the benefit to that individual. Indeed, when asked why they had not provided any opinions, only one in twenty expressed the pessimism that they would be ignored; the primary responses were that they were not asked or were simply not interested. When citizens do endeavor to voice an opinion, it is likely to be one of local significance, such as a resolution or decree by the provincial authorities, and even in the age of the internet, the most popular form of participation remains the meetings organized by districts and communes.

The contradiction between diffuse benefits and concentrated costs of participation does have solutions. The Vietnam Chamber of Commerce and Industry (VCCI) has been instrumental in arguing for an active voice of the business community, especially through organized business associations. Indeed, collective action is especially important for making the business community's concerns known to policy makers. Since the benefits of any positive lobbying—for example preventing features of a law that would

**Figure 5.2. Methods of providing opinions on legal documents (among those participating)**



**Figure 5.3. Reasons for not providing opinions on legal documents**



*Note:* For the chart on the left, more than one response was allowed. The question was only posed to those who said they had provided an opinion. The number of observations was 306. The chart on the right was only posed to those who had not provided any opinions on legal document. The number of observations was 8,882.  
*Source:* Own estimates based on the VHLSS Governance Module 2008.

increase their burden without being effective—would be shared by a large number of firms in the same industry or locality, few firms would find it worthwhile to invest the time or energy in making their opinions known. By forming business associations, both the costs and the benefits could be spread among the firms, increasing the likelihood that law drafters and policy makers receive the information they need. Moreover, business associations can also help address certain issues that would pose large risks for individual firms: many individual enterprises, particularly smaller ones, are reluctant to make trouble for the very offices that issue their licenses and permits, conduct inspections, etc. Business associations can take on this advocacy role on behalf of the firms that may be less willing to speak up.

Public participation helps ensure that the views of affected firms and citizens can be taken into account before a law is drafted, but this does not solve all problems. Some costs or impacts may not be known or understood by firms, and other costs, such as those that fall on the state, may not be a central concern to the business community.

A system whereby the drafters systematically examine the costs and benefits of a given draft ex ante provides a needed complement to public participation. Indeed, the Law on Laws requires that Regulatory Impact Assessments (RIAs) be conducted for every draft law. Three types of RIAs are envisioned under the law: a pre-RIA when the legislative proposal is made, a RIA during drafting, and a post-RIA after the law is in force for several years.

While the decision to conduct RIAs is laudable, and the approach is fairly comprehensive, there are several challenges in implementation. Understandably, some government counterparts have trepidations about committing to such an exercise for every draft law. The financial resources and methodological capacity among various officials are both lacking—although some research has shown that the benefits far outweigh the costs. Moreover, at this point RIAs come too late in the process. Analysis should be done before drafting even begins to identify what the key problems are the law is expected to solve.

Even with the best set of laws clarifying business relationships and the balance of rights and responsibilities of the state and its constituents, disputes are inevitable. The next section looks at the system for resolving those disputes.

### Dispute Resolution

Disputes are inevitable. Even with well written laws, the life of business and the business of life inevitably lead to situations of disagreement. Whereas many activities and responsibilities discussed in this VDR have been devolved—to firms and farmers, to service delivery units and local governments—the links between devolution and the system of resolving disputes is more complex. Devolving authority in most spheres increases the chance that disputes will arise and increases the demand for a system of fair and efficient dispute resolution. In many cases, that system will also need a measure of devolution of authority (i.e., independence) in order to perform that function well. At the same time, there is a need for uniformity in application of the law. Devolution of authority to the dispute-resolution system is needed, but within that system application of the law needs to be uniform.

There is clear evidence that the expansion of arms-length relationships in Vietnam's rapidly growing economy is coinciding with a huge expansion in business disputes. According to the panel firms in the PCI survey, there was a large expansion in the proportion of firms that said they had ever been in a business dispute between 2006 and 2008. Not surprisingly, the firms most likely to encounter disputes were often the most dynamic. In both 2007 and 2008, the firms most likely to have business disputes were the firms that were planning to invest.

The center-piece of the system of resolving disputes is the judicial system. Yet, a complete examination of dispute resolution would expand well beyond the court system, *per se*. A host of other institutional arrangements can help to preclude some disputes from happening in the

first place. These include clearly written laws, as described in the previous section, but also institutions not generally placed in the bailiwick of the law. For example, as many disputes involve land, one set of institutions that would help to preclude the need for dispute resolution is a clear system of delineating property boundaries, rights, and ownership. (Since most issues surrounding land and property rights are determined by local governments, these issues are discussed in Chapter 3 on Local Governance.) This system has progressed remarkably in Vietnam in the past decades, yet the pace at which Vietnam is urbanizing and developing, with the attendant resettlements, means that land-related issues continue to generate a large number of disputes.

A second example of institutions that help to preclude disputes can be found in the financial sector. Credit information systems, which are still in the early stage of development in Vietnam, can help two parties to a transaction understand the creditworthiness of the other, avoiding business deals with hidden dispute risks, and at the same time allowing firms to take measured risks they might otherwise avoid. Both of these examples—cadastre and credit information systems—show how fundamental information is for helping to avoid disputes.

Once a dispute does occur, what options do the parties have? The answer depends partly on who the parties are and the nature of the dispute. The Vietnamese system mandates in some cases for formal attempts to settle the disputes amicably through a conciliation process before going to court. Since the Ordinance on Grassroots Conciliation came into force in 1998, great efforts have been made to strengthen conciliation, providing training for conciliators, contests and other encouragement, etc. The system has apparently achieved a measure of popularity—according to the Ministry of Justice, more than 3.8 million cases were handled in this manner between 1999 and 2008, 80 percent of which were successful.<sup>51</sup>

Observers of the conciliation system note several problems. Although formally outside of the formal judicial system, conciliators nevertheless need a good understanding of the law in order to advise the parties. The capacity to conciliate appropriately can be uneven. Similarly, the role of conciliators may not always be well understood, even by the conciliators themselves, and sometimes conciliators impose their will rather than having parties accept the settlement voluntarily.

This tension between a system aimed at amicable resolution of problems, and the distinctly non-amicable nature of many disputes, causes problems in application of conciliation when there is a fundamental imbalance of power between the parties. In divorce cases that involve domestic violence, for example, requiring conciliation between the parties may have the effect of reestablishing an abusive relationship. A 2008 survey<sup>52</sup> of a broad range of stakeholders found that most felt that there was little gender bias in decisions—although one province stood out for having 24 percent of people who had been through conciliation indicate they believed there to be a gender bias—and little perception of bias in terms of ethnicity or income. In contrast, relatively more of the respondents (14 percent) thought that ordinary people were disadvantaged in disputes with members of local administrative bodies of mass organizations. In one province, 34 percent of respondents perceived such bias.

For disputes that must go through conciliation, some practical problems arise.<sup>53</sup> In the case of land disputes, a lawsuit cannot be filed until conciliation has been attempted and failed, but if one party refuses to participate, then the conciliation process is not recorded as having been attempted. Therefore, a party wishing to delay indefinitely can simply refuse to participate in conciliation, making it impossible to file suit.

A second problem is specific to labor disputes. For these types of disputes, refusal to participate in conciliation does not mean that an attempt for conciliation has not been made, so this is not the

same problem as with land. However, a different problem arises. The statute of limitations for filing a lawsuit related to labor expires six months from the date of the problem (e.g., from date of termination), and the time spent in conciliation takes up some of this time. If one began conciliation after five months, it could make it difficult to file suit in court.

One other clear problem concerns the structure and roles of conciliation councils. The commune-level conciliation council is headed by the president or vice-president of the commune People's Committee. If a citizen or firm has a dispute against the state, for example against a decision for involuntary resettlement, the conciliation council would have a conflict of interest. As the conciliation councils may also include "judicial officers, land administrators, policemen and members of the Fatherland Front and its member organizations", it would also seem the risk of conflict of interest would be high. This risk would be compounded if the dispute involved a conciliator. With more than 615,000 conciliators nationwide, this may not be an infrequent occurrence.

Notwithstanding the advantages and disadvantages of conciliation, citizens and firms may find themselves in disputes that can only be settled by a higher authority. Settling these disputes efficiently and fairly, and in a way that guards against retribution, is the fundamental role of the judiciary.

The courts are not used in Vietnam to the extent that they are in other countries. In one cross-country survey covering 34 countries, mostly countries undergoing the transition from planned to market economies in central and eastern Europe and the former Soviet Union, Vietnam was among the handful of countries in which fewer than 10 percent of firms had been to court in the three years before the survey.<sup>54</sup> Citizens are even less likely to use the courts. Among the more than 9,000 respondents to the 2008 VHLSS Governance Module only one percent had made use of the courts in the two

### Box 5.1. Culture and legal values

A well-known saying goes, “the laws of the emperor give way to the customs of the village”. The saying implies a sense of attitude, perception of the people toward (central) formal laws, and broadly a degree of hesitation and resistance to obedience of, and compliance with, law and use of formal dispute settlement (e.g. the court) in general. The “laws of the emperor”, associated with the legal rules by foreign domination, over two thousand years have shaped attitudes, even in modern days.\*

Vietnamese culture is said to be a rich fabric of Confucianism and Buddhism. Most notably, Confucian values brought in from China exerted a profound influence on the way of thinking and practices of a large population. They advocated traditional moral principles (such as virtue and sentiment versus rule and reason) and hierarchical practices. Legal rules were subordinated to moral and pragmatic expediencies.\*\*

Pham Duy Nghia argues that Vietnam has a “farmer legal culture”. For a long period of time the people were not expected to know the law, tried to avoid confrontation and interruption and acted according to what they deemed fit and appropriate for their aspirations. If a solution is needed, a decision needs to be made based on a (long) process of reaching a collective vote, a consensus. In Vietnam there still exists a high degree of social cohesiveness, strong cultural (village) traditions with a sense of cooperative connections.

*Source:* \* Nguyen Duc Lam, “Management by Law: Barriers from the People” (Quan ly bang phap luat: tro ngai tu phia nguoi dan) (Journal Nha Quan ly, no. 11, May 2004). \*\*Pham Duy Nghia (2000) “Phap luat thuong mai Viet Nam truoc thach thuc cua qua trinh hoi nhap kinh te quoc te” (Commercial Law Faces the Challenges of International Economic Integration), Nha nuoc va Phap luat, (6):9. (From John Gillespie’s “Extra-Constitutional Lawmaking: Vietnam’s Unacknowledged Legislators”, Conference paper, Vietnam Legal Culture Symposium, 2003)

years before the survey. While the reasons are complex, the influence of cultural norms may be part of the explanation, as suggested in Box 5.1.

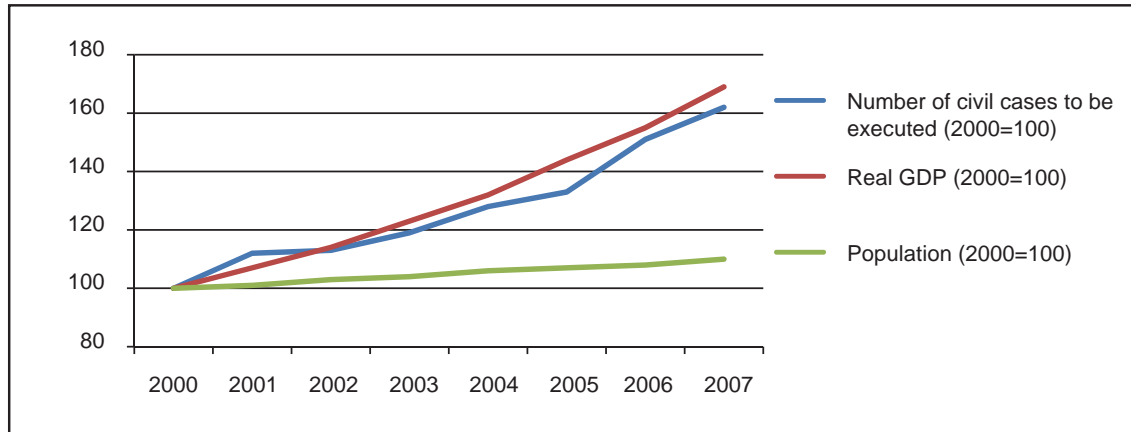
While statistics on court suggest that courts are not frequently used for settling many forms of disputes, from administrative disputes with government bodies to commercial disputes, this does not mean that the courts should be a low priority for reform. On the contrary, in Vietnam’s devolving system with citizens becoming more demanding of the government, with rapid growth and more and more arms-length economic activity, the pressure on the courts to deliver justice fairly and efficiently will grow. Indeed, court cases track economic growth much more than population growth., as illustrated in Figure 5.4.

If they do not make much use of the courts, how do citizens and firms go about solving disputes when they encounter them? The PCI survey is instructive in this regard. The questionnaire asks firms to name the most common disputes they

encounter and then to list the three most frequent methods they would use to resolve the disputes. (Figure 5.5.) For business disputes, firms overwhelmingly say they negotiate, compromise and hope as their first strategy. Only 0.7 percent would appeal to court as their first strategy, even less than the 1.1 percent who said “nothing, I am powerless.”

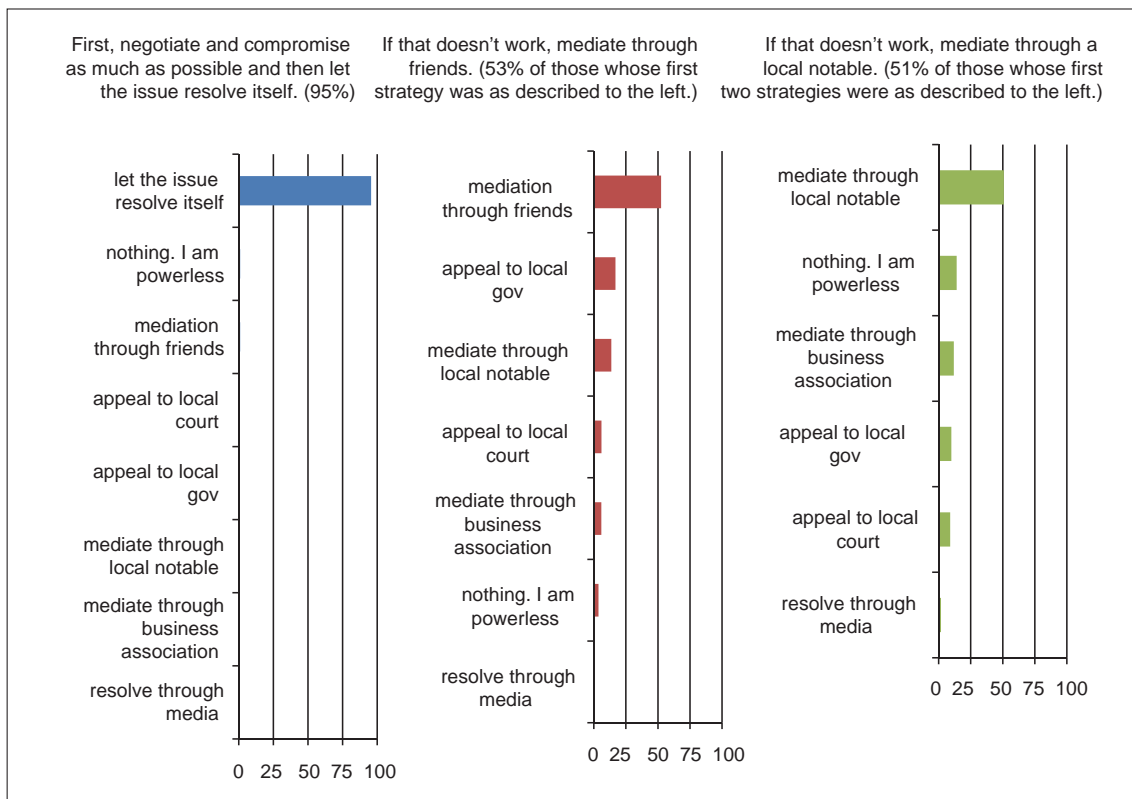
Among this group of firms, the predominant fall-back approach is to mediate through friends or relatives. Only six percent would appeal to courts, compared to 17 percent who would appeal to local governments. Finally, among those same firms, whose first two strategies were to negotiate and then mediate through friends, the third approach is to mediate through a local notable. Only nine percent said they would appeal to court, fewer than the 14 percent who said they would do nothing. Overall, among firms whose most common form of dispute is a business dispute, only 12 percent said they would appeal to courts as any of the three most common methods of resolving the disputes.

Figure 5.4. Growing economy, growing pressure on the courts



Source: Own estimates based on data from the Ministry of Justice and GSO.

Figure 5.5. Strategies for dealing with business disputes



Source: Own estimates based on the VCCI-VNCI Provincial Competitiveness Survey 2008.



Why are the courts used so little by citizens and firms? It is tempting to surmise that this is due to a lack of faith in the system, and indeed this may be part of the explanation. On the one hand, when firms in the PCI survey were asked if they agreed that they were confident that the legal system would uphold their contract and property rights in business disputes, only about 20 percent disagreed. On the other hand, the fact that only about 10 percent gave the most favorable response, strongly agree, suggests that there is much room for improvement. In addition, the firms most negative about whether the system would uphold their rights were larger firms, perhaps owing to the more complex trading relationships of larger firms.

For citizens the story is somewhat more complex, owing to the fact that so few have had experience with the courts. Among respondents who indicated on the VHLSS Governance Module that they would not use the courts even if needed, the majority noted concerns about quality. Among those that actually had been to court, however, the number satisfied with the quality they received exceeded the number unsatisfied. As with the assessments of firms, however, fewer than half of the citizens surveyed indicated affirmatively that they were satisfied with their experiences. Similarly, when asked about their level of trust in the courts, only about a third of respondents stated that they trusted the courts, while most were unsure.

A second reason to avoid complacency is that the trends do not seem to be favorable. Focusing on the panel firms in the PCI survey, those that answered the survey in multiple years, there was no improvement, and perhaps a slight worsening, in the percentage asserting confidence that the system will uphold their rights. While citizens participating in the VHLSS were much more positive about their assessments of improvements in the courts—nearly three fourths reported there was some improvement—optimism should be tempered with the reminder that only about one percent had any experience with the courts in the previous two years. Indeed, those who had been

to court were significantly less positive about improvements.

In a nutshell, the courts have been used very little and neither firms nor citizens seem to have the faith in the courts necessary for them to entrust their cases with the courts in large numbers. An expansion of market-based interactions, combined with a lack of clarity in, and knowledge of, the law is leading to rapid expansion of disputes. The challenges, therefore, are formidable: to strengthen confidence in the courts to resolve disputes independently and efficiently, and to expand capacity to handle the rising case loads.

Vietnam is certainly not the first country to face these challenges. Among transition countries, one of the most difficult sets of governance reforms has been the move to strengthen independence of the judiciary while simultaneously building accountability. The reason the challenge is so formidable is that independence by its nature requires removing certain types of control by the executive. Severing the administrative controls characteristic of the old system of accountability is one thing; creating a new internal system of accountability to fill the void is another. Without careful planning, gains in independence could be offset by the loss of accountability. Building new systems of accountability to accompany the newfound independence is an essential element of judicial reform.

A UNDP-sponsored survey of judges undertaken in 2007 shows how deep independence issues run in Vietnam. The survey showed that judges often consult with higher courts and even with local governments when deciding on a case. Two thirds of respondents indicated that they consider the opinions of superior courts or the heads of their own court when deciding cases, while 26 percent said they consider the opinions of local governments.

The links between Vietnam's devolving economic and administrative system and the judiciary is complex. On the one hand,

**Box 5.2. Independence with accountability—the experience of other transition countries**

Addressing the tension between the need for accountability and the need for courts to be independent to be credible arbiters of disputes is not easy, as argued in a study of judicial reforms in central and eastern Europe and the former Soviet Union. The judicial reforms that were the primary focus during the 1990s emphasized the structural issues needed to reinforce the role of the judiciary as an equal and independent branch of government, as laid out in the new or revised constitutions adopted throughout the region. Partially as a result of this focus, relatively more progress was made in the early years on independence issues than on more technical areas such as court management. Independence was enhanced through improvements in judicial immunity and guaranteed tenure, while management and transparency issues as maintaining trial records and publishing court decisions lagged. Aspects of management of the judiciary that have been the focus of reforms elsewhere in the world, such as systems of case and court management and human resources, were not initially the center of attention in transition countries.

A hallmark of independent and impartial legal systems is the ability of people and firms to use courts to challenge actions and decisions of the government. During socialist times the judicial system was geared toward defending the rights of the state. At the beginning of transition, the idea of a court overturning a decision of government was simply outside the realm of possibility for many people. By the late 1990s, after a decade of reforms, the idea may have seemed less extraordinary, but in many countries there was still little confidence on the part of the public in the ability of citizens or courts to challenge the government through the legal process. Surveys suggest varying degrees of confidence in the ability of firms to challenge the state in courts. The average assessments of the impartiality of the legal system for challenging government actions tended to be better in the EU accession countries than in the non-EU accession countries. In other words, there is as yet no evidence of convergence or “catching up” of transition countries to EU practice along this dimension of court performance.

Focusing on the formal structures and instruments that help to make a judiciary independent has apparently been perceived as only partially successful, and some judiciaries in transition countries still remain subject to political influence in the selection and disciplining of judges. Most have little influence over the allocation of budget to the judiciary and little control over how these funds are spent. The report argued that two types of actions are needed (i) actions to depoliticize the recruitment, appointment, and career progress or termination of judges (which is often within the purview of judicial councils); and (ii) actions to give judiciaries more influence over the use of court resources and autonomy over their administration. (For example, Macedonia’s judges received power over their budget in early 2004). Establishing a judicial system that is free from politicization, capable of managing and administering its own human and capital resources, and able to minimize corruption in its ranks through self-regulation and effective prosecution will take more time, effort and resources.

*Source:* James H. Anderson, David S. Bernstein, and Cheryl W. Gray. 2005. *Judicial Systems in Transition Economies—Assessing the Past, Looking to the Future*. The World Bank.

devolution in economic decision making in other spheres increases the work of the courts as more disputes come before them. At the same time, the responsibility for resolving disputes is also being gradually devolved from the central and local government bodies to the courts. Since the beginning of Doi Moi, the courts have gradually gained jurisdiction over many forms of cases. The 1989 Ordinance on Procedures for Settlement of Civil Cases defined civil

procedures in a systematic manner for the first time and empowered the courts to settle cases lodged by individuals and legal persons on the protection of their lawful rights and interests. Over the years the jurisdiction of the courts has also expanded to cover economic cases (1993), labor cases (1994), administrative cases (1998), civil matters (2004), etc. Some of the devolution to settle disputes has not been to the courts, but to other bodies, including arbitration, labor

cases, conciliation, etc. As a whole, however, the courts are not independent in the Western sense. Under the Constitution, state power is unified, with division and collaboration in the exercise of legislative, executive, and judicial powers. The emphasis is on division of functional responsibilities, rather than checks and balances.

Recognizing the need to “build an ethical, healthy, strong, democratic, strict, fair and justice-protecting judiciary ...” the Politburo issued Resolution 49 in June 2005 laying out the objectives, principles, and tasks of an ambitious program of Judicial Reform Strategy to 2020 (JRS 2020). The JRS 2020 envisages, on the one hand, further devolution of functions to the courts and the organization of a jurisdiction-based court system independent from the administrative levels of government, continuing a trend established a few years earlier. Supervision of districts courts had already been transferred from the Ministry of Justice to the Supreme People’s Court in 2002. In addition, the National Assembly is called upon to exercise a greater role in the supervision of the courts, and the creation of the Justice Committee is already playing this role.

While the JRS 2020 generally recognizes the need to devolve supervision of the judiciary, it also emphasizes the centralized leadership of the Party in supervising the work of the courts. Yet, the attempt to maintain a matched relationship between the hierarchical structure of the Party, and the re-organized court system can prove unworkable. This point was made by Chief Justice Truong Hoa Binh in a paper in the Vietnam Law and Legal Forum.<sup>55</sup> In discussing whether to have courts of appeals cover just one province or multiple provinces, he wrote “If a court of appeals is established in the territory of some provinces, human and material resources could be concentrated. However, it would be difficult to determine which Party committee would lead and direct and which provincial-level People’s Council would supervise its operation.”

The tension between devolution and accountability is nowhere more evident than for the judiciary. For accountability over the quality of judgments a key role is played by the Supreme People’s Procuracy, which has the right to be present at all trials and hearings, and to appeal the decisions of the court. As their opinions can have serious implication for the career of a judge, they are usually taken into consideration. The JRS 2020 plans to study the transformation of the Supreme People’s Procuracy into an institution with procuracy functions only, which could help reduce interference in the rulings of the judiciary. A second institution playing an oversight role is the National Assembly, which can request reports and ask questions of the Chief Judge. The oversight role of the National Assembly over the judiciary was strengthened in 2007 with the creation of a separate specialized committee on judicial affairs.

Judges may also be personally disciplined for judgments that are deemed to be off-base. Penalties may include removal from office, which cannot be appealed, or charges under the Criminal Code when a judge delivers an “illegal decision.” Moreover, a judge can be held personally, financially liable for making a wrong judgment or decision—in criminal, civil and administrative procedures—that causes damage to a citizen. This risk may have contributed to the increased incidence of “seeking guidance from above” before issuing judgments.<sup>56</sup>

What would it take for the courts to establish accountability mechanisms commensurate with independence? A running theme throughout this VDR is the value of information for establishing accountability, and the judiciary is no exception. While there has been some progress in making case records public, this is so far limited to some high-level judgments which were publicized on websites. In general, the transparency of judgments remains low, as does the transparency of analysis leading to judgments. The JRS 2020, issued in 2005, outlined the intention to expand the publication of judgments and, indeed, this would strengthen accountability of the judiciary

for producing fair and professional judgments. Similarly, although the trials of civil and criminal cases are officially public and open to everyone, except for some cases, the exceptions prove to be numerous.

The publication of judgments could help highlight situations where judgments were faulty or not in line with normal practice, but in some cases judges may have little on which to base their decisions. At present, there is no clear mechanism for adjudicating what the law means. Constitutional protection was approved at the Party Congress in 2006, and can be found in the JRS 2020, and the need for more consistency in legislation was also acknowledged in Vietnam's report in May 2009 to the Universal Periodic Review of Human Rights. At the moment, courts don't play any role in interpreting laws. Although the Ministry of Justice has a role in post-checking laws—an unusual practice by international standards—they can only check a small portion of laws. Many countries address the problem of consistency by pre-adoption screening of draft legislation, as well as mechanisms to cure inconsistencies in legislation or suspend their application after the fact.

Precedent can play an important role in helping judges to interpret laws—although precedent is more often associated with common law systems, even in civil law systems the need to make judgments consistent with each other, across space and time, means that precedent is not only a common law concept. Indeed, Supreme People's Court resolutions are increasingly having an interpretative aspect, although framed as application guidelines.

Accountability could also be strengthened through a more transparent system of judicial data. Although courts collect and compile data, the data is not published. The difficulty obtaining even basic statistics makes it difficult for external observers to examine the performance of the courts, and within the court system itself it is unclear how court statistics are being used as management tools.

The JRS 2020 states a basic principle that “Judicial and judicial support organs must be put under the oversight of the people-elected bodies and of the people.” Without transparency of judgments, trials, and court statistics, the people will face difficulty in carrying out this essential oversight role. There are already positive moves in this direction—the Supreme People's Court has now appointed an editorial board for the publication of judgments, hopefully presaging a more systematic publication of court judgments.

Enhancing independence is easier said than done. But several steps could help move the courts in that direction. First, the length of judicial tenure is now only five years. In many countries, life tenure is generally provided to judges in order to ensure their freedom to make judgments according to the law—exceptions are carefully circumscribed, and the appeals process provides some protection against poor performance. While life tenure may not be on the table now in Vietnam, some extension of tenure beyond the current five years could help strengthen the credibility of the courts as an independent arbiter.

Second, court financing in many countries is provided directly by the legislature. This limits the ability of the executive to influence the courts by withholding budget. According to the JRS 2020, the judicial budget is set to be gradually increased. The mechanisms through which that budget is determined could also use some scrutiny.

Another issue for judicial reform, one that involves all parties, is that of trial procedures. Shifting to an adversarial system is viewed as having benefits. It is referred to in the JRS 2020 as a “breakthrough.” An adversarial system in a civil law system would not necessarily have the same meaning as in a common law system in which the parties to a trial are wholly responsible for presenting their own cases. In the Vietnamese context, the move to an adversarial system can be oriented toward strengthening human rights by making the judges more clearly arbiters,

rather than participants in the case, and thereby strengthening the presumption of innocence and other basic human rights.

An adversarial system in civil procedures has been introduced by the Civil Procedure Code of 2005 but the practice in the field level has not yet caught up with the provisions of the Code. To better understand the challenges faced in implementing these provisions a pilot study is underway in Bac Ninh province. In terms of civil procedures, the Supreme People's Court (SPC) and courts in Bac Ninh are working together with JICA and to identify the issues that judges and participants are facing in putting the system into practice and advise on possible solutions. Apart from better guidance from the SPC to the courts, such solutions may include amendment of the relevant provisions in the Civil Procedure Code in the future.

Similar work is underway with respect to criminal procedures. The SPC and Supreme People's Procuracy (SPP), with support from JICA, are examining how the participants, especially defendants, may play a greater role in the proceedings, thereby ensuring their right to a fair trial by an impartial tribunal. How adversarial the criminal procedures should be—that is, to what extent the court should serve as an impartial referee, is still under consideration by the relevant authorities. Once the SPP and

organizations determine what changes to make to the current procedures for this purpose, there may be a need to amend the relevant provisions in the Criminal Procedure Code.

Finally, the credibility of the courts rests not only on the perception that they reach decisions fairly and efficiently, but also on how well those decisions are enforced. In this area, real progress is being made—recent reforms have made civil judgment execution more independent from local governments and more efficient. Despite the increasing number of judgments, the fraction that are enforced has been increasing in recent years. The accountability of judgment execution has been further enhanced in 2008 with the Law on Civil Judgment Execution which strengthened the oversight and complaints systems, improved procedures, and provided for payment of compensations violations. Importantly, the barriers for a more automatic execution of judgments from courts have been reduced. While the system has clearly been strengthened, providing some greater incentive to bailiffs to execute the judgments could increase the credibility of the courts even further in this regard. Indeed, the experiment with “socialization” of judgment execution, i.e., allowing some payment of fees for successful performance, in Ho Chi Minh City is the kind of innovation that can help show the value or limits of devolved responsibilities.

**Table 5.1. Execution of civil judgments**

	2006	2007	2008
Civil judgments subject to enforcement	602,059	648,266	664,047
Civil judgments meeting enforcement requirement	380,850	399,722	425,631
Civil judgments completely enforced	270,967	302,432	336,408
Percent of judgments completely enforced of those subject to enforcement	45.0%	46.7%	50.7%
Percent of judgments completely enforced of those meeting enforcement requirement	71.2%	75.7%	79.0%
Percent of judgments meeting enforcement requirement of those subject to enforcement	63.3%	61.7%	64.1%

Source: Ministry of Justice

### *Administrative Disputes*

Closely linked to the issue of independence is the administrative complaints system. Although not as prevalent as business disputes, nontrivial numbers of firms encounter disputes with local government or government officials. In the PCI survey in 2008, 31 percent of firms said disputes with local government or overzealous inspectors or other officials were among the three most common forms of dispute. More telling is the fact that firms are largely unwilling to appeal to the court system to resolve these disputes. Among the 486 firms that said administrative disputes were the most common form of dispute, only 13 percent said that appealing to the court was one of their top three strategies for dealing with the problem.

The Court has had jurisdiction to settle administrative disputes since 1996 but the number of administrative cases accepted and heard by the courts is still limited. In the first nine months of 2008, fewer than 7,000 administrative proceedings were handled by the courts nationwide, and in many provinces there were fewer than ten. Thirty-five percent of the cases were in Ho Chi Minh City alone. This, however, represents a significant improvement with respect to previous years—in 1998 the court system had fewer than 300 administrative cases.<sup>57</sup>

There are several reasons that explain the low number of cases heard by the courts. As described in Chapter 3, the courts can only settle administrative cases after the first settlement of the case by administrative agencies. In addition, not all administrative cases can be lodged with the courts and land-related cases cannot be lodged with the courts after second-settlement decisions by provincial governments. All these measures not only restrict access to the court, but also make the system to resolve administrative cases less impartial.

Other limitations have to do with the capacity of the court and the regulations on the settlement of administrative cases. While administrative cases

are usually of high complexity, the adjudication capacity of many judges is still limited. During the hearing of administrative cases, the court is only allowed to judge upon the legitimacy, but not the reasonableness, of administrative decisions and acts. In addition, administrative courts do not have right to annul administrative decisions, making it very difficult to render judgments on the administrative decisions which are regarded as illegal.

Data from the 2008 VHLSS Governance Module shows that there are practical problems with the current system of administrative complaints: one in three respondents who dealt with administrative complaints found it very difficult or difficult to find the necessary information on the procedures, and nearly half encountered difficulties. Time was the main difficulty encountered, but citizens also had problems related to not knowing regulations or finding the regulations unclear, and to a lesser extent due to the serving attitude of officials. Because the current Law on Complaints and Denunciations already mandates strict time limits for individual administrative agencies to settle complaints, time difficulties are more likely to be associated with other factors such as the need to submit complaints to more than one agency. A case study on land conflicts in Ho Chi Minh City, Hung Yen and Thai Binh<sup>58</sup> shows that two thirds of affected land-users had to lodge their complaints with two or more different state organizations or agencies.

### *Legal Awareness*

As described early on in this chapter, a key role of the legal and judicial system is to stop disputes before they occur. Improving the quality of legal development can help in this regard, but equally important is to raise awareness on the part of the citizenry and the business community about their legal rights. Fast and fair justice institutions are not effective if not widely accessible. A closely related topic is the access and understanding of legal information by society. Awareness about laws empowers citizens and enterprises, enables

them to claim their rights, and helps them hold the government accountable.

The need to improve citizens' awareness of laws and their legal rights is neatly illustrated by a recent initiative. In 2009, the Government Inspectorate and the World Bank, with support from several other donors, hosted *Vietnam Innovation Day 2009—More Accountability and Transparency, Less Corruption*. After soliciting proposals from associations, government bodies, mass organizations and the private sector, VID received about 150 proposals, 24 of which were ultimately selected, for innovative ways of reducing corruption. These proposals offer a glimpse into the question of what Vietnamese think are the problems that need to be addressed in order to reduce corruption. Interestingly, a large percentage of the proposals were aimed specifically at increasing legal awareness. (Figure 5.6.) Many sought specifically to provide legal information for those with disadvantages, including the blind, those living in remote areas, or who only speak ethnic minority languages. Beyond the inspiring innovation of the proposals put forward, the proposals also provided an important lesson for building accountability systems and reducing corruption in Vietnam.

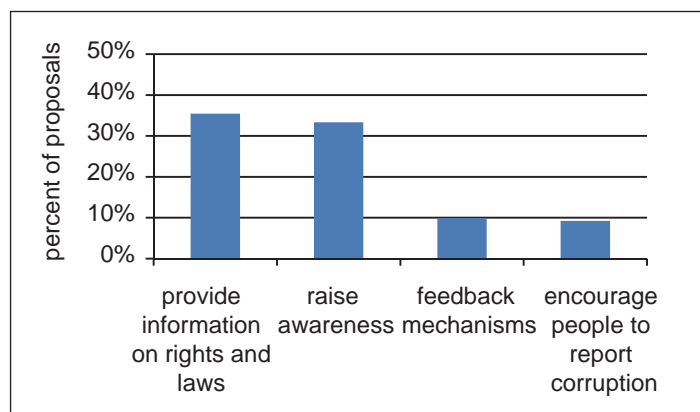
Weak legal awareness of citizens is also a factor for other important regulations stipulating

citizens' rights. A survey of 500 citizens in Ha Noi, Quang Binh, Ninh Thuan and An Giang aimed at understanding the key issues surrounding access to information<sup>59</sup> found that more than half of the respondents were unfamiliar with the Ordinance on Grassroots Democracy, a fundamental piece of legislation establishing the rights of information and participation. The survey also found that while most interviewees knew about some key laws, many did not know about other laws providing basic citizens' rights and obligations, such as the Civil Law and the Law on Personal Income Tax.

Many business enterprises similarly express little knowledge of the law. A survey of about 2,600 small and medium enterprises in 10 provinces<sup>60</sup> found a very high percentage of enterprises to have poor or no knowledge of relevant laws and regulations.

The rapid pace of developing new legislation in Vietnam makes the task of building citizens' and enterprises' legal awareness particularly challenging. On the positive side, significant efforts have been made to enhance legal dissemination and consultancy in Vietnam. Three different types of organizations have been given powers to play those roles: the Ministry of Justice, civil society organizations and law-practicing organizations. In addition, various

**Figure 5.6. Legal awareness for fighting corruption**



Source: Own calculations based on submissions to *Vietnam Innovation Day 2009—More Accountability and Transparency, Less Corruption*.

on-line legal databases have been developed, making legal documents easily available to internet users.

The Ministry of Justice’s legal aid agency was established in 1997 with the objective of providing free-of-charge legal advice to various vulnerable groups including the poor. In 2006, with the adoption of the Law on Legal Aid, the legal aid agency was also allowed to represent and defend legal aid beneficiaries in legal proceedings. At present, the legal aid agency has 63 provincial centers, five offices specialized on women affairs, 127 district branches, and 928 commune-level legal aid clubs<sup>61</sup>. Legal aid clubs play an important role in disseminating new laws, informing the population about the availability of legal aid, and collecting information on local needs.

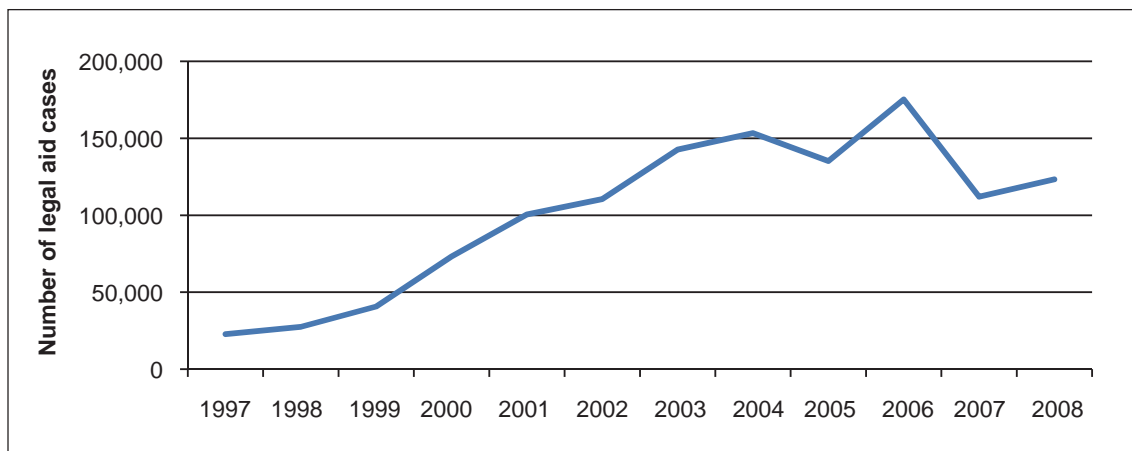
Mobile legal aid clinics are becoming an increasingly common way of providing legal aid services, especially in rural and remote areas. In 2008, half of the total number of cases handled by the legal aid agency nationwide were resolved through mobile clinics.<sup>62</sup> Like the legal aid clubs, the mobile clinics offer a combination of legal counseling and legal dissemination services. One useful activity organized by the clinics are

legal talks on issues that are the concern of the people. Through these talks, people can learn about their rights, recognize violations of their rights and ask for legal aid services.

The number of legal aid cases handled by the legal aid agency has been steadily increasing, although the number has declined somewhat since 2006, possibly due to changes in administrative handling of cases and the tightening of the eligibility criteria. (Figure 5.7). The Law on Legal Aid restricted legal aid beneficiaries from broad categories such as ethnic minorities and children, to narrower sets such as ethnic minorities living in areas with exceptionally difficult socio-economic conditions, and homeless children. In addition, the law does not recognize as beneficiaries groups that were previously receiving legal aid such as women victims of domestic violence and trafficking, juveniles, people affected by HIV/AIDS, and ex-detainees. The Law did however increase access to legal aid for some groups, such as the single elderly and the disabled people<sup>63</sup>.

A core factor limiting the expansion of legal aid services is the availability of funds. Contributions from the central and provincial governments to the legal aid system are increasing and since

**Figure 5.7. Legal aid cases handled by the Legal Aid Agency**



Source: “Support to the National Legal Aid System in Vietnam 2005-2009. Mid-Term Review” (SIDA, SDC, Oxfam Novib and Save the Children, 2008); “Support to the Legal Aid System in Vietnam, 2005-2009. Annual Progress Report 2008” (SIDA, SDC, Oxfam Novib and Save the Children, 2008)



2007 additional funds from two National Targeted Programs have been made available to disseminate legal documents, provide legal consultancy and organize legal aid clubs and mobile clinics in the disadvantaged communes covered under these Programs. However, the heavy reliance on funds from international donors, which have been supporting the Legal Aid Agency since its establishment, and the availability of funds for legal aid in the poorer provinces both raise concerns going forward.

The engagement of civil society organizations (CSOs) in the provision of legal counseling and dissemination can help address this tension. Since 2003, the government has promoted the role of CSOs in legal counseling, by allowing them to establish legal consultancy centers, recognizing them as providers of legal aid, and authorizing them to represent clients in legal proceedings. Indeed, a 2006 survey organized by UNDP<sup>64</sup> in 26 provinces found that legal consultancy activities by CSOs are generally believed to be effective.

Getting legal advice through the market, the default option in most countries, faces challenges in many places in Vietnam. Indeed, there is a fundamental contradiction at work: the lack of use of the courts limits the demand for legal services, while the limited availability of legal advice also makes the courts less attractive for settling disputes. Whatever, the reasons, the number of lawyers in Vietnam is quite low, with only one lawyer per 21,000 inhabitants.<sup>65</sup> This average, however, masks wide variation between urban and lowland areas and rural and highland areas (Box 5.3).

The legal framework for lawyers improved with the adoption of the Law on Lawyers in 2006, which provided more scope for lawyers to work individually and collectively. Notably, the Law on Lawyers recognized bar associations as organizations operating on the principle of self-finance and having own charters governing their internal affairs. The Law also recognized the rights of bar associations to protect the rights of lawyers and provide them with training. In May

### **Box 5.3. The paucity of lawyers in provinces with socio-economic difficulties**

A survey assessing the situation of lawyers' organizations and their activities in provinces with socio-economic difficulties was undertaken in 2007. The survey covered 16 provinces, many of which are in the mountainous areas.

The survey found very few lawyers in those provinces, only for 3.8 percent of the whole country. In contrast, the two provinces of Ho Chi Minh City and Hanoi have 51 percent of the lawyers in Vietnam. The survey also found that most lawyers in the mountainous regions are retired state officials, with many above 60 years old. In some bar associations of the surveyed provinces, there are some registered lawyers that do not practice due to their age. Moreover, several lawyers do not have a law degree and have not passed the lawyer's training course organized by the local departments of justice and bar associations.

A low demand for "paid" legal services was found to be a contributing factor. Most people in the surveyed provinces cannot afford to hire a lawyer. Lawyers in the surveyed provinces mainly take part in cases as appointed by the agencies conducting legal proceedings. However, in some cases they get either no payment or insufficient payment according to the laws. As a result, the legal profession is not attractive to young professionals with a law degree, who prefer to stay in big cities to look for jobs. Some lawyers have even resigned from the bar associations to look for another job due to financial problems.

*Source:* "Report on the current situation of lawyer organizations and activities and proposals to support the development of the lawyer profession in some provinces" (Ministry of Justice, DANIDA and SIDA, 2007). The provinces are Quang Nam, Quang Ngai, Kon Tum, Gia Lai, Ninh Thuan, Binh Thuan, Tuyen Quang, Ha Giang, Thai Nguyen, Bac Can, Cao Bang, Hoa Binh, Son La, Dien Bien, Lai Chau and Lao Cai.

2009 the National Bar Federation was established, with governing documents and structures approved by the community of lawyers. These documents and structures were ratified later by the Ministry of Justice. As argued elsewhere in this VDR, such collective action organization can help resolve the fundamental contradiction between diffuse benefits and concentrated costs

of some activities. In this case, an individual lawyer might not find it worthwhile to push for certain improvements, since that lawyer would expend all of the costs and only reap a small share of the benefits. A collective action organization like the National Bar Federation can help resolve this contradiction.

## 6. OVERSIGHT

*In Vietnam's devolving state, some bodies are of interest both because of their own devolution and because of their role in building accountability for other bodies. The formal investigating apparatus successfully uncovers waste and fraud, but faces important challenges when it comes to proving corruption. Greater autonomy for investigating bodies to do their work within the rules would improve their efficiency. Assets declarations would be a more effective tool if they were systematically verified or made public. Improving transparency and taking a sector-specific approach would help to reduce the problem of corruption which is seen by a large part of the population to be a serious problem. Monitoring of both corruption and anticorruption is needed to show progress.*

*Civil society in Vietnam has two distinct strata, one with long-standing links to the state and quasi official duties, and the other emergent. Civil society organizations have gained some independence in both management and financing. Mass organizations can still play an important oversight role despite close links to the state. Associations face important challenges in getting permission to operate, and other forms of civil society organizations have their own challenges.*

*The National Assembly and People's Councils are playing increasingly important oversight roles. The large number of part-time deputies and the short time allotted to study budgets and bills pose challenges. Many deputies simultaneously work in the government, putting them in a position of potential conflict of interest regarding the National Assembly's oversight role. The high turnover of deputies in each session makes a strong permanent supporting apparatus essential as a store of knowledge for the body.*

*The media has increased in importance over the years. If their legal framework were made less uncertain they could play an even stronger oversight role. Increasing the professionalism of journalists and ensuring they are equipped with information could help encourage accurate reporting.*

*Despite provisions in many laws, including the Constitution, guaranteeing access to certain types of information, many citizens and firms, researchers and journalists and even public officials have difficulty accessing information. Most provisions in the current legislation call for certain information to be public, but do not assign specific responsibility and mechanisms to ensure compliance. A new law on access to information could help fill this void.*

Earlier chapters have explored the devolution of powers and responsibilities—to lower levels of government, to service delivery units, to the courts—and the need for new mechanisms of accountability to manage the devolved system.

Some devolution has also taken place with respects to other bodies that, although still close to the central state apparatus in many ways, were even more closely linked twenty years ago. The foci of this chapter, however, differ from those of

**Box 6.1. How do bribes affect the performance of small and medium enterprises?**

The University of Copenhagen used data on bribe payments made by 1,661 small and medium enterprises in ten provinces for the years 2005 and 2007 to explore the causes and consequences of bribe payments in Vietnam. One of the goals of the analysis was to identify characteristics that increase an enterprise's probability of paying bribes. The key factors are: visibility (measured by firm size), formality (measured by registration), ability to pay (measured by profits per employee), firm growth (measured by real revenue growth), sunk costs (measured by the capital labor ratio) and the level of interaction with public officials (measured by inspections, state assistance, customs transactions, and state as a customer or supplier). Among other things, the results suggest that well-performing small and medium enterprises in Vietnam have a higher probability of paying bribes.

As the study was based on panel data, it allowed some insights into the dynamics of corruption. The study found that firms that initially pay bribes experience lower revenue growth later, controlling for other explanatory factors such as size, legal structure, location and sector, suggesting that bribe payments negatively affect firm performance in Vietnam.

*Source:* John Rand, Patricia Silva, Finn Tarp, Tran Tien Cuong, and Nguyen Thanh Tam. 2008. "Understanding Firm Level Corruption in Vietnam: Who pays and how does it affect firm performance?" Department of Economics, University of Copenhagen and Central Institute for Economic Management.

*Note:* The ten provinces are Ho Chi Minh City, Ha Noi, Hai Phong, Long An, Ha Tay, Quang Nam, Phu Tho, Nghe An, Khanh Hoa and Lam Dong.

previous chapters in a fundamental way. Rather than merely being the recipients of new powers who consequently need to be held accountable, these bodies differ for the oversight role that they play in ensuring accountability of others.

This chapter centers on institutions that play a role in overseeing the activities of the institutions analyzed in the four previous chapters. We first discuss a manifestation of governance challenges that the Vietnam Fatherland Front lamented in its report to the National Assembly, cited in the opening chapter of this report: corruption, and the system of institutions leading the fight against it. These institutions, including the inspectorate and audit system, are essential for upward accountability for compliance with the rules. We then discuss civil society organizations, which play many roles as conduits of information and deliverers of services, but also help provide oversight for others. Next, the oversight functions of elected bodies, including the National Assembly and People's Councils, will be discussed. Information, the common thread that runs throughout this report, is also discussed. Finally, the media's role as an oversight institution, as well as its own

devolution and accountability mechanisms, round out the chapter.

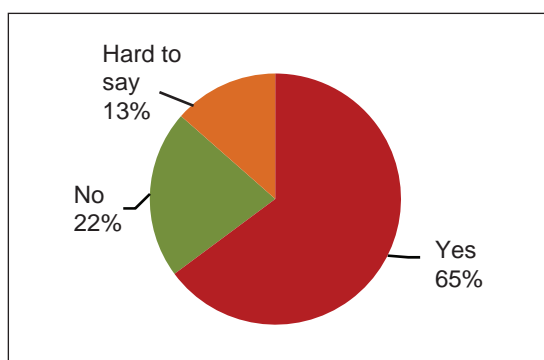
***Anticorruption***

Controlling corruption is widely understood to be central to Vietnam's efforts to move forward to becoming an equitable middle income society. Corruption exists in every country, but uncontrolled corruption can deter investment, waste resources, and erode the trust of the population. A recent study by researchers at the University of Copenhagen identified the best predictors for whether firms in Vietnam would be beset by corruption; by and large, it was the successful performers who had to pay bribes, as described in Box 6.1. Whether this is because successful firms were targeted, or because firms had bribed their way to success, the implications are not positive—in the former case, corruption hurts the firms that are performing best, while in the latter case the incentive for firms to play by the rules is weakened.

The citizenry is also well aware of the importance of the fight against corruption. The 2008 VHLSS Governance Module included a question that

asked respondents directly whether corruption poses a problem for their family. In Vietnam, the perception that corruption poses a problem for people is pervasive. (Figure 6.1).

**Figure 6.1. Is corruption is a major problem for you and your family?**



*Note:* Responses of “don’t know” have been dropped from the analysis.

*Source:* Own estimates based on the 2008 VHLSS Governance Module.

Recognizing the threat that corruption poses for society is an important step, and it has already been several years since the government raised the importance of anticorruption on the agenda. In 2005, the Committee for Internal Affairs of the Communist Party, with support from the Embassy of Sweden, released a “Report of the Survey on Corruption in Vietnam”, and that same year a sweeping Law on Anticorruption was passed. The law itself is quite comprehensive, covering a wide range of preventive and enforcement-oriented policies, as described in Box 6.2. In May of 2009, another step forward came with the adoption of the National Anticorruption Strategy to 2020, which explicitly recognizes the role of openness and transparency in reducing corruption, and includes an action plan, complete with timetables of legislative changes. In June, Vietnam ratified the United Nations Convention Against Corruption.

#### **Box 6.2. Anticorruption policies specified in the law on anticorruption of Vietnam**

The Law on Anticorruption calls for a broad range of measures, including:

##### *Transparency and information*

- Publicity and transparency in all activities and sectors
- Requests for information by state agencies, individuals, organizations and media agencies

##### *Public administration*

- Regimes, norms and criteria for each agency, organization and unit
- Responsibility of heads of agencies, organizations and units for corruption occurring in their domains
- Use of bank accounts to pay salaries and execute other state budget transactions
- Administrative reform: decentralization, reform of administrative procedures and IT application

##### *Human resources*

- Codes of conduct and rules of professional ethics
- Rotation of sensitive positions
- Declarations of income and assets by a selection of public employees and officials
- Control of income of persons with high positions or powers

##### *Detection*

- Detection of corruption through inspections, audits, investigations, adjudications and parliamentary supervision
- Denunciations by citizens and protection and reward of whistleblowers

##### *Involvement of society*

- Promotion of the anticorruption role of society, including CSOs, media, enterprises and citizens

*Source:* Law on Anticorruption (2005)

Since the adoption of the Law on Anticorruption, several detailed implementing guidelines have been issued, anticorruption measures have started to be implemented by ministries and provinces, and the detection and punishment of corruption cases has been reenergized. The enforcement aspect of anticorruption centered on the creation of specialized units in all the key anticorruption institutions, through improved coordination among institutions, and their decentralized units at the provincial level.

### Enforcement and Detection by State Bodies

Enforcing the rules laid down about proper behavior in the laws is an essential element of upwards accountability. In Vietnam, several bodies play key roles in this regard. The Government Inspectorate carries out inspections related to compliance with regulations, including detecting corruption, State Audit of Vietnam carries out audits, and the Ministry of Public Security carries out criminal

#### Box 6.3. Inspections system challenges

A recent study supported by the Embassy of Denmark examined corruption and anticorruption in the construction sector. The authors argued that internal inspections are quite effective in identifying financial waste and losses, especially in construction projects. According to inspectors of the Ministry of Construction, they saved 25 billion VND in costs and collected approximately 10 billion VND from the inspected construction projects in the last two years. However, the effect of internal inspection on detection of corruption is still limited. The number of corruption cases detected by internal inspections is very low—the Ministry of Construction reported no corruption case from their internal inspections in the past two years.

According to inspectors from Ministry of Construction and Ministry of Transportation, it is difficult to detect corruption during inspections due to the following factors:

- Their main authority is to inspect the compliance with the internal rules and regulations governing the relevant industry (e.g. construction or transportation). During the inspections they look for violations of construction proceedings and accounting discrepancies. In the process, they may detect violations of the internal rules and regulations and uncover financial losses and waste, but in most cases there is insufficient evidence to establish grounds for accusation of corruption crimes. Since most corruption cases involve suspects that can cover up or withhold information, finding evidence of corruption requires investigation powers beyond the inspectors' authority.
- According to the Law on Anticorruption, when potential corruption violations are uncovered in an organization, only the head of the organization being investigated has the authority to refer the case to the competent authorities for further investigation or judicial follow up. Decree 107, which imposes the liability on the heads of organizations when corruption is found within their organizations, may create hesitance for the heads to decide on passing alleged corruption cases for further investigation. Meanwhile, there is no particular incentive or reward for them to advance the cases.
- There is no specific guidance or support from investigation authorities on how to establish evidence of corruption. For example, one inspector explained that despite the fact that they work closely and consult with the competent police authority on a regular basis, they rarely find sufficient evidence to determine a corruption crime. In the past two years, no corruption cases have been referred by the Ministry of Construction to the police authority for further investigation.

*Source:* Søren Davidsen, Nguyen Viet Ha, Hoang Ngoc Giao, Thaveeporn Vasavakul, Maridel Alcaide Garrido. 2009. "Implementation Assessment of the Anticorruption Law: How far has Vietnam come at the Sector Level? A Case-Study of the Construction Sector." Denmark Ministry of Foreign Affairs.

investigations. Recognizing that corruption requires cooperation among these enforcement bodies and others, a Steering Committee on Anticorruption headed by the Prime Minister was established in 2006.

The Law on Anticorruption requires the heads of government agencies and organizations to regularly organize internal inspections and, if violations are found, take follow up measures which may include settling the case in accordance with their authority and reporting to investigative authorities. Compliance with these requirements—annual inspection plans approved by organization heads—is reported to be fairly good. A recent study by the Embassy of Denmark, however, found that while this system was effective for identifying fraud and waste, it was less effective at detecting corruption. (Box 6.3)

For the investigation of corruption, some further devolution of responsibilities may be in order. Under current law, when potential corruption violations are uncovered in an organization, inspectors can only report and make recommendations to the heads of their organization, but only the head of the organization being investigated has the authority to refer the case to the competent investigative body. While it is appropriate for organizations to take primary responsibility for corruption within their ranks, requiring that they decide which cases are worthy of further investigation puts them in a position of conflict of interest.

In addition to the Government Inspectorate, a second body playing a key role in upward accountability for other bodies, and one which has some devolved features that could be emulated by others, is State Audit of Vietnam which, as a key institution of public financial management aimed at providing assurance that resources are used as directed by the government, was discussed in Chapter 2. Several key features of SAVs structure, however, are pertinent to understanding how inspection bodies can generate upward accountability with fewer conflicts of interest. Created in 1994 as an

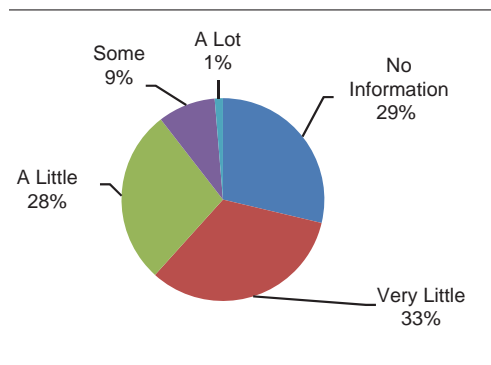
agency attached to the government, it became independent from the executive in 2005. The mandate of the SAV has been expanded over time—it is now responsible for auditing all agencies and organizations using state budget, money and property, for detecting corruption cases, and for assisting the National Assembly in budget oversight. Indeed, SAV's role in combating corruption is perhaps more active than a traditional Supreme Audit Institution, reviewing existing internal procedures and control systems to increase transparency, focusing on areas of high corruption risk in the course of audits, identifying loopholes and weaknesses and recommending policy reforms. Audit recommendations are published widely. Importantly, SAV reports to the National Assembly, not the government, and there has been enhanced transparency of audits results.

### Detection by Society

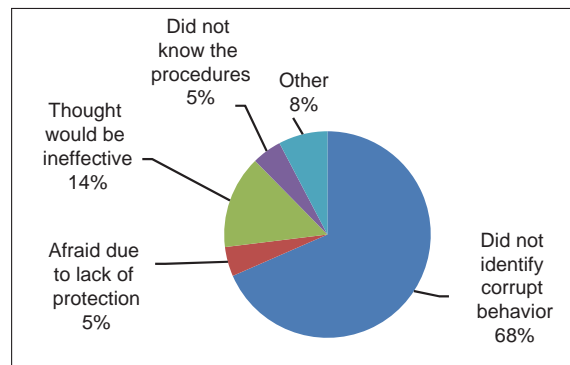
Beyond the question of who should lead the enforcement aspect of anticorruption, there is also the question of mechanisms and approaches that can most effectively prevent, detect or deter corruption. In Vietnam, several approaches have received prominent attention.

One approach is to rely on reports from those in society when they suspect corruption. While avenues to report corruption are essential, there are practical challenges for this system. According to the Law on Complaints and Denunciations, if citizens make a written denunciation, they must clearly state their name, surname and address, as well as the content of the specific denunciation. In cases where a citizen comes in person to make an oral denunciation, the person who receives the citizen shall have to record the denunciation contents, the name, surname and address of the denunciator, with his or her signature. In addition, those making denunciations must take personal responsibility for their statements. The person making the accusation does have the right to request the confidentiality of his or her name and other personal details, but the accusation cannot be made anonymously.

**Figure 6.2. How much information do households have on the regulations to prevent and fight corruption?**



**Figure 6.3. Reasons for not reporting corruption**



*Note:* Chart on the left is based on all respondents. The chart on the right was based on those who had not denounced corruption. The number of observations for the two charts were 9,188 and 9,040, respectively.  
*Source:* Own estimates based on the 2008 VHLSS Governance Module .

Whistle-blowers are, in principle, protected by Article 16 of the Law on Complaints and Denunciations, which prohibits a range of threatening, obstructing, intervening, and other actions that might dissuade people from reporting corruption. The person making the accusation can further request protection by competent state agencies when being threatened or retaliated against. Furthermore, those who threaten, retaliate, or insult the person making the accusation may be subject to administrative sanctions, criminal violations, or be required to pay civil damages. The Law also provides positive incentives: organizations or individuals who have, through their complaints and denunciations, prevented damage to the State, are to be rewarded according to the provisions of the law, although those rewards are not clearly spelled out.

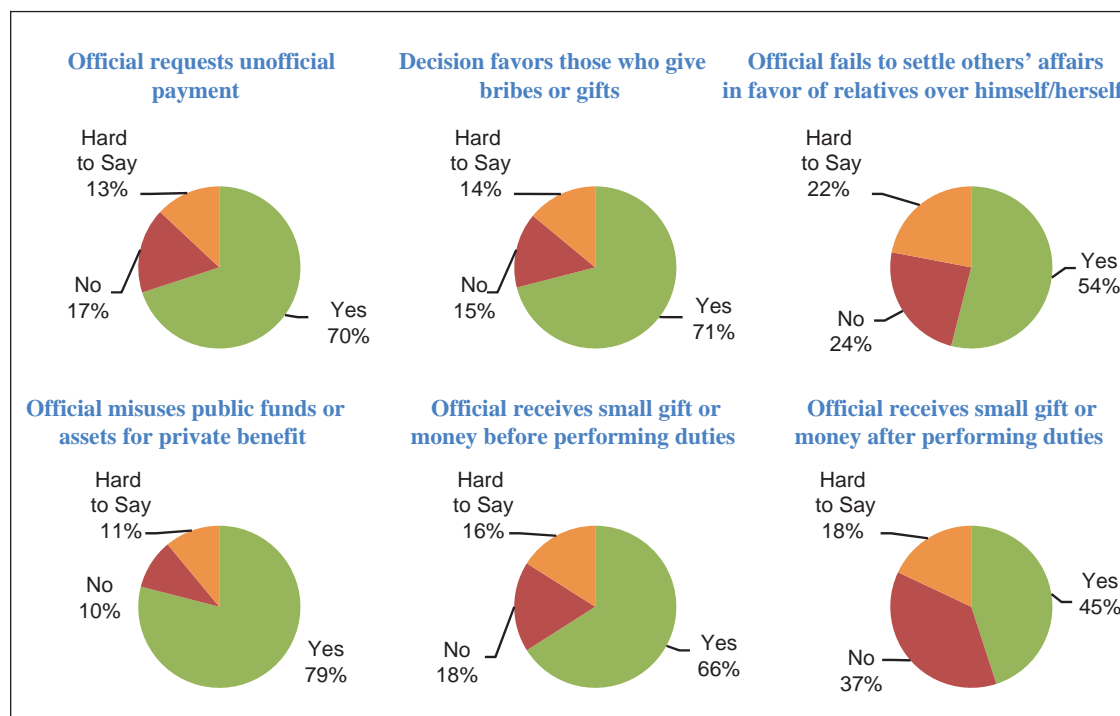
Despite these legal measures aimed at reporting corruption, this approach has limited potential as an anticorruption tool. Guarantees in the law notwithstanding, national-level data show that people’s awareness of the regulations to prevent and fight corruption remains weak (Figure 6.2). A separate question on the 2008 VHLSS Governance Module asked respondents if they had denounced an instance of corruption since 2006. Fewer than two percent had done so.

Among those who had not, most indicated that they had not reported any corruption because they had not encountered any corruption, but nearly one third of respondents gave other reasons: because they thought it would be ineffective, because they were afraid or because they did not know the procedures (Figure 6.3). These findings echo another 2008 survey in nine provinces by CECODES and Embassy of Finland<sup>65</sup>. In that survey, seventy-four percent of respondents said that few corruption cases are denounced and that even if they were denounced, there would not be sufficient evidence to prove corruption.

There is a second challenge for an approach that relies on the reporting of acts of corruption: the sort of corruption that people are most likely to encounter may not be viewed as corruption at all by significant portion of the population. When asked about various hypothetical actions and whether they were “corruption”, citizens were more likely to condemn the misuse of public funds as corruption than they were the sorts of petty corruption that they are more likely to encounter. Perhaps not surprisingly, richer respondents, who presumably pay more in taxes, were more likely to condemn misuse of public resources or assets, while poorer wage earners were slightly more likely to condemn the giving of “small” gifts<sup>66</sup>.



Figure 6.4. Is it “corruption”? Views of citizens



Note: The number of observations on which the charts are based is 9,186.

Source: Own estimates based on the 2008 VHLSS Governance Module.

While an approach that relies on whistle-blowers faces a number of challenges, the importance of making this avenue available for citizens is beyond dispute. Indeed, the positive response to Vietnam Innovation Day 2009 shows how willing society is to become involved in the fight against corruption. Even when whistle-blowers face a very hard and long slog in their anticorruption battle, there are cases where the effort pays off, as illustrated in the case of one persistent whistle-blower. (Box 6.4).

### Transparency as Prevention

Another pillar of Vietnam's anticorruption effort introduced with the Law on Anticorruption and subsequent decrees was to require declarations of assets and income for a broad cross-section of public sector employees. As of the end of 2008, some 395,000 officials had submitted their declarations of assets and income<sup>67</sup>.

At present the declarations themselves are not public information, but are only verified internally through a complex five-stage process. In practice, however, few declarations are verified. The 2009 study by the Embassy of Denmark, which focused on the construction sector, reported that there was no evidence of verified declarations in the previous two years and no cases of corruption in that sector had been detected through the declarations. The Ministry of Construction had predominantly used the declarations upon appointment of officials into new positions, but in these cases the declarations were only disclosed to employees at the unit to which the candidate was assigned.

Several options have been put forth that might make the assets declarations more useful as a deterrent and as a tool for uncovering corruption. One is to reduce the number of officials obliged to declare assets to a more targeted list of higher level officials or those in positions prone to corruption,

**Box 6.4. The battle of a corruption whistleblower**

Mr. Dinh Dinh Phu, a retired colonel living in Do Son town in Hai Phong city, detected in 2003 some serious corruption related to land use management. In the district of Van Huong, some land had been acquired from households for a tourism area, but in reality about 25 percent of the acquired land had been given as a present to Do Son town's leaders and about 10 percent was allocated to serve for "foreign affairs".

Perceiving this situation to be unfair, Mr. Phu started at the beginning of 2004 to submit denunciations to many places. His first denunciation letter was sent to the authority of Hai Phong city, but was met with silence. After that, the authorities in Do Son town issued Announcement No. 83 concluding that the denunciation letter was inaccurate and that Mr. Phu had intentionally violated the local order. Later on, the leadership of the town issued Document No. 18 accusing the whistleblower of "taking advantage of democracy to slander the leader, the Party and the authority". Because of these accusations, Mr. Phu was brought to the lower court of Hai Phong, where a verdict was issued against him.

As a retired soldier, Mr Phu would not give up easily. Five days after the trial, he sent emergency petitions to the Supreme People's Court, the Ministry of Public Security, the Prime Minister and the Deputy Prime Minister. The case was then investigated and cleared by the Government Inspectorate. On 24 March 2006, the Prime Minister issued Announcement No. 55 concluding that Mr. Phu's denunciation against Do Son leaders was true and that those leaders had issued a wrong decision. The Prime Minister also praised the sense of responsibility and courage of Mr. Phu. After that, Mr. Phu was nominated "Port Land Hero" for having overthrown the "corruption bastion" in Do Son and the port city of Hai Phong.

Source: Report on Three Anticorruption Cases to Be Justified (Embassy of Finland, 2009)

such as those involved in procurement. Second, instituting randomized, independent spot-checks and verifications of the asset declarations to supplement the current system could make them a more credible deterrent for both corruption and false declarations. Making the asset declarations public information for high level officials, as is done in many countries, would make it easier for all of society to identify incongruities between declarations and lifestyle. Finally, simplifying the process of initiating the verification process could make them more effective.

The Law on Anticorruption and other laws mandate transparency of a variety of activities, including those related to public procurement. Transparency provisions help level the playing field for those interested in doing business with the state, and help make it more difficult to hide instances of corruption. The study by the Embassy of Denmark reviewed a variety of public spaces where such information could be publicized, including official websites and publications, and found evidence of partial publication. This is perhaps not surprising,

since the volume of procurement documents is immense. Nevertheless, moving toward increasing the transparency of procurement documents can help to implement more deeply the sound provisions already in the law. For the construction sector, a major initiative is underway to overcome the technological and organizational challenges of making voluminous procurement documents truly public<sup>68</sup>.

**Sector-Specific Approaches**

Nearly all of the anticorruption interventions discussed so far, and nearly all of the approaches used in Vietnam, are cross-cutting approaches aimed at the entire public sector. Corruption, however, may look very different from one sector to the next. An approach that works well for one sector may not work well for others. While the National Anticorruption Strategy to 2020 calls for sector-specific approaches it remains to be seen how well these strategies will be customized for the vulnerabilities to corruption in each sector. The approaches needed to address unofficial payments or corruption in

pharmaceutical procurement in the health sector, for example, will be very different from those needed to address corruption in construction. An example of vulnerability mapping for customs in Russia is presented in Box 6.5.

When thinking about anticorruption, it is also important to remember that many policy reforms whose main purpose is something else, also have the effect of reducing corruption. The administrative reforms described in chapter 4 are aimed at simplifying life for firms and citizens, but these reforms also reduce opportunities for corruption. Reforms in public financial

management described in chapter 2 improve transparency and efficiency of public spending, but they also make it harder to hide corruption. And devolving authority to civil society and the media, described later in this chapter, helps make all of society allies in the fight against corruption.

### Monitoring Corruption and Anticorruption

Monitoring is necessary to show progress and identify areas of weakness. Monitoring of anticorruption, for example tracking compliance with transparency provisions, helps identify

#### Box 6.5. Sector specific approaches to corruption—customs in Russia

Few public agencies exist in which the classic preconditions for institutional corruption are as clearly present as customs. The amounts of money involved are large, and unlike tax administrations, customs agencies operate in geographically dispersed, remote posts, frequently around the clock, with relatively few staff. The opportunities for corruption abound.

The Russian Federation Customs Service is one of the largest government agencies, with over 60,000 staff operating in 11 time zones. The business community consistently perceived customs to be an obstacle to trade facilitation. Long delivery time, compared to other countries, was thought to be caused by most goods and related documents being examined individually by customs officials, and even minor mistakes could greatly delay shipments.

In December 2000, the Russian government launched the Federal Targeted Program of Development of the Customs Service of the Russian Federation for 2001-2003. The program aimed to bring transparency and predictability to customs activities, foster partnership between customs and the trading community, and create an efficient dispute resolution system.

The strategy sought to address the motives and opportunity for corruption in the customs service and included:

- Harmonization and simplification of the regulatory framework for customs operations, reducing uncertainty for traders.
- Simple and transparent procedures and the introduction of risk-based verifications to curtail the previously extensive physical inspections.
- Automation of customs processes, reducing discretion that provided opportunities for corruption.
- Strengthening a professional customs administration focusing on human resources, organizational restructuring, and improved management systems.
- Reinforcing the capacity of the personnel inspection unit.
- Ensuring an independent appeals mechanism.
- Reinforcing external feedback mechanisms.
- Tracing integrity improvements through performance indicators.

Reducing corruption is a long term challenge, but sector-specific approaches both focus interventions on the vulnerabilities of that sector, and make each sector accountable for improvements.

*Source:* Carlos Ferreira, Michael Engelschalk, and William Mayville. 2007. "The Challenge of Combatting Corruption in Customs Administration" in Sanjay Pradhan and J. Edgardo Campos, eds., *The Many Faces of Corruption—Tracking Vulnerabilities at the Sector Level*. Washington DC: The World Bank.

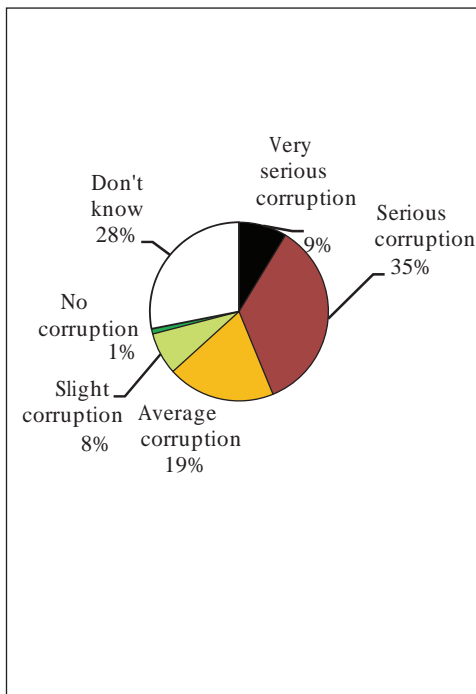
where more effort is needed for implementation. Monitoring of levels of corruption, through surveys of firms and households, can help show progress where there is progress, and identify where more attention needs to be directed. Importantly, it can help bring reassurance to the public that the government is taking the fight against corruption seriously. Upon ratification of UNCAC in the summer of 2009, monitoring has become even more crucial in order to meet reporting obligations.

A good monitoring system requires tracking the implementation of anti-corruption measures as well as the levels and trends of corruption as perceived and experienced by citizens and enterprises. The reports of the government on anticorruption submitted to

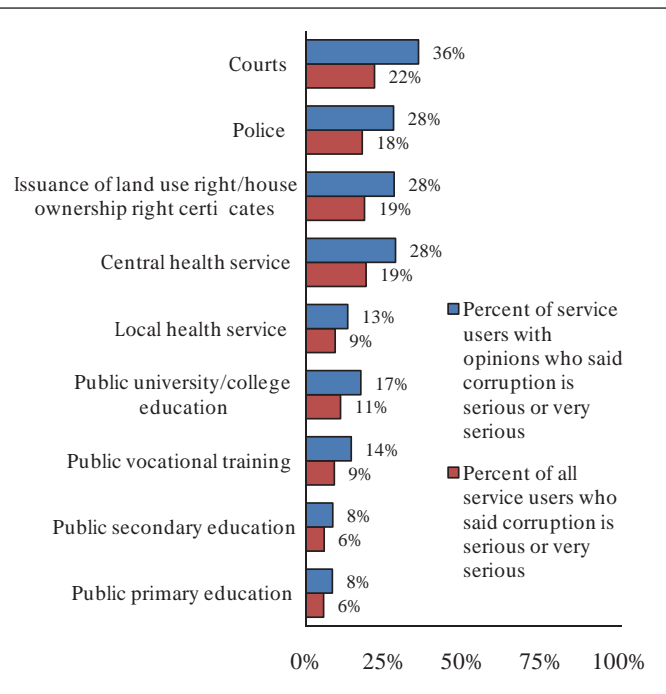
the National Assembly include some data on the implementation of anticorruption policies specified in the Law on Anticorruption. Although such information is valuable, further checking compliance, for example with transparency provisions, and identifying the best indicators to track compliance would also be useful. The new National Anticorruption Strategy to 2020 calls for a system of indicators by the end of 2010, providing an opportunity to strengthen the monitoring of anticorruption policies.

Quantifying the level and trends of corruption is not an easy task. The large, well-known, cross-country measures of corruption perceptions have been instrumental for drawing attention to the problem of corruption, but they provide little guidance as to the particular challenges

**Figure 6.5. Citizens' perception of overall level of corruption**



**Figure 6.6. Citizens' perceptions that corruption is serious**



*Note:* The number of observations for the chart on the left is 9,188. The chart on the right shows the percentages saying corruption is serious or very serious as a share of all respondents who had used the service, and the percentage saying corruption is serious or very serious as a share of respondent who had used the service and did not answer “don’t know.” The numbers of observations are smallest for the courts (56 and 92) and range from 467 to 6,304 for the other services.

*Source:* Own estimates based on the 2008 VHLSS Governance Module

facing a country or about changes over time<sup>69</sup>. Fortunately, several surveys that are much better suited for the task have been conducted in Vietnam.

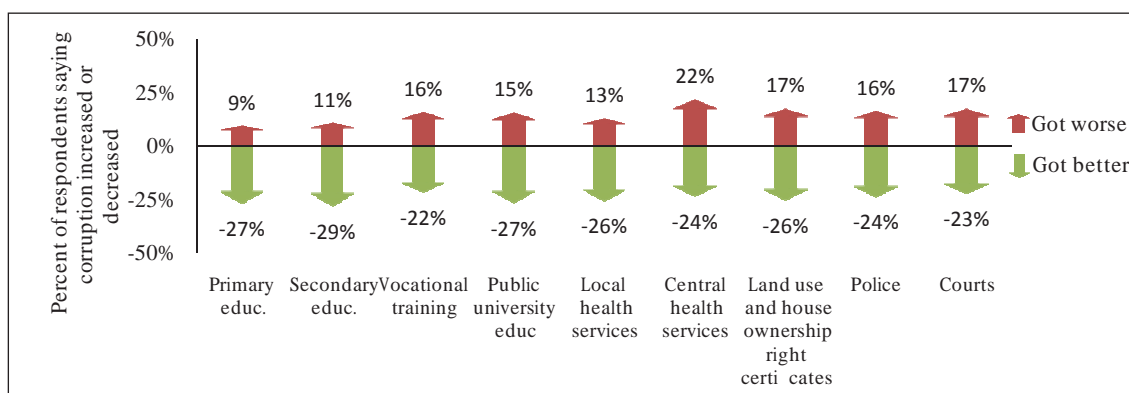
Among respondents to the VHLSS Governance Module, about one in four indicated that they do not have opinions on the level of corruption, but among the rest the majority think that the level of corruption in Vietnam is serious, and only 12 percent said there is little or no corruption (Figure 6.5). When asked about individual services used by households (court, police, land and house registration services, health and education), citizens were somewhat less negative, in the sense that fewer respondents think that corruption is very serious or serious. (Figure 6.6). Those who had actually used the services were slightly less likely to say that corruption is serious or very serious than those who had not used the service. This is true for all services except for the courts, for which the sample of users was small.

This interface between citizens and the state provides a partial picture of corruption. A more complete understanding would also cover interactions between firms and the state, corruption within the state itself, and even fully private sector corruption. While little is

known about the extent of the latter two forms of corruption, there is some information on corruption in enterprise-state interactions from surveys of firms. In the PCI survey of 2008, more than half of the firms said that firms in their industry pay commissions when doing business with the government, and 60 percent of firms said bribes to public officials pose a moderate or major obstacle to doing business.

Understanding trends in corruption is even more complex, yet essential for understanding how anticorruption efforts are working. There are several approaches to understanding trends based on surveys. One approach is to simply ask people their perception of the trends. While this approach may not identify the actual trends, it nevertheless provides useful information on whether people perceive progress in the fight against corruption. One survey, undertaken by CECODES and the Embassy on Finland in 2008 in nine provinces<sup>70</sup>, found that 67 percent of those surveyed think that the general level of corruption after the implementation of the Law on Anticorruption has decreased, while only seven percent think that it has increased. The remainder reported the level of corruption to be the same. The national VHLSS Governance Module implemented in 2008 similarly asked citizens about the trend in

**Figure 6.7. Trends in corruption in services, according to households (2006-2008)**



*Note:* Includes only respondents who had used the service since 2006. The number of observations were smallest for courts (92) and ranged from 745 to 6,302 for the others. All educational levels refer to public education. Chart shows the percentage of respondents saying that the service had improved or deteriorated since 2006. Those saying there was no change are not shown. Responses on “don’t know” are not shown.

*Source:* Own estimates based on the 2008 VHLSS Governance Module

corruption, but the results were somewhat less positive. When asked about particular services, the percentage of households who used those services who think that corruption has improved slightly outweighs the percentage who believe it has deteriorated. On average, however, only about one in four respondents thinks corruption is declining. (Figure 6.7)

A second approach to assessing trends over time using surveys is to compare the results using repeated cross-sections. The PCI survey included several questions related to corruption. The results generally show a decline between 2006 and 2008 in the percentage of firms that say corruption is an obstacle to their firm, and in the percentage of firms that felt that enterprises in their line of business were subject to bribe requests from provincial authorities.

A third approach, perhaps the one most robust to the vicissitudes of surveys, is to track the responses of the exact same firms over time. There are three different sets of surveys that use this “panel data” approach. One, by CIEM/DERG University of Copenhagen<sup>71</sup>, shows that the number of small and medium enterprises paying bribes dropped significantly between 2005 and 2007, although the magnitudes of bribes as a percent of total revenues increased slightly over the same period.

The PCI survey panel firms also indicated mixed results. While there was no significant change in the frequency with which firms reported paying bribes from 2006 to 2008, there was a decline in the fraction of firms saying that bribes to avoid taxes and regulations were an obstacle. Conversely, there was no decline in the magnitudes of bribes as a share of revenues, and the percentage of firms saying that they pay “commissions” when doing business with the government increased.

A third set of panel firms tells a somewhat more positive story. The World Bank Enterprise Surveys were carried out in 2005 and again in the summer of 2009. Much of the questionnaire

changed, but a question on whether the firm considers corruption to be an obstacle for the operation of the firm was very similar, allowing some comparison over time. For the panel of nearly 300 firms, there was a reduction in the assessments how much corruption poses an obstacle between 2005 and 2009.

Taken as a whole, these assessments are somewhat mixed, as one would expect. Citizens are not pessimistic, yet only a fraction say corruption in services delivery is getting better. Two panel surveys of firms found that corruption is posing less of an obstacle for operations, but two panel surveys also found that the magnitudes of bribes, as a percentage of revenues, had not declined. It should be noted, however, that if firms adapt to corruption to the extent that it becomes normal and less of a problem, even if no less frequent, it becomes even harder to eradicate<sup>72</sup>. Indeed, whatever the trend may be, the levels remain worrisome—more than half of the firms in the PCI survey indicated that firms in their industry pay commissions when contracting with the government, and one in four of the firms in study by CIEM/DERG University of Copenhagen said they paid bribes. The need to remain vigilant and step up the fight against corruption is as strong as ever.

### *Organized Civil Society*

When sub-set of citizens, organizations or firms share common interests, bringing those interests together and organizing them into civil society organizations, can give them greater voice than if kept separate.

Organized civil society in Vietnam has two distinct strata. The Vietnam Fatherland Front and a handful of large, well established “mass organizations” have official status and perform quasi-official duties<sup>73</sup>. In Vietnam’s devolving system, the devolution of civil society has been approached cautiously. While a decree expanding the rights and self-reliance of associations was issued in 2003, the adoption of a Law on Associations has been under discussion for more

than a decade. In this section we will briefly survey the landscape of organized civil society in a devolving Vietnam.

There are several modalities of Vietnamese Civil Society Organizations (CSOs), and a high percentage of people engaged in these CSOs. Mass-organizations, not including the Vietnam Fatherland Front, have about 31 million members, with the biggest associations boasting about 23 million members. In addition, many people participate in other associations, in non-

membership organizations and in community-based organizations (Table 6.1). Based only on the numbers, it would seem that civil society is alive and well in Vietnam.

At the beginning of Doi Moi, the picture looked quite different. Although a law stipulating the right to associate was adopted in 1957, only 25 associations or societies were established during 1957-1967 and 30 during the twenty year period from 1967 to 1986<sup>74</sup>. There have been three main positive changes in the devolution of power to

**Table 6.1. Types of local Civil Society Organizations that are legally recognized**

Category	Types	Size
Mass-organizations	1. Fatherland Front	About 31 million people are members of mass-organizations, not including the Fatherland Front, which is an umbrella for 29 organizations.
	2. Women's Union	
	3. Farmers' Association	
	4. Ho Chi Minh Youth Union	
	5. War Veterans Association	
	6. General Labour Confederation	
Associations	1. Associations	About 320 associations at the national level and 2150 at the provincial level. The biggest associations include: Vietnam Cooperative Alliance (10.5 million members), Old Age Association (6.4 million members), Red Cross (4.85 million members), Vietnam Union of Science and Technology Associations (1.15 million members).
Non-membership organizations	1. Social and charity funds	About 200 social and charity funds and 800 science and technology organizations
	2. Science and technology organizations	
	3. Social protection centers	
	4. Non-membership development organizations established by associations	
Community-based organizations	1. People's inspection boards	Not available
	2. Community investment supervision boards	
	3. Collaborative groups	
	4. Small-sized financial institutions	

*Source:* Legal documents; "Filling the Gap: The emerging civil society in Vietnam" (Irene Norlund, 2007); "Developing a sound legal environment for the development of CSOs" (VUFO-NGO Resource Center, 2006).

CSOs since that time, especially since the late 1990s. First, mass-organizations, which were traditionally seen as intermediaries between the Party and the people, have been allowed since 1989 to have more independence in terms of management and financing. Their operation has become semi-independent from the Party and the financial support that they receive from the state has been reduced. Second, the legal space for several new forms of CSOs has been opened, and the legal framework for some of the existing CSOs has been improved. The principle of self-finance has been applied to all the new forms of CSOs. Finally, CSOs have increasingly gained rights and responsibilities in public affairs: participation in grassroots democracy, provision of legal consultancy and legal aid, delivery of public services, participation in anticorruption, establishing media agencies, participation in the formulation and evaluation of policies and laws, providing feedback on administrative procedures, and the list goes on.

Not all CSOs have been treated equally in the devolution process. Mass-organizations and a number of umbrella associations such as the Vietnam Union of Science and Technology Associations (VUSTA), the Vietnam Union of Art and Literature Associations and the Vietnam Union of Friendship Associations have been assigned clearer oversight roles. Members of VUSTA have been delegated the official function of “social feedback” or “independent review” of governments projects and policies as stipulated in Prime Minister Decision 22. Moreover, mass-organizations have been granted some additional rights and responsibilities which have not been given to the other CSOs: monitoring of the National Assembly and People’s Council’s elections and organizing the nomination of candidates, participating in the selection of judges, participating in grassroots conciliation, assisting local governments in the implementation of grassroots democracy, issuing legal documents jointly with government authorities, etc.

The introduction of each new type of CSO has gone hand in hand with the introduction of measures to hold the new CSOs accountable. These include important mechanisms for downward accountability, such as the election of the management board by the members, the preparation and agreement on the charter by the members, the supervision of the CSO’s funds by independent people’s control boards, etc. However, most emphasize upward accountability through the hierarchy. Many decisions regarding associations, non-membership organizations and some community-based organizations remain ultimately under the control of the government. For People’s Inspection Boards and Community Investment Supervision Boards, the decision on the establishment lies in the hands of the Fatherland Front Committee at the commune level. These decisions include the power to approve the establishment, merger, division and dissolution of CSOs, as well as approve their charter or cooperation contract. In addition to these approvals, various additional upward accountability measures have been introduced.

Mass-organizations have seen a change in their upward accountability in the years since Doi Moi. The 1989 regulations on mass-organizations required permission by central and provincial government authorities for the establishment of mass-organizations, and made sectoral state agencies responsible for the management of mass-organizations. As quasi-state bodies, mass organizations have also become subject to some forms of downward accountability. Transparency of the use of state funds has improved, as has supervision by the people of mass-organizations at the grassroots level.

### **Mass Organizations**

The extent to which CSOs play a role in oversight largely depends on the modality of CSO. Mass-organizations have three main advantages: they can mobilize a large part of the population, they are present nationwide, even at the grassroots



level, and they have regular sources of finance from the state budget for their operations. Their ability to serve as a check on the executive can be limited due to their close relationship to the Party and their partial dependence on the state budget. In practice, however, at the grassroots levels mass-organizations have more autonomy than those at the central level<sup>76</sup>. In addition, mass-organizations are increasingly receiving funding from various donors and international nongovernmental organizations (INGOs) to implement development programs, which makes them financially less dependent on the state.

A key role of CSOs as collective action bodies is to concentrate the diffuse views of members, amplifying their voices. A recent study found that mass-organizations, more than other types of CSOs, see conveying the views and interests of their members to the authorities to be a key objective<sup>77</sup>. One clear example of the role of mass-organizations in channeling people's voices is the report that the Fatherland Front submits and presents to the plenary sessions of the National Assembly. The report synthesizes the opinions and petitions received from voters and the people, and it is addressed to the National Assembly, the Party and the government. The report presented in the spring session of 2009, and cited in the opening chapter of this VDR, had positive assessments of some policies, but also several critical comments, including about corruption. The Vietnam Fatherland Front and

other mass organizations, despite close ties to the state, still can play an important and constructive oversight role. Indeed, being given the podium in the opening session of the legislature is an extraordinary opportunity not present in many countries.

### Associations

The number of associations in Vietnam has grown remarkably in the past two decades, with the number of national associations four times that of 1990. The increase in the number of provincial associations has been even more spectacular. Before the decree on associations was issued in 2003, on average 12 new national associations and 96 new provincial associations were established every year. After the issuance of the decree on associations, on average 27 new national associations and 758 new provincial associations have been established annually (Table 6.2).

All associations have the right to provide consultancy and criticism on matters within the scope of the association. Business and professional associations have also the right to detect corruption and to report to competent agencies, organizations and individuals. The reality shows that many associations are involved in monitoring the government, and there are multiple examples showing that associations can be very effective in playing that role (Box 6.6).

**Table 6.2. Number of legally registered associations (approximate figures)**

	National Associations	Provincial Associations
1990	100	300
2002	240	1450
2004	301	1800
2006	350	2500
2008	400	6000

*Source:* Ministry of Home Affairs, Nongovernmental Organization Department (2008); "Join the club: civil organizations in Vietnam" (Dr. Nguyen Minh Phuong, Scientific Institute on State Organization, Ministry of Home Affairs, November 2007)

### Box 6.6. The role of associations in monitoring the government

Many associations with both a national office and provincial branches are involved in monitoring government and industry projects, especially those using public resources.

A prominent example is the Vietnam Consumer Protection Association (VCPA). Following its investigation into soy sauce, which uncovered gross violations of safety standards and practices, it pressured Ministry of Health officials to be more diligent about requiring producers to make products properly. Following VCPA's monitoring of this industry, the deputy director of the Health Department of Ho Chi Minh City was disciplined for failing to uncover the low, unsafe quality of soy sauce manufacturing.

Another association that conducts monitoring is the Ho Chi Minh City Union of Science and Technology Associations (USTA). It found faults with many of the nearly 80 infrastructure and other construction projects it evaluated in Ho Chi Minh City during 2003-2006. Its investigations into a plan to move the Saigon Airport reportedly saved the city 26 billion VND. The USTA branch in Kon Tum province has evaluated and criticized numerous public works projects in the area, getting local authorities to take on board many of their suggestions.

Other examples are the Vietnam Federation of Civil Engineering Associations (VFCE) and the History Association. The VFCE has found corruption and waste in several government construction projects. It has also worked with various ministries to set engineering standards to which the construction industry, including the government agencies overseeing them, could be held accountable. The History Association has on occasion pointed out inaccuracies in official versions of certain historical incidents.

*Source:* "Forms of Engagement between State Agencies & Civil Society Organizations in Vietnam" (VUFO-NGO Resource Center, DFID and Embassy of Finland, 2008)

Associations report several difficulties that constrain their ability to play their oversight role effectively. They report that their advice and criticism on public works and other projects that they oversee are not always considered by the authorities. Those who are supposed to be responsive may be the very ones who are benefiting from the status quo, and hence have a disincentive to do anything differently. Another obstacle for many associations is that they lack information needed to work well. Often government agencies do not provide clear information about plans and projects. Even if these shortcomings were addressed, however, associations would still face the challenge of limited resources—personnel, money, equipment—hampering the extent to which they can monitor projects and government agencies.

There are several aspects of the current legal framework that could be adjusted to ease entry and operation of associations. The procedures for establishing an association are cumbersome and time-consuming. To establish an association, one needs to go through three steps of recognition

and approval—mobilization committee, charter, application documents, and charter—and submit at least six documents, which overall take at least six months to be approved. Associations complain that the legal requirements are more like permissions than registrations. The criteria for the acceptance or rejection of associations are not transparent, leaving significant room of discretion to the authorities in charge of the approval. In addition, some of the existing criteria for the acceptance of associations are fairly stringent, such as the requirement of an unnecessarily high minimum number of members.

Another aspect of the legal framework that causes difficulties for associations is the dual state management mechanism to which they are subject. Associations are "managed" by either the Ministry of Home Affairs (for national associations) or the Provincial People's Committee (for provincial associations) and the corresponding line ministry. In some cases, there may even be more than one line ministry involved. The involvement of the line ministries

may be beneficial, especially when the association is delivering services in a sector regulated by quality standards, fees schemes and other regulations. Reducing the bureaucratic burden for associations while ensuring and encouraging the positive functions of line ministries, is the challenge.

Moreover, associations report difficulties due to the degree of involvement of some state agencies and officials in their activities. Current regulations require associations to submit to various state agencies reports on their finances explaining the sources and use of funds, and on the situation of their organization and operation. These measures may be necessary for the accountability of associations, especially in the early stages of their development—private firms are also required to keep good books and pay taxes. The problem arises when the level of control reaches a point that interferes in the ability of the association to effectively deliver in their public and non-public activities. As

associations demonstrate over time that they can be held accountable primarily through their members and society, such hierarchical controls could be eased.

### Science and Technology Organizations

Science and technology organizations which primarily conduct research, analysis and policy advocacy can play key roles in oversight, and through their critical assessments they have made numerous contributions to the advancement of development policy in Vietnam, such as conducting participatory poverty assessments or advising on policy to address macroeconomic instability and inflation. Their ability contribute to Vietnam's accountability system, however, has been put in question. The Prime Minister's Decision 97, which took effect in September, held that science and technology organizations established by individuals under the Law on Science and Technology would be restricted to selected fields, excluding important areas of

#### Box 6.7. People's Inspection Boards and Community Investment Supervision Boards

In 2005, two new CSOs with oversight functions found legal space: people's inspection boards and community investment supervision boards. The people's inspection boards were made responsible to supervise the implementation of all regulations and policies by the commune People's Committees, including anticorruption and the settlement of complaints and denunciations. The mandate given to the investment supervision boards focused specifically on the supervision of investment projects and programs "that directly affect the community in communes", regardless of the source of capital. This includes not only investment projects by the commune government, but also investment projects executed in the communal area but decided and managed by central, provincial or district-level governments. A wide range of investment aspects can be supervised by the community investment supervision boards: efficiency and waste in use of capital, compliance with technical processes and regulations, procurement, land-use planning, resettlement schemes, social and environment impacts, etc.

In 2007, the oversight mandate of these two CSOs was considerably expanded. Decree 47, on the roles and responsibilities of society in anticorruption, gave the people's inspection boards the responsibility to oversee the implementation of the law on anticorruption not only at the commune level, but also in state agencies, service delivery units and state owned enterprises, including through the detection of corruption cases. In addition, the Ordinance on Grassroots Democracy gave power to both people's inspection boards and community investment supervision boards to participate in the votes of confidence on top commune-level authorities and to supervise all government activities at the commune level that are subject to grassroots democracy: commune budgets, commune socioeconomic development plans, land use plans and drafts, compensation and resettlement draft plans, investment projects, etc. Some of these activities are decided and managed by the commune governments, but others are decided and managed by higher-level governments.

*Source:* Decree 99 (2005), Decision 80 (2005), Decree 47(2007) and Ordinance on Grassroots Democracy (2007)

research. In addition, this subset of science and technology organizations faced a new constraint. Criticisms of the Party and the state are now required to be submitted to the government in confidence, and not made public without permission. While some science and technology associations occasionally present confidential reports to the government already, they feel that the constraint on discussions in public fora will undermine their ability to distill clear messages collectively.

### **People's Inspection Boards and Community Investment Supervision Boards**

Community-based organizations (CBOs) are another category of civil society organization involved in oversight. People's inspection boards and community investment supervision boards are both CBOs with oversight mandates (Box 6.7). These two CBOs are relatively new and their potential has not yet been fully developed. Research on CBOs in the district of Bac Ai in Ninh Thuan province<sup>78</sup> found that there are many challenges facing the formation and operation of CBOs engaged in monitoring government programs, and that some engaged in policy monitoring have disappeared after a short time of existence. One of the specific constraints identified in the research is the attitude and motivation of people to engage in monitoring. Local people do not perceive it as their right and responsibility, and they often face local authorities who are also not keen to be monitored. The research concludes that building confidence and motivation among local people to engage in monitoring is essential.

People's inspection boards and community investment supervision boards operate at commune level but they are also entitled to monitor activities decided and managed by higher level governments and even by state owned enterprises and service delivery units (Box 6.7). Developing mechanisms for quick and effective reporting to the authorities so they can take action to resolve the problem is therefore very important. This might imply in many

cases reporting directly to authorities above the commune-level, as well to oversight institutions at those higher levels, such as the People's Councils and the government inspectorate departments. An effective reporting system would contribute to improving the motivation of people to engage in monitoring.

Strengthening these new oversight boards also calls for building their capacity. Although charged with complex oversight activities at the commune level, a plan for building up the skills and knowledge of members of these boards to implement their duties is still lacking, and the budget allocated for the functioning of these boards has also been small. A review of the actual operations and effectiveness of both people's inspection boards and community supervision boards would identify how these emerging bodies can play a more effective role.

Finally, the people's inspection boards and community investment supervision boards are not truly independent entities. Community supervision boards and people's inspection boards at the commune level are mostly members of Fatherland Front's member organizations, although other interested local citizens may also be members. Similarly, involvement in anticorruption depends on the assignment by the heads of government agencies or by the chairpersons of People's Committees. Reorienting the organization and membership of these boards so that members will not find themselves in positions of conflicts of interest, or establishing mechanisms so that such conflicts can be resolved, would help to strengthen both the effectiveness and credibility of these bodies in the fight against corruption and in their other oversight tasks.

### ***National Assembly and People's Councils***

Vietnam's elected bodies, the National Assembly and People's Councils, have been the recipients of devolved powers in the decades since the beginning of Doi Moi, including certain powers of oversight. This expanded mandate, which

includes budget oversight and audit oversight at central and local levels, and anticorruption, especially at the provincial level, is clearly important.

The National Assembly was established in 1946 and already before Doi Moi was given the power of supreme oversight. With Doi Moi, the National Assembly gained even more independence: The 1992 Constitution established the Standing Committee of the National Assembly as a fully independent body from the executive, and the 2001 Law on the Organization of the National Assembly mandated a minimum percentage of full-time deputies. In addition, the National Assembly has gained additional oversight powers, the right to cast votes of confidence, the right to monitor anticorruption, and the right to approve the allocation of the budget among sectors, programs and provinces. Doi Moi has also reinforced the oversight role of the specialized committees of the National Assembly.

People's Councils at the three local levels were established in the 1950s. Like the National Assembly, they have gained oversight powers. All People's Councils are empowered to appraise and adopt legal documents that are specific to the locality, to question the highest local authorities, to cast votes of confidence, and to monitor anticorruption at the local level<sup>79</sup>. Importantly, People's Councils at the province level are entitled to approve the budget allocation among the three local levels.

The oversight role by provincial People's Councils has become more important after Doi Moi as provincial governments have gained new powers over public finance, public investment and land use management, among others. The new powers on the part of the local executive, call for stronger oversight at the province level. In addition, provincial People's Councils have a particularly important role to play in monitoring the anticorruption work of the government at that level. Anticorruption steering committees suffer from potential problems of conflicts of interests due to the fact that they are headed by the chairman of the provincial government.

Recently, a large-scale pilot on the removal of People's Councils at district and ward levels has been approved. If the pilot is successful, the initiative will be extended nationwide. The initiative aims at making local governance more efficient and effective, as the current hierarchical system creates significant overlaps and inefficiencies. However, the removal of People's Councils could compromise the system of oversight over governments at district and ward levels, unless new mechanisms are developed. To compensate for this loss, the initiative plans to strengthen the accountability of district and ward level governments to the higher level governments, by empowering the latter to directly appoint the chairmen of the former. Encouragingly, the initiative also plans to strengthen the role of the provincial People's Councils in overseeing governments at district and ward levels.

### Constraints on Oversight

The National Assembly is noticeably more assertive than in previous years. Deputies call government ministers to testify before the National Assembly, frequently press them to explain the performance of their ministries, and periodically reject government proposals. However, there are still several factors that constrain the oversight role of the National Assembly and People's Councils.

One important constraint is the large number of part-time deputies, for whom it is difficult to allocate sufficient time to oversight tasks. Although the situation is improving, at present only 29 percent of National Assembly deputies are working full-time. In the specialized National Assembly committees the share of full-time deputies tends to be a bit higher, especially for some cross-cutting committees such as the law committee (Table 6.3). At the local level these challenges are magnified. Only four percent of deputies of People's Councils in the current term are full-time deputies<sup>80</sup>. A recent case study on the province of Ninh Thuan<sup>81</sup> shows that only 16 percent of the deputies in the provincial People's Council are working full time, and

that the percentages are even lower in the two selected district-level People’s Councils (seven percent) and in the four selected commune-level People’s Councils (five to seven percent). Having part-time deputies has been argued to have advantages in terms of representing the people’s wills for all localities, social classes, religions and ethnicities<sup>82</sup>. At the same time, the importance and volume of work call for full time attention.

Another factor constraining the oversight role of the National Assembly and People’s Councils is the potential for conflicts of interest faced by those deputies who work in the government. Currently the National Assembly has a total of 99 deputies working simultaneously for the government, which represent 20 percent of all

deputies. Most of the National Assembly deputies working in government do so at the provincial level (73 percent)<sup>83</sup>. In Ninh Thuan province, two out of three deputies are also civil servants. In the selected district-level and commune-level People’s Councils the percentages are 57 and 42 percent, respectively. These conflicts of interest become quite visible during the question and answer sessions with government. Deputies working in government tend to favor the executive branch and rarely raise their voice or make questions<sup>84</sup> to avoid negative consequences, such as retaliation or even losing their jobs in the government. There are signs that conflicts of interest may also occur during the appraisal of draft laws by the National Assembly committees. A 2008 survey conducted by the Office of the National Assembly (ONA) with the support of

**Table 6.3. Full-time Deputies in the National Assembly**

	2002-2007	2007-2012
National Assembly (overall)	121 (24%)	145 (29%)
Nationality Council	10 (26%)	12 (31%)
Committee of Social Affairs	18 (49%)	14 (35%)
Committee of Foreign Affairs	8 (24%)	10 (33%)
Committee of Science, Technology and Environment	14 (39%)	16 (43%)
Committee of Economy	] 16 (40%)	14 (39%)
Committee of Finance and Budget		10 (29%)
Committee of Law	] 21 (62%)	20 (57%)
Committee of Judiciary Affairs		14 (41%)
Committee of National Defence and Security	10 (26%)	9 (26%)
Committee of Culture, Education, Youth & Children	16 (43%)	14 (36%)

Source: Office of the National Assembly (2009)

the European Commission<sup>85</sup> (EC) revealed that only 25 percent of the interviewed National Assembly deputies think that the appraisal reports of the National Assembly committees are highly critical. The rest of the interviewed deputies think that the reports are either not very different from the written submission from the government or that they contain no different points of view in relation to the submitted drafts.

The limited evidence-based, in-depth and independent analysis has also been pointed out as a core deficiency in the oversight role of the National Assembly<sup>86</sup>. The findings of the ONA-EC survey illustrate some of the consequences of this shortage. While speaking in debates, most respondents reported that deputies tend to focus on wording as opposed to focusing on policies and they tend to lack persuasive arguments. The National Assembly has recently made significant efforts to improve the situation. A Training Center for Elected Representatives targeting deputies both in the National Assembly and provincial People's Councils has been established, training needs assessments have been conducted and training plans and curricula have been developed. In addition, a new Institute of Legislative Studies has been established on a permanent basis under the National Assembly Standing Committee with the function of generating and disseminating knowledge to the deputies. These efforts to maintain a permanent store of knowledge are commendable, especially considering the high turnover of deputies from one legislature to the next. Approximately 70 percent of deputies are new in each legislature. Without in-house research and knowledge, the human capital on which the National Assembly invests would be largely lost at the end of the legislature.

Limitations in the time to conduct oversight activities are another major constraint. The time reserved for the scrutiny and discussion of state budget, national programs and national projects in the financial timetable is very short. As stipulated by the State Budget Law, the state budget estimates and central budget

allocations are sent to the People's Councils and the National Assembly committees by 1 October. The Financial and Budgetary Affairs Committee is required to complete its review by 5 October so that the estimates and plans are finalized and sent to the National Assembly members ten days before the opening session of the National Assembly discussions of the budget. One working week for the financial and budget affairs committee to lead the review in cooperation with the Ethnicity Council and other National Assembly committees does not seem commensurate with the importance of the job. Experience from other countries shows that the time for the National Assembly and Committees to review and discuss the budget is on average two or three months, or four months in some cases.

National Assembly deputies have also limited time to study draft bills before the plenary. The ONA-EC survey shows that the majority of the deputies (84 percent) think that time to study the drafts is insufficient. The majority of deputies (93 percent) also said that they receive the draft legal documents less than 20 days before the plenary sittings, and about one third of them said that they receive the documents only five to ten days in advance. Moreover, the current fixed amount of time for discussion for each draft law limits the contributions of the deputies. For example, during the reading of the draft Law on Laws in the 2007 autumn session, only two thirds of the 44 members registered to speak had the chance to voice their opinions. It is therefore not surprising that one in three deputies think that laws are "often" approved without meticulous discussion.

The first vote of no confidence was held in 2004 when the National Assembly dismissed the Minister of Agriculture and Rural Development from the cabinet following allegations of corruption. However, due to the lack of specific regulations on forms and procedures, votes of confidence on elected or ratified positions by the National Assembly have hardly been carried out. The current regulations require the request by at

least 20 percent of the total number of deputies, but do not specify how the opinions of the deputies must be collected and how the agreement among the deputies must be reached. Based on the example of Ninh Thuan, the situation in the People's Councils does not seem to be any better than in the National Assembly. When asked about the effectiveness of votes of confidence, the many deputies in provincial-level People's Council of Ninh Thuan (36 percent) replied that it had not yet been implemented. The same proportion replied as much for the district-level People's Council of Pham Rang-Thap Cham.

The lack of specific regulations is not only affecting the exercise of votes of confidence but also the follow-up on the recommendations of the People's Councils. The existing legal framework for People's Councils stipulates in detail the contents and processes of monitoring activities, but it does not detail the work to be done during the post-monitoring stage. The study of Ninh Thuan revealed that the implementation of the post-monitoring recommendations is limited due to the lack of implementation mechanisms as well as concrete sanction mechanisms. Enforcement depends on individuals following-up when they

attend the government meetings. The forthcoming amendment of the Law on the Organization of People's Councils and People's Committees could improve this situation by clarifying the responsibilities of the Standing Committee of People's Councils and their specialized committees in relation to the implementation of the post-monitoring recommendations, by strengthening the role of CSOs in the post-monitoring period, and by requiring government reports on the implementation and results of the recommendations.

In addition, oversight by People's Councils is not reaching its full potential because of the limited engagement of individual deputies in monitoring activities. The study of Ninh Thuan found that, at all levels, monitoring by individual deputies is limited or non-existent. Gradually increasing the number of full-time deputies and developing an annual plan of priority issues to be monitored could help improve the situation. Equally important is to encourage partnerships with other oversight organizations. Strengthening the coordination of the People's Councils with the People's Inspection Boards and the Community Investment Supervision Boards, for example, could be promising.

**Table 6.4. National Assembly Deputies since the 1992 Constitution**

	1992-1997	1997-2002	2002-2007	2007-2012
Deputies	395	450	498	493
Self-nominated	2 (1%)	3 (1%)	2 (1%)	1 (1%)
Non-party members	33 (8%)	68 (15%)	51 (10%)	43 (9%)
First-time legislators	n/a	327 (73%)	363 (73%)	345 (70%)
Women	74 (19%)	118 (26%)	136 (27%)	127 (26%)
Ethnic minorities	66 (17%)	78 (17%)	86 (17%)	87 (18%)
Farmers	58 (15%)	17 (4%)	6 (1%)	6 (1%)
Businessmen in SOEs	19 (5%)	22 (5%)	14 (3%)	17 (3%)

Source: Office of the National Assembly (2009)



## Accountability

Policies to strengthen the accountability of the National Assembly and People's Councils have been significantly improved with Doi Moi. A stronger emphasis has been put on contact with voters and on assisting voters with their petitions, complaints and denunciations. Monitoring of elections has been enhanced and the election procedures and rules have become more inclusive. Candidates and full-time deputies have been required to declare their income and assets. Deputies in People's Councils have become subject to votes of confidence by voters, and in the commune-level People's Councils votes of confidence have been introduced for the chairmanship positions. Importantly, the National Assembly has improved the collection

of public comments in law-making, and has opened up to the public its question and answer sessions, which are televised and attract a large audience.

The election process in Vietnam has two main steps: the nomination of candidates and the election of deputies among the candidates. The nomination of candidates falls heavily in the hands of the Fatherland Front, which is responsible for arranging consultative voters' conferences to select and nominate the candidates, and in the hands of the election board, which is responsible for approving the candidates. It is also influenced by the Standing Committees of the National Assembly and People's Councils, which propose the number and composition of candidates. Almost all eligible citizens in

### Box 6.8. The Vietnamese Women's Caucus

On 15 May 2008, the National Assembly Standing Committee issued a resolution on the "establishment of a Vietnamese Female Members of Parliament Group" (the Group). The resolution followed a proposal of the National Assembly Committee for Social Affairs that such a group be established.

The Social Affairs Committee presides over, and is responsible for, the Group's operations. The Committee's Chairperson, Ms. Truong Thi Mai, is the Group's Chairperson and in this role, is accountable to the National Assembly Standing Committee for the Group's activities. All 127 women members of the National Assembly can participate in the caucus on a voluntary basis. The objectives of the Group are to:

- Provide information and to improve knowledge of female Deputies in Parliamentary work in line with each session of the 12th legislature, especially on gender issues and the representative role of female Deputies.
- Improve skills of female Deputies in parliamentary work and in gender analysis and awareness; and create a forum for female Deputies to share experiences on gender issues and in mainstreaming gender in legislation.
- Expand relationships to disseminate and mobilize resources through women's participation in the Group's activities.
- Promote the Group's participation in multilateral and bilateral fora on cutting edge issues such as anti trafficking, marriage between Vietnamese women and foreigners, anti domestic violence; and to exchange experiences among female Deputies on mainstreaming gender issues in legislation.

The establishment of women's caucuses has been an effective strategy used to affect change in a number of parliaments around the world. In some cases, caucuses bring women from different political parties together to work on issues of common interest. Caucuses can also act as forums to work with other partners in the community, such as civil society and the private sector. A recent Inter-Parliamentary Union study found that in those countries with women's caucuses, 61 per cent of respondents felt that they were successful in influencing parliamentary or legislative activities and providing oversight

*Source:* Ballington 2008.

Vietnam participate in the second step of the election process. The voter turnout is regularly 99 percent or higher. In addition, voters are highly interested in the elections. Based on an ONA-EC public opinion poll conducted before the last elections in 2007<sup>87</sup>, 82 percent of the respondents reported being very interested in the elections and only 1.4 percent said that they were not interested.

The percentage of female deputies increased with the 1997 Law on Elections, but has not changed much since. (Table 6.4). In the current legislature (2007-2012) they represent 26 percent of the deputies in the National Assembly, slightly fewer in the People's Councils. While not atypical—the 2008 average for developing countries is about 17 percent and for developed countries 23 percent—a strong voice for women in the legislature is important for ensuring a body of laws that reflect their views and experience, and quite simply for increasing the pool of talent for law making<sup>86</sup>. In addition to sheer numbers, the manner in which they are organized also makes a difference. Collective action organizations such as the Vietnamese Women's Caucus can help to amplify their voices. (Box 6.8).

Ethnic minorities are represented in the National Assembly roughly in proportion to their share of the population. In contrast, farmers and businessmen from the private sector are noticeably under-represented. Farmers constitute the majority of the population of Vietnam (around 70 percent) but they only represent 1.2 percent of the deputies in the current legislature. The business sector is becoming more important in the economy, but this has not been translated into a growing percentage of businessmen in the National Assembly. At the moment they only represent 3.4 percent of the deputies in the National Assembly.

The National Assembly has set up delegations at the provincial level to help maintain contact with voters. Contact with voters is further facilitated by the fact that a large percentage of National Assembly deputies are based in the provinces (69 percent). However, contact of deputies with

voters remains limited. One key constraint is the limited time that deputies have, given their heavy workloads and the fact that they only work part-time. In addition, the voters who typically provide suggestions on draft laws in conferences and contacts with National Assembly deputies are often themselves officials from the grassroots level.<sup>89</sup> Based on the case study of Ninh Thuan, the social composition of voters participating in the meetings with People's Councils deputies lacks diversity.

The National Assembly in many ways is like a CSO, albeit one with extraordinary powers. With the limited channels through which citizens can voice complaints elsewhere, as discussed in earlier chapters, many turn directly to the National Assembly with their frustrations. The volume is such that the National Assembly has difficulty dealing effectively with the massive number of complaints and denunciations that it receives from the people. The National Assembly has only the mandate to urge government officials to settle the complaints and denunciations within a strict time limit. The National Assembly cannot settle them itself, even in the case when they affect a large number of citizens. While the National Assembly only has a department of petitions belonging to the National Assembly Standing Committee, it has neither a specialized committee on petitions nor an ombudsman.

The National Assembly has improved engagement with constituents in the appraisal of draft laws and ordinances. It collaborates with the Public Opinion Research Institute to collect public opinions on draft bills, and it has opened more to the policy advice of Vietnamese CSOs. In early 2007 it created a website to post drafts for collection of public comments. In 2008, all draft laws and 88 percent of the draft ordinances were posted, representing a significant improvement in its first year.

### *Information*

At the center of most of the discussions in this VDR lies information. The new systems of accountability that are called for by a devolved

### Box 6.9. Regulations on information

A simple inventory of provisions on the information to be made public by all sectors of government found that there are many laws and other legal documents containing such provisions:

1. Ordinance on State Secrets (2000)
2. Decree 33, on the implementation of the Ordinance on State Secrets (2002)
3. Law on Anticorruption (2005)
4. Decree 120, implementing some articles of the Law on Anticorruption (2006)
5. Decree 47, detailing and guiding the implementation of the Law on Anti-Corruption regarding the role and responsibility of society in corruption prevention and control (2007)
6. Ordinance on Grassroots Democracy (2007)
7. Law on Publishing (2004)
8. Law on Statistics (2003)
9. Law on E-transactions (2005)
10. Law on Information Technology (2006)
11. Decree 64, on IT application in state agencies (2007)
12. Law on State Budget (2002)
13. Decree 60, on the implementation of the Law on State Budget (2003)
14. Prime Minister Decision 192, on public finance transparency (2004)
15. Law on State Audit (2005)
16. Decree 91, on the publication of auditing results and outcomes of the realization of auditing conclusions and proposals of State Audit (2008)
17. Law on Bidding (2005)
18. Decree 58, guiding the implementation of the bidding law and selection of construction constructors (2008)
19. Law on Management and Use of State Property (2008)
20. Decision 115, promulgating the regulation on publicity of the management and use of state property at state agencies, public non-business units and organizations assigned to manage and use state property (2008)
21. Law on the Promulgation of Legal Normative Documents (2008)
22. Law on the Promulgation of Legal Normative Documents of People's Committees and People's Councils (2004)
23. Prime Minister Directive 32, on the settlement of people's and enterprises' affairs (2006)
24. Decision 7 of Office of Government, on organizing individuals' and enterprises' feedback on administrative procedures via website (2006)
25. Decree 20, on handling individuals' and organizations' feedback on policies and administrative regulations (2008)
26. Prime Minister Decision 7, on the implementation plan of simplification of administrative procedures (2008)
27. Press Law (1989, amended in 1999)
28. Decree 51, on the implementation of the Press Law (2002)
29. Prime Minister Decision 77, on making statements and supply of information to the press (2007)
30. Prime Minister Decision 1390, on cooperation between among various ministries and central agencies in providing information to the press (2008)

Most of the provisions indicate which pieces of information are to be made public, but many do not assign personal and institutional responsibilities for the publication of the information, how compliance is to be guaranteed, or procedures for appealing refusals.

Source: Maria Delfina Alcaide, 2009. "Access to information in Vietnam—current legal framework". Processed.

system rely crucially on accurate and timely information. For citizens to be able to help in the battle to prevent and detect corruption they need information. For citizens to know their rights and obligations, and to be able to claim them, they need information. For enterprises to be able to operate on a level playing field, they need information. For the media to be able to accurately communicate important information to the public they need information.

At the moment, however, Vietnamese citizens and enterprises, the media and civil society, and even some public officials are unable to meet the potential to which they aspire, because they simply do not have the information they need in a systematic manner. Access to legal documents is improving, if not yet complete, and access to administrative procedures is also increasing with the government's program on administrative procedure reform. Yet, even for this most practical function of information-how to do things—some citizens find information hard to obtain. When those who had interaction with various government services were asked whether it was simple to find guidance information, many users of some services reported that it was not simple. As discussed in chapter 4, for notaries and registration of some services, most respondents indicated that it was easy to find guidance, while the more negative opinions were reserved for administrative complaints, and applications related to house ownership and land ownership.

As discussed throughout this VDR, active participation by citizens in the affairs of the public can help to ensure that decisions take into account the valuable contributions that citizens can make, particularly on issues that impact them directly, and also can help ensure that they feel confidence in the course of action ultimately chosen. Investing in participatory processes can also strengthen the effectiveness of policies, since having citizens on board can help to ease implementation. In order to participate effectively, however, citizens need information. The VHLSS

Governance Module asked respondents about their interest in a range of local documents, such as land use plans, schemes for compensation and support for resettlement, fees and charges collected by the commune, etc. Between 25 and 50 percent of respondents said they were interested in such documents. But when asked about the amount of information they have on these same documents, many indicated that they had little, and the majority of those who say they have information also indicate that it does not meet their needs.

Some information has national significance. As discussed in chapter 5, understanding how the law will be applied to an individual requires information on how it is applied to others. Especially when the legal language is open to interpretation or when laws conflict with each other, some simple information on court judgments would be very useful. At present, however, information on court judgments is not widely available in a systematic format. Similarly, as discussed in this chapter, the media, which is increasingly called upon to play an active role in informing the public about a range of issues, including promoting anticorruption activities, find themselves wanting for information from official sources. Researchers likewise report difficulty accessing the information they need to conduct policy analysis. Without a systematic policy on access to information, journalists, researchers, and even government officials may find it difficult to do their jobs well.

This situation clearly calls for change, but the tension between a legal and organizational culture that emphasizes secrecy and the genuine need to safe-guard certain forms or information, and the need to make public information the rule rather than the exception, poses a formidable challenge. In this section, we first discuss the challenge of giving access to information a firm grounding in the law, and then take up the question of the implementation challenges that would need to be addressed to improve access to information.

## Legal Basis for Access to Information

A draft of what might be Vietnam's first Law on Access to Information was prepared in 2009 and may be discussed for the first time in the spring 2010 session of the National Assembly, after having been postponed from the fall 2009 session. But what exactly would such a law accomplish, and how?

Access to information is recognized as a right in the Constitution and there are currently many legal documents regulating access to government information. The Ordinance on State Secrets and its implementing Decree are the main legal documents regulating the list of information that cannot be disclosed. The Law on Anticorruption regulates quite comprehensively the types of information that must be disclosed in many different sectors. It also introduces for the first time the right of individuals and organizations to request information from government agencies, organizations and units, as well as the obligation of the government to reply to those requests within 10 days. The Ordinance on Grassroots Democracy regulates very comprehensively the information that must be publicized at the commune level, as well as the forms of publication. There are many more legal documents that require the disclosure of information across all sectors of government (Box 6.9), as well as some sector-specific laws.

Overall, the current legal framework comprehensively covers the information that must be disclosed. However, there are two key reasons that an access to information law is still needed: one is to help do better what is already in the law, and the other is to recognize the benefits of making public information the rule, rather than the exception. We will discuss each in turn.

Although many legal provisions call for certain documents to be disclosed, these provisions are spread across many different legal documents, making it difficult and time-consuming for public officials to know their obligations in relation to the types of information that need to be made public. In addition, most of the existing

regulations on access to information tend to focus on publication of approved documents. Only a few (e.g. the Law on the Promulgation of Legal Normative Documents, the Ordinance on Grassroots Democracy) have taken a step further by requiring the publication of both the approved document and the draft document, thereby encouraging public participation.

Despite all these legal provisions mandating public disclosure, the information may or may not be easily accessible or even provided on request. Most legal documents regulating access to information do not clearly assign institutional and individual responsibilities for the publication of information. The implementing guidelines of the Law on Anticorruption assign heads of agencies, organizations and units the responsibility "for the organization and direct application of publicity", but it only applies to the information mandated to be disclosed under that Law. Importantly, there are no regulations on specialized departments or officers on information supply, except for the provisions on spokespersons for information to the media. The timing for publication is only specified in a few of the legal documents listed in Box 6.9. The right to request information is specified in the Law on Anticorruption, but not in the vast majority of the other legal documents regulating access to information.

Although institutional responsibilities are usually specified for the oversight of the overall implementation of a given legal document, very few specify the institutional responsibilities for the oversight of the specific task of supplying information. The implementing guidelines of the Law on Anticorruption stipulate that the heads of agencies, organizations and units are responsible for overseeing the implementation of supply of information, but only implicitly. Under the current legal framework, the oversight system for access to information consists of multiple institutions and authorities with only an implicit mandate, but not an explicit one.

One option that has been taken in other countries is to create an oversight agency with the explicit

**Box 6.10. Monitoring implementation of access to information in international experience**

Access to information is becoming increasingly recognized in international law, and a large number of countries have recently issued this type of legislation. While in 1990 only 13 countries had access to information laws, by now more than 80 countries have passed such legislation.

A quick look at other countries' experience in implementing access to information laws suggest that those that clearly specified the mechanisms and agency responsible for overseeing implementation were the most successful. Indonesia, Thailand, and Mexico, are all developing countries that passed laws with specific and concrete chapters regarding the agency in charge of implementation. In Thailand, an Official Information Board receives complaints on failure to publish information and reports to the Government. In Mexico, the Federal Institute of Access to Public Information is an autonomous body charged with overseeing the law at the national level. Indonesia is currently working toward the establishment of an Information Commission.

During the drafting of Vietnam's access to information law, several options for an oversight agency were contemplated, including (i) creation of a new, autonomous, body reporting to either the Government or the National Assembly, and (ii) entrusting the Vietnam Fatherland Front to play this role. Whichever course of action is taken, a clear distinction between the monitoring and oversight function on the one hand, and day-to-day implementation on the other hand, will help ensure that the agency, whether existing or newly created, has a clear mission to ensure access to information according to the law.

*Source:* Jairo Acuña-Alfaro. 2009. "Heightening access to information in Vietnam—The challenge of monitoring implementation." *Vietnam Law & Legal Forum*, August 2009.

mandate on monitoring the implementation of the provision of information across all sectors and government agencies. As described in Box 6.10, oversight authorities, combined with clearly assigned institutional and individual responsibilities for the provision of information within each state agency and adequate financial resources, have been effective in other countries.

Only a few of the legal documents outlined in Box 6.9 specify that the failure to supply information is a violation subject to punishment. An exception is the Law on Anticorruption, the implementing guidelines of which state that failure to supply the information is subject to discipline and sanctions. Even for this law, however, the sanctions corresponding to specific violations are not specified.

As a whole, then, Vietnam's legal framework, despite many provisions calling for certain types of information be made public, does not ensure access to information by the public. Clarifying responsibility for providing the information, responsibility for monitoring compliance, and sanctions for failing to provide the information

are not covered. Moreover, the provisions in the current legislation constitute a "positive list" of information that should be disclosed. The presumption that all information that is not prohibited, for example on national security grounds, should be considered public is still lacking in Vietnam. Ensuring that the right to request information is extended to all types of information and is applicable to all sectors and levels of government would be a major advance for Vietnam.

**Implementation Challenges for Access to Information**

Even a perfect legal regime would face challenges. There are a range of practical issues that impact how much information the citizenry actually has, and whether and how public officials would provide that information. A recent survey of the Ministry of Justice and the National Hanoi University (NHU) on the current situation of access to information in four provinces (Ho Chi Minh City, Binh Duong, Dong Nai and Long An) suggests that cultural factors constitute an important barrier

for provision of information by government officials. According to the survey, almost all public officials do not consider the provision of information to citizens their responsibility because the provision of information is not the main duty of policy implementation provided in the laws and regulations.

In contrast, public officials, staff and leaders of public agencies tend to be familiar with the working context of secrecy. Almost all answers consider that public officials are puzzled when they are requested to provide information. Almost all of them transfer the requests to their higher officials. The NHU survey suggests that cultural barriers extend not only to civil servants, but also to enterprises and individuals. Almost all respondents—public officials, enterprises and individuals—do not know or recognize

that information held by public authorities is the property of the people. Overcoming such cultural barriers would take time and effort—a large-scale public relations campaign, perhaps grounded in the rights under a new Law on Access to Information, would be an important step in this regard.

Establishing an effective access to information law will also need to overcome a related accountability barrier. As outlined in Chapter 1, if the system of accountability is asymmetric, for example if making a mistake is punished more than failure to do something good, the result will be overly risk-averse behavior. But this neatly describes Vietnam's system: those who release information can be punished if they make a mistake, but are not rewarded for making information available.

#### **Box 6.11. Access to information in Hanoi, Quang Binh, Ninh Thuan, and An Giang**

In order to provide some useful information to the team at the Ministry of Justice entrusted with drafting the Law on Access to Information, the People's Participation Working Group, composed of a number of international NGOs and financial institutions, organized a survey in Hanoi, Quang Binh, Ninh Thuan, and An Giang in the summer of 2009. The survey was designed to provide a quick snapshot of the real situation and concerns about access to information. An attempt was made to balance the sample of 500 respondents according to gender, ethnicity, and poor versus non-poor status, but without full information on a sample frame, the results can not necessarily be considered representative in the statistical sense. Nevertheless, the study provides a good example of how some basic understanding of an issue can be attained fairly quickly.

By and large, citizens tend to have the greatest need for information regarding issues that touch them directly—more than half of respondents identified healthcare, environment, education and social and cultural situation, land, and transport safety as issues that concern them. In contrast, information on macroeconomic facts and contacts of government agencies attract little attention of citizens—only 30 percent of interviewees are interested in this kind of information).

Citizens were also asked how they prefer to receive their information. The preferred channels were through mass media, citizen group or village heads, and posting at local authority's office. Reflecting the realities of many of Vietnam's citizens, the least desired channel was through Internet. While publishing documents on the Internet may be a cost-efficient way of disseminating information, and should be encouraged for this reason, it is clearly not sufficient. Seeking other cost-effective measures to disseminate information, paying attention to citizens' and enterprises' preferences for forms of publicity, can help make Vietnam's access to information regime effective.

Results of in-depth interviews show that ethnic minority citizens in rural and remote areas expect to access information through radio broadcasting, newspapers, citizen meeting, and community activities rather than posting at local authority's office. Many also prefer the system of loudspeakers, which they say saves them time.

*Source:* Survey of Citizens' Information Accessibility Situation and Needs as Conducted by People's Participation Working Group and Development and Policies Research Center, 2009

A useful regime of access to information should ensure foremost that information is provided on the issues that concern the citizenry, in a form that is useful to them. A survey conducted in four provinces (Hanoi, Quang Binh, Ninh Thuan and An Giang) in the summer of 2009 provides insights into citizen's preferences, and current difficulties, in accessing information (Box 6.11).

As a good access to information system should also ensure that the public bodies providing the information can recover some of the costs, and to dissuade excessive and frivolous requests, many countries include fees for some information. The survey also enquired about willingness to pay such fees, and sixty-one percent of respondents agree to pay fee for obtaining the information that they requested. But this sentiment is not universally shared: information from the in-depth interview shows that most of local officials and

citizens in mountainous areas do not agree to pay fees for required information. According to them, information supply is the state's responsibility and the state should have budget to support this activity. Such a finding is not surprising, since incomes in these regions are lower. Yet, it serves as a reminder that an equitable system of access to information would ensure that even the poor can access the information they need, through waivers on fees, or by extensive efforts to make the information available in a low cost manner that works for the poor. And whichever approach is taken, transparency in the rules about fees of information supply would be paramount.

While the studies described above focus on the sorts of information demanded by the citizenry, access to information is important for other constituents, as well. Think tanks in Vietnam are routinely called in to brief the National Assembly

#### **Box 6.12. Innovative sources of information to address unanticipated policy needs**

Following a brief period of stabilization in mid-2008, the effects of the global financial crisis became evident through reduced external demand in key export sectors, a slowdown in manufacturing, and a sharp reduction in capital inflows in 2009.

In discussions around the design of an effective stimulus package and policy responses more broadly, senior policy makers raised questions about the impact of the external crisis on firms and workers: they wanted to know how much export demand was falling in key sectors; how firms were coping, whether firms had shut down or were contemplating closure; impacts on workers including how many were being laid off, working reduced hours or receiving reduced wages; how workers who lost jobs were coping for example by seeking jobs in the informal sector or working on the family farm. Like many low income countries, statistical and information gathering systems in Vietnam are not well-suited to provide the kind of real-time information those in leadership positions needed to make informed policy decisions when unanticipated shocks occur.

To fill the gap, a series of innovative data collections efforts were launched, buttressed by small and focused studies on certain subsectors of the economy. For example, the Center for Analysis and Forecasting at the Vietnam Academy for Social Sciences (VASS) launched a quarterly series of rapid impact assessments covering migrant neighborhoods near urban industrial parks in the North and South, craft villages near Hanoi and several rural areas known for sending high numbers of migrant workers to the cities. Firms were interviewed in industrial parks near Hanoi and Ho Chi Minh City, and export-oriented firms located in industrial areas in Hai Pong. In addition, the Central Institute for Economic Management launched a special monthly survey focused on industrial parks in eleven provinces to measure firm level and park-wide impacts on labor, investment plans, inventories and new orders. Other agencies followed suit including ILSSA, with expanded firm surveys, and IPSARD with a study of rural impacts of the financial crisis.

External shocks, both policy induced such as the recent financial crisis and natural disasters, are becoming a permanent feature of the development landscape. Increasing integration means that the effects of local shocks are transmitted throughout the global economy, and there is a need for nimble information systems and more coordinated policy responses.



or to provide comments. For researchers to contribute to a good policy making process that is nimble and can respond quickly to long-term goals and to crises, the researcher needs both information and the power to interject ideas, even controversial ideas, into the policy arena. Vietnam has no shortage of talented researchers, and they are indeed often called upon to provide advice. They will be better equipped to provide that advice if they have at their disposal a wider range of information. Box 6.12 describes how Vietnamese institutions helped fill an information void when concern was raised about the impacts of the global financial crisis.

### *Media*

In the unified state society that existed before Doi Moi, the media had but one purpose: to promote the goals of the state as determined by the Party and the government. The media has benefitted from a considerable expansion of autonomy in the past two decades. They have gained more control over their finances, more choices in their organizational structures, and permission to organize business activities in various stages of the product cycle. Beyond the legal changes that devolved greater authority to the media, other changes, particularly over content, have been started from within the media in a process of experimentation. The vigor of reporting grew over the first two decades after Doi Moi began.

The devolution of authority to the media accompanied a growing acceptance of the

media as an ally for advancing several goals, including the fight against corruption—the Law on Anticorruption, the Socio-Economic Development Plan, and the National Anticorruption Strategy all emphasize this role. Indeed, autonomy is essential in order for the media to be able to do this job well. Yet, a countervailing concern by some over the quality of reporting and the impact of vigorous reporting has generated a refocused effort on strengthening accountability.<sup>91</sup> The mechanisms, however, have been almost entirely a return to upwards accountability for compliance with rules—rules whose boundaries, in the case of the media, are not entirely clear. The result is that the media in Vietnam is caught in a state of uncertainty.

The mechanisms of accountability vary. According to the Press Law, a range of sanctions can be applied for journalists and press agencies that violate press regulations, including warnings, fines, suspension or withdrawal of press licenses, revoking of press cards, administrative sanctions, and even criminal responsibilities. What they all have in common is that they can all be employed to discipline journalists, editors, or others in the media for reporting that is perceived as improper. The dividing line between the violations that lead to more severe punishments and the violation that lead to less severe punishments are generally not well defined.

In addition to the high profile arrest and subsequent conviction of two journalists and two investigators of a major corruption case, a series

**Table 6.5. The media in Vietnam**

	2003	2004	2005	2006	2007
Media organizations		378	500	687	702
Newspapers and magazines		564		620	813
Printed copies (thousands)	653	670	989	991	1,064
Online newspapers			5	10	10

*Source:* Corruption and the Media in Vietnam (Soren Davidsen and Martin Rama)

of less draconian measures, such as replacements of key editors, withdrawal of press licenses, etc., have made the media more cautious to report on high level corruption. Stories of low-level corruption have continued to appear in the press and have generated positive results (Box 6.13). The challenge for media reform, as with other aspects of Vietnam's devolving system, is to align the system of accountability with incentives to generate positive results. In the case of the media, the positive results to which reforms should strive are vigorous and high quality reporting.

Vietnam's experience in devolving power to firms and farmers, to health care providers and to local governments, provides important lessons for the media. Indeed, various aspects of reforms discussed throughout this VDR have parallels when it comes to regulating the media.

Vietnam's rapid economic growth is attributable, in part, to reforms that enabled entry of new firms to the market and strengthened competition. In the same way, competition among media organizations has already contributed to the increased reporting on many important issues in Vietnam over the past decade. As the number of

**Box 6.13. Role of the media in uncovering problems with taxis  
at Ho Chi Minh City airport**

Since 2007, charging unmetered fares has become rather common among the different taxi companies in the Ho Chi Minh City airport. This situation was not only annoying passengers, but was also seriously affecting the image of Vietnam among foreign visitors. Despite the fact that unmetered fares are illegal, authorities were not taking action.

Thanh Nien reporters started to investigate this situation by interviewing passengers and taxi drivers, and then exposed the situation in the newspaper. Thanh Nien received many letters from readers explaining their experiences with the taxi drivers and their views on the situation.

With all the gathered information, Thanh Nien reporters went to talk to various taxi companies, the company managing the airport (TTOC) and the transport department of Ho Chi Minh City government. The directors of the taxi companies said that they would punish or fire drivers overcharging customers. The director of the TTOC explained that some of its staff were now keeping a close eye on the taxis, and promised to take all possible measures to do away with the overcharging as soon as possible. The chief inspector of the Ho Chi Minh City transport department started a month-long inspection of taxi operations in the airport and began to fine and withdraw the driving licenses of the violating taxi drivers.

In spite of these positive results, Thanh Nien did not stop its oversight on the situation in the airport. Through additional investigations, it discovered that the guards in the airport were asking taxi drivers for bribes in order to have priority in picking up passengers. Taxi drivers claimed that it was the bribe payment which was forcing them to charge higher fares to their customers.

Given this situation, Thanh Nien went to talk to the two guard service companies and then back to the TTOC and the transport department. The directors of the two guard companies reported not having heard about their employees receiving bribes and that they were already educating and overseeing employees. Nevertheless, one of the guard companies promised to fire immediately the corrupt guards and to change regularly the guards' working places. The director of the TTOC promised to cooperate with the traffic police and the inspectors of the transport department to stop the unhealthy competition between taxi drivers. The government authorities provided two hotlines for reporting problems.

The vigorous reporting of Thanh Nien helped strengthen accountability of many parties who contributed to the problem of unmetered fares, and bring about real change at the Ho Chi Minh City airport.

*Source:* Thanh Nien Newspaper, 3-5 February 2009

media outlets has expanded, especially electronic media outlets, reporting on corruption has also grown both in terms of the number and quality of articles.

As with service delivery units, allowing media organs greater flexibility over their organization would allow them to better tailor their operations for the business they are in. Allowing a range of corporate governance models, such as joint ventures with private entities or even private ownership, may make sense for some media organs, especially as the boundaries between media, entertainment, and advertising are becoming more porous. Easing entry into the media sector could also be affected in the same way as in the business sector. Easing administrative procedures for business registration has worked elsewhere—applying the same model of simplicity to media organs, easing and clarifying the process of applying for media licenses and procedures to follow if applications are rejected, could ease entry into the media sector.

The mechanism for upward accountability for the media could also draw on the experience of Vietnam's economic reforms. In the move from a planned economy to a market-based system, the separation of management of enterprises from the governmental bodies that do the regulating has been key for ensuring a level playing field, and moving toward a system whereby ministries and other state agencies set the policy framework under which firms operate, and follow up on violations, but the management is controlled by the managers through their corporate governance framework. This has improved incentives for the managers and owners of firms. More cleanly separating regulatory functions from direct management is showing positive results in the economic sectors, and this could be true for the media sector, as well. For example, delegating the power and responsibility to issue Press Cards to the Vietnam Journalists Association could still provide a framework for maintaining

professionalism, while ensuring greater autonomy over content. Although a draft of a revised Press Law was taken off the agenda of the National Assembly in 2009, a new draft may have just such a provision.

Similarly, reorienting efforts to deter poor reporting toward civil remedies through the courts, rather than subjecting journalists to the specter of criminal sanctions, can provide accountability without extreme measures that tend to stifle edgy reporting altogether.

Vietnam's experience in constructing accountability systems in other sectors also provides lessons for media reform. Just as devolving powers to lower levels of government called for an expansion of training for how to exercise those powers productively, and training on how to institute new mechanisms of downward accountability through participation, a more autonomous media needs training on how to report accurately and ethically. Many journalists feel that improving the professionalism of reporters and reporting will help bring about the confidence needed to attain independence with accountability for the media.

Finally, ensuring that the media has the tools to do the job needs to be an essential element of reforms aimed at increasing the professionalism of the media and encouraging accurate reporting. The draft Law on Access to Information, slated for discussion in the spring 2010 session of the National Assembly, could be an important advance toward enabling the media to do its job better. Somewhat ironically, it would also strengthen accountability of the media, since inaccurate reporting would be easier for the population to identify if the quantity and quality of information available to the public were improved. While access to information is a necessary condition for the media to do its job well, freedom of expression, a right guaranteed in the Constitution, is also necessary.

## 7. THEMES AND LESSONS FOR GOVERNANCE REFORM

Vietnam's remarkable progress in sustaining a high level of economic growth, in reducing poverty and increasing the well being of the people is well documented. The factors driving this performance are only partially understood. A hard working spirit and proximity to other growing nations have contributed. But the policy reforms associated with Doi Moi are widely attributed with improving the incentives for production and growth. Devolving responsibility to decentralized actors, in this case farmers and firms, and allowing them to sink or swim yielded strong results. This Vietnam Development Report argues that another contributor to Vietnam's performance has been the devolution in other aspects of what was once a centralized state: to provincial and lower levels of government, to administrative and service delivery units, to the courts and to elected bodies, and to the media and civil society. It also argues that accountability mechanisms need to evolve to mediate these new relationships. They have evolved in many ways, but much more can be done.

### *Progress*

It has been said that institutional change takes place over centuries, not years. In Vietnam, however, some important changes have taken place in a relatively short period of time:

- Two decades ago, there was no "price" for land at all and no land transactions. A price, determined by the state, was set in 1993. One decade ago, land availability for investors was greatly eased, but small-holders faced an unbalanced playing

field and had little recourse. Discussions are underway for revising the mechanisms for setting compensation prices, and Ho Chi Minh City is using professional appraisers to better understand the "market price."

- Two decades ago, the process of planning was purely top-down. Now provinces have considerably more discretion over the use of their budgets, and a competitive spirit among provinces has helped drive many reforms.

- Just over a decade ago, the entire state budget was considered secret. The first published budget, in 1998, looked more like a pamphlet than a budget document, but was a significant milestone nevertheless. Now, aggregate data is widely available, and plans are underway for a broad range of disaggregated data to be made publicly available.

- Half a decade ago, corruption was known to be a problem, but was not openly discussed. Now it is freely recognized to be a scourge and mechanisms for reducing corruption are freely debated, if not always agreed upon. Five years ago, surveys asking questions about corruption were carried out in some cities as part of the citizen's report cards. In 2008, the General Statistics Office carried out a nationwide survey of citizens about their experiences with state services, including perceptions of corruption.

### *Prospects*

The purpose of exploring these trajectories

from the past is to better understand the direction forward. The real questions are how devolution should take place, and what forms of accountability are needed for the devolved system. While the institutional improvements described above are important, so are the challenges that remain.

- With the 1992 Constitution, the concept of a “law-based state” was introduced. Devolution throughout the economy calls for an independent arbiter of disputes. Moving to a system that is guided by principles—especially those enshrined in the Constitution—that can, in some cases, even override subsidiary laws if they are in conflict, and building true independence of the judiciary will be formidable challenges going forward.

- The devolution of powers to provinces and lower levels of government has brought certain benefits, especially by empowering them to provide the mix of services that their citizens demand, and encouraging some healthy competition. Yet, significant gains especially for efficiency and environmental protection could also be had through better regional planning. And while downward accountability has been greatly strengthened at the commune level, progress at instituting accountability at the province level has not kept pace.

- Devolving power to the media to decide on their own content has had important positive effects. An initial explosion of activity a few years ago, during which the media was regarded as an instrumental ally in disseminating positive information and for identifying problems, has eased more recently. Regulating the media through top-down controls, whether it be through appointments and dismissal of editorial staff, control over press cards, or use of other severe sanctions, may mitigate misreporting and libel, but it also dampens what might be a more positive role. Concerns about accuracy and defamation are valid, but the challenge is to find ways to deal with mistakes without stifling reporting.

- While the flow of all sorts of information has expanded tremendously, with increasing penetration of the media and the internet, provision of information by the state remains sporadic concern of many. Dozens of laws and regulations mandate the publishing of certain pieces of information, but often they are nowhere to be found in the public domain. Moreover, the concept that publishing information should be the default, rather than the exception, is not present either in law or in concept.

### *Themes*

Beyond these specific challenges, there are also several recurrent themes that emerge from the analysis in this VDR.

#### **Devolution works, most of the time.**

Letting farmers and firms have rights over their output helped spark growth and reduced poverty, but the economic devolution of Doi Moi was only the beginning. Geographic decentralization has fostered innovation at the provincial and lower levels. Devolution to administrative and service delivery units has improved flexibility and contributed to vastly improved outcomes. While there is a need for changing the accountability framework to match the devolved responsibilities, as discussed below, and the need for some things to remain centralized is clear, the fact that devolution of powers has often yielded positive results for Vietnam is unmistakable.

While devolution has brought positive outcomes, it has also raised new problems. The increased autonomy of service delivery units has helped improve quality, but it has also created incentives to abandon the provision of less profitable services. The decentralization of land allocation decisions has helped local governments respond better to local economic needs, but has also resulted at times in an unbalanced playing field. The process of fiscal decentralization has clearly benefitted the poor provinces, but the rich ones are complaining about not being able to retain fiscal resources to maintain their high growth rates. In order to maximize the benefits of

devolution while minimizing the costs, changes in accountability framework are necessary.

**Accountability has improved more than is often acknowledged, albeit often with a delay, and not always of the best form.**

Upwards accountability aimed at compliance with rules from above was the essence of the highly hierarchical system of the 1970s and 1980s. In any system, upward accountability will be needed. This applies particularly to the inner workings of the public administration. Many of the challenges for reforming the civil service call for instituting new rules of competition and internal review of compliance with those rules will be needed to make them effective. Similarly, although many forms of economic activity are self-regulating, with accountability for quality being assured by market forces, there are in many cases information asymmetries that call for upward accountability. In health care, the devolution of responsibility to service delivery units calls for commensurate improvements in upward accountability. While facilities are regulated, the system for maintaining health care professionals are not. In the legal and judicial system, as well, uniform and predictable adherence to the rules of procedures are essential.

At the same time, an accountability system whereby individuals are held to account for anything and everything, an accountability system that emphasizes repercussions for bad behavior, can lead to a slow system. This is evident in many aspects of Vietnamese public administration, from low disbursement of ODA, to the layers of approvals sought for even small decisions.

One aspect of upward accountability to the rules deserves special mention. As Vietnam moves increasingly toward arms-length relationships, the importance of cleanly delineating those relationships becomes central. The concept of “conflict of interest”, whereby one person or body has multiple interests that may not align

with each other, is not well understood. People serving on people’s inspection boards or as conciliators may be local officials themselves. In health care, doctors who operate private practice separate from their public function, or have relationships with supply or pharmaceutical companies, puts them in a position of conflict of interest. Different countries deal with conflict of interest in different ways, ranging from outright prohibitions on outside activities, to prohibitions on only those activities that pose a conflict of interest. For Vietnam, the first step will be to recognize that in a devolving state, conflicts of interest can lead to problems, and only then can the solutions be identified.

Expanding and strengthening mechanisms of downward accountability, which works so well in the economic sector, can help build accountability for performance. Downward accountability for results was barely in evidence two decades ago. It is now improving in many ways, but could be further strengthened. The mechanisms of participation, while much better than in the past, remain hindered by capacity constraints and a legacy of a top-down organizational culture. Information needed for downward accountability, as discussed below, remains difficult to access. The essence of downward accountability—making the best use of the information content of society—calls for society to be informed.

**Information is central to accountability and to performance.**

Whether it is for the policy maker’s or the public’s purpose, the need for better and more widely available information was a theme in every chapter of this VDR. For understanding the impacts of the crisis, to establishing mechanisms of downward accountability, the need for information is pervasive. Policy makers need information to do their job well, and citizens need information to exercise their rights. While the advances in transparency described earlier in this chapter are laudable, in some cases it remains difficult to obtain information, such as court and

case statistics. Even some policy makers report having difficulty getting information they need.

### **People are becoming more demanding.**

Another repeated theme of this VDR is that even in areas where things are improving, the public is demanding more. Even while saying that things are getting better, many respondents to the VHLSS Governance Module said that they were not satisfied, and when surveys have been repeated, as with the Ho Chi Minh City citizen's report cards, fewer said they were satisfied, even as fewer said they were dissatisfied. Despite undeniable progress improving property rights, the number of disputes over land has been increasing. There is a need to push forward with reforms to align devolved authorities with accountability in the most efficient and fairest way. And since many institutions are closely linked with each other, progress in one area ratchets up the importance of progress in others.

### **The areas of greatest progress have been those areas where a constituency existed and was empowered to push for progress.**

Considering the range of reforms that have been launched in the past decade, a pattern emerges that can help predict how resolutely the reforms can proceed. In the case of administrative procedures reform, which has shown considerable progress, there was a constituency—especially the business community, but also the citizenry—whose interest it was to push for reforms. Similarly, the great progress in improving transparency of the law making progress was pushed along by the aligned interests of the business community and the government in the desire to accede to the World Trade Organization. In the case of devolution to the provinces, it has been the provinces themselves that have demanded the change.

At the same time, areas where progress has been slower, such as public administration reform and in devolving true independence to the judiciary, have been the areas where the constituency for change is less well defined. The benefits of

these reforms are clear, but the beneficiaries are diffuse. The perceptions of improvement in administrative procedures and service delivery not met with same perception of improvement in corruption. While nobody likes corruption, many view petty corruption as a way to speed up services or get better quality services. The demand to improve services is stronger than the demand to stamp out petty corruption. Higher level corruption, which benefits a very few at the expense of the many, is more widely condemned by the population.

There are several implications of this pattern for reformers. First, there is a need to enable and empower constituencies to support change. Fostering easier establishment and open voice for associations, think tanks, and civil society in general can help give the push for change needed to move forward with the reforms already identified in the Public Administration Master Plan, the Judicial Reform Strategy, the Anticorruption Strategy, and others. Second, for all of these tasks that are essential, yet without constituency, the need top level determination to move forward, as is currently the case for Project-30, is essential.

### *The Next Decade?*

The past two decades have been remarkable for economic growth and poverty reduction. Those decades have also been remarkable for the devolution of powers and responsibilities. Vietnam's success has come hand-in-hand with market reforms that strengthened property rights, increased citizen involvement and participation, and strengthened external accountability.

Many changes reflect a step-by-step approach of experimentation in the search for solutions to Vietnam's problems. Whatever the impetus for the changes, the fact is unmistakable. In an Annex at the end of this VDR we present a series of "devolution and accountability timelines" identifying key legal milestones of devolution or centralization of power, and changes in accountability. There is no presumption of whether devolution or centralization is good

or bad, or whether upward or downward accountability is best, just an examination of how these factors have changed in Vietnam's legal framework.

The sheer number of changes, large and small, is striking, but even more interesting is the variation in patterns. In the area of local governance, most of the reforms have been oriented toward downward accountability, emphasizing transparency and participation. In law making and the judicial system, increased transparency has similarly led to a large number of new efforts aimed at downward accountability. Service delivery units have seen a mix of initiatives strengthening both upward and downward accountability. In contrast to the other areas studied, many of the changes in accountability

for the media and for civil society organizations (excepting mass organizations) have been aimed at upward accountability for compliance with centrally determined rules.

The first decade after Doi Moi was the era of devolution of economic power, from central planners to farmers and enterprises. The second decade saw significant devolution of powers and responsibilities to the provinces, and stronger accountability for communes, raising new challenges for inter-provincial planning. More recently, functional devolution to service delivery units and non-state providers has accelerated, and brought new challenges in aligning accountability with incentives.

*What will the next decade look like?*



## NOTES

<sup>1</sup> See, for example, Dang Phong and Melanie Beresford, 1998. *Authority Relations and Economic Decision Making in Vietnam—An Historical Perspective*. NIAS; Martin Rama, 2008. “Making Difficult Choices: Vietnam in Transition”. Commission on Growth and Development, Working Paper 40 Edmund Malesky, 2004. “Leveled Mountains and Broken Fences: Measuring and Analysing de facto Decentralisation in Vietnam.” *European Journal of East Asian Studies* 3(2): 307-336;

<sup>2</sup> Pham Duy Nghia, 2008. “Institutional Reform in Vietnam: From the Perspective of Determining the Accountability.” 2008 International Forum on Economic Transition.

<sup>3</sup> Martin Gainsborough (2007) argued that a mixed approach, with features common to Asia as well as emerging elements from the liberal democratic tradition would be more fruitful than relying solely on the latter.

<sup>4</sup> Thaveeporn Vasavakul (Vietnam Law and Legal Forum, February 2009) writes “the concept ‘public administration’ did not exist separately during the central planning period but was merged into the concept of the state, itself referred to as the bureaucratic subsidizing apparatus. The revival of the term and the entity ‘public administration’ can be considered the post-central planning’s ‘new thinking.’” (p. 16)

<sup>5</sup> This finding is consistent with Wescott et al (2009), *Public Financial Management: How to deliver better value for money in Viet Nam’s*

*Public Administration System?* UNDP Policy Discussion Paper.

<sup>6</sup> The closest periods of time for which per capita GDP data is available have been used (e.g. for the period January 2000- December 2008, the increase in per capita GDP has been calculated from 1999 to 2008; for the period January 2003 – September 2005, the increase in per capita GDP has been calculated from 2002 to 2005; for the period October 2005-September 2006, the increase in per capita GDP has been calculated from 2005 to 2006; etc)

<sup>7</sup> Vietnam State Budget Disclosure of Financial Accounts of 2004.

<sup>8</sup> They also tended to be younger and were less likely to have higher degrees than their male counterparts in the survey.

<sup>9</sup> Institute of Labor and Social Affairs and World Bank, 2009, based on data for 2004-2009; and Ministry of Planning and Investment, 2008.

<sup>10</sup> A separate Law on Public Employees, to cover staff of service delivery units, is currently under development.

<sup>11</sup> Jairo Acuña-Alfaro (2008) “Where does Civil Service Reform fit in?” Policy Brief on Public Administration Reform and Anti-Corruption. UNDP Viet Nam. Ha Noi, May.

<sup>12</sup> Suk-Kim, Pan. 2008. “A Brief Comparative Study on Civil Service Laws in Four Asian Countries: China, Japan, Korea, and Viet Nam.”

Policy Note on Public Administration Reform and Anti-Corruption. UNDP Viet Nam. Ha Noi, September.

<sup>13</sup> This point is also made in Poon et al (2009) “The Reform of the Civil Service System as Viet Nam moves into the Middle-Income Country Category.” UNDP Policy Discussion Paper.

<sup>14</sup> The CFAA was prepared by the Government of Vietnam and the World Bank, with support of Belgium, Germany, European Union, Ireland, Denmark and the ADB with funding support from the Public Financial Management (PFM) Multi-Donor Trust Fund.

<sup>15</sup> East Asia Decentralizes: Making Local Government Work (World Bank, 2005)

<sup>16</sup> “Fiscal Decentralization, Fiscal Incentives and Pro-Poor Outcomes: Evidence from Vietnam (ADB, 2009); and Vietnam Development Report 2008, Social Protection

<sup>17</sup> Vinh Phuc, Ha Tay, Da Nang, Quang Nam, Khanh Hoa, Binh Duong, Tien Giang. For more details, see “Decentralization in Vietnam: Challenges and policy implications for sustainable growth” (Kim N.B. Ninh, Vu Tahnah Tu Anh, 2008)

<sup>18</sup> Gironde (2009).

<sup>19</sup> “Staffing” is understood in the Vietnamese legislation as the number of persons recruited and appointed as civil servants

<sup>20</sup> “Decentralization in Vietnam: Challenges and policy implications for sustainable growth” (Kim N.B. Ninh, Vu Tahnah Tu Anh, 2008?)

<sup>21</sup> CIDA study of provincial financial management in three provinces.

<sup>22</sup> Vinh Phuc, Ha Tay, Da Nang, Quang Nam, Khanh Hoa, Binh Duong, Tien Giang. For more details, see “Decentralization in Vietnam: Challenges and policy implications for

sustainable growth” (Kim N.B. Ninh, Vu Tahnah Tu Anh, 2008)

<sup>23</sup> Nguyen Ngoc Anh, Nguyen Duc Nhat, Nguyen Thi An, Doan Quang Hung, Tran Thanh Thuy. “Some Initial Findings from the Survey of Citizen’s Information Accessibility Situation and Needs as Conducted by PPWG Members” People’s Participation Working Group and DEPOCEN. Draft August 20, 2009. Survey of 500 citizens in Ha Noi, Quang Binh, Ninh Thuan and An Giang.

<sup>24</sup> Inputs include: work site selection, contributions to work construction (mainly in labor days), participation in construction, supervision of construction, or selection of beneficiary households.

<sup>25</sup> Christophe Gironde, 2009. “Decentralized decision-making and participation under Program 135—A study in five provinces of Vietnam.”

<sup>26</sup> The case study focusing on Dien Bien, Dong Thap and Ninh Thuan provinces was carried out by UNICEF.

<sup>27</sup> The case study in Hoa Binh described in this chapter was carried out by JICA and SDC in 2009.

<sup>28</sup> “Implementation Assessment of the Anti-Corruption Law: How far has Vietnam come at the Sector Level? A Case Study of the Construction Sector” (Soren Davidsen, et al, 2009)

<sup>29</sup> The 2004 Law on Construction and Decree 8 of 2005.

<sup>30</sup> This section draws heavily on Dang Hung Vo, 2009, “Improving Land Acquisition and Voluntary Land Conversion in Vietnam”. World Bank.

<sup>31</sup> The percentage of complaints on land issues over total complaints is 70-80 percent according to 2007 data of the “Security Agency”, but 80-90 percent according to a 2008-2009 survey in 7 provinces. The latter figure also coincides

with the percentage for the complaints received by the Department of Claims and Petitions the Office of the National Assembly. “summary report on the results of settlement of complaints and denunciations from the year 2006 up to now, and the solutions in the new circumstances,” presented at the Summary Conference of Inspection Work in 2007 and the Deployment of the Task in 2008, Hanoi, 11 January 2008, as cited in “The Mechanism to Settle Administrative Complaints in Vietnam—Challenges and Solutions.” The Asia Foundation and Policy, Law and Development Institute. August 2009.

<sup>32</sup> Land Policy in Vietnam: Current Status and Key Challenges (World Bank, 2008)

<sup>33</sup> Conflict Resolution in Urbanized Rural Areas: Empowering Civil Social Organizations. Land use and environment pollution (VUSTA and VIDS, 2008)

<sup>34</sup> Decree 69/2009.

<sup>35</sup> Earlier studies also suggested they were successful SDC, 2004. “Review on One-Stop\_shops at Commune & Ward Levels, Viet Nam.” Guidotti Matteo, 2004. “District One Stop Shop Assessment in Quang Binh Province, Viet Nam.”

<sup>36</sup> “Cutting down on ‘baby permits’ to facilitate business” Saigon Times Daily, as reported on VietnamNet.com August 7, 2009.

<sup>37</sup> On the donor side, the VHLSS Governance Module was supported by the World Bank, UK-DFID, and SDS, and the PCI survey was supported by USAID through the Vietnam Competitiveness Initiative.

<sup>38</sup> ActionAid International Vietnam. “Experiences on using citizen’s report cards in assessment of public services in Vietnam.” Presented at the Social Audit Project Inception Workshop, Ministry of Planning and Investment and UNICEF.

<sup>39</sup> Martin Painter. 2009. “Low Quality Government as a Development Strategy: Dilemmas of Governance in China and Vietnam.”

<sup>40</sup> Joint Annual Health Review 2008.

<sup>41</sup> Health Policy and Strategy Institute, “Assessment of hospitals’ financial autonomy implementation in health service provision and payments” as cited in the Joint Annual Health Review 2008.

<sup>42</sup> Joint Annual Health Review 2008.

<sup>43</sup> Ha Tay Health Care Department, 2007, “Report on Implementation of Decree 43”, as cited in the Joint Annual Health Review 2008.

<sup>44</sup> This is based primarily on draft versions of the document “Đề án Đổi mới cơ chế hoạt động, cơ chế tài chính, chính sách tiền lương và viện phí đối với đơn vị sự nghiệp y tế công” [Proposal for reforms of the operational and financial mechanisms, salary and user fee policy for public service facilities] which has been submitted to the Government for approval.

<sup>45</sup> Summary Report on Survey Results Situation of Education Socialization at Districts no. 3, Go Vap, Phu Nhuan and Tan Phu (Vietnam Fatherland Front Committee of HCMC, 31 March 2009)

<sup>46</sup> The 2008 Joint Annual Health Review.

<sup>47</sup> “Join the club: civil organizations in Vietnam” (Dr. Nguyen Minh Phuong, Scientific Institute on State Organization, MOHA, November 2007)

<sup>48</sup> Vietnam Development Report 2008—Social Protection.

<sup>49</sup> Based on the criteria set by the regulation on HCFP, as of 2004 roughly 31 percent of the population ought to have been covered by HCFPs, but by the end of 2006 the real figure was only around 22 percent (Vietnam Development Report 2008)

<sup>50</sup> UNDP, August 2005. “User fees, financial autonomy and access to social services in Vietnam”

<sup>51</sup> This chapter draws on a number of studies including Charles Philpott (2009), CIDA (2008) “Social Survey on Conciliation Activities at Grassroots Level”.

<sup>52</sup> This section draws on papers in *Vietnam Law and Legal Forum*: Nguyen Hai An, Civil Tribunal, Supreme People’s Court, “Grassroots Conciliation in Civil Procedures”, January 2009, pp. 19-20; and by [author unknown] “Grassroots conciliation crucial for social harmony.” December 2008, pp. 22-23, 28.

<sup>53</sup> InvestConsult (2008) “Social Survey on Conciliation Activities at Grassroots Level”. CIDA

<sup>54</sup> Nguyen Hai An, Civil Tribunal, Supreme People’s Court, “Grassroots Conciliation in Civil Procedures”, *Vietnam Law and Legal Forum*. January 2009, pp. 19-20

<sup>55</sup> The EBRD-World Bank Business Environment and Enterprise Performance Survey was carried out in 2004 and 2005 in Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Spain, Estonia, Georgia, Germany, Greece, Hungary, Ireland, Kazakhstan, Korea, Kosovo, Kyrgyz Republic, Latvia, Lithuania, FYR Macedonia, Moldova, Poland, Portugal, Romania, Russia, Serbia and Montenegro, Slovakia, Slovenia, Tajikistan, Turkey, Ukraine, Uzbekistan, and Vietnam. Statistics for the transition countries can be found in Anderson and Gray (2006).

<sup>56</sup> Truong Hoa Binh, Chief Justice of the Supreme People’s Court, “Reforming the Courts”, *Vietnam Law and Legal Forum*, May 2009 (p. 7).

<sup>57</sup> Van-Hoa To, “Judicial Independence” (*Juristforlaget i Lund*, 2006)

<sup>58</sup> Drafting team for the establishment of Administrative Tribunals, “Project for the

establishment of administrative tribunals in Vietnam (draft, 13 March 2007)

<sup>59</sup> “Report On The Results Of Citizens’ Satisfaction Index Survey 2008 for Public Services In Ho Chi Minh City”

<sup>60</sup> Nguyen Ngoc Anh, Nguyen Duc Nhat, Nguyen Thi An, Doan Quang Hung, Tran Thanh Thuy. “Some Initial Findings from the Survey of Citizen’s Information Accessibility Situation and Needs as Conducted by PPWG Members” People’s Participation Working Group and DEPOCEN. Draft August 20, 2009.

<sup>61</sup> John Rand, Patricia Silva, Finn Tarp, Tran Tien Cuong, and Nguyen Thanh Tam. 2008. “Characteristics of the Vietnamese Business Environment: Evidence from a SME Survey in 2007”. CIEM (Central Institute of Economic Management) and University of Copenhagen. The number of SMEs interviewed was 2635 in 2005 and 2603 in 2007. The provinces of the survey are Hanoi, Hai Phong, HCMC, Ha Tay, Phu Tho, Nghe An, Quang Nam, Khanh Hoa, Lam Duong and Long An.

<sup>62</sup> “Support to the Legal Aid System in Vietnam, 2005-2009. Annual Progress Report 2008” (SIDA, SDC, Oxfam Novib and Save the Children, 2008)

<sup>63</sup> “Support to the Legal Aid System in Vietnam, 2005-2009. Annual Progress Report 2008” (SIDA, SDC, Oxfam Novib and Save the Children, 2008)

<sup>64</sup> “Support to the National Legal Aid System in Vietnam 2005-2009. Mid-Term Review” (SIDA, SDC, Oxfam Novib and Save the Children, 2008)

<sup>65</sup> LEADCO. 2007. “Survey report on the needs, current status and effectiveness of legal consultancy conducted by socio-political and socio-professional organizations”. Report prepared for UNDP, Hanoi.

<sup>66</sup> Do Hoang Yen. 2009. "Introduction on the newly established Vietnam Bar Federation. Perspectives and challenges". Paper presented in the Vietnam Legal Forum, June 2009, Hanoi.

<sup>67</sup> CECODES and Embassy of Finland, 2008.

<sup>68</sup> This is based on formal wage earnings of the respondent, rather than household income.

<sup>69</sup> This section draws on Davidsen et al 2009.

<sup>70</sup> Vietnam is one of seven pilot countries for the Construction Sector Transparency Initiative (CoST), which is being led in Vietnam by the Ministry of Construction with support from UK-DFID and the World Bank.

<sup>71</sup> See, for example, Christiane Arndt and Charles Oman (2006) "Uses and Abuses of Governance Indicators." OECD. Development Centre Study. Paris: OECD; Stephen E. Knack (2007) "Measuring Corruption: A Critique of Indicators in Eastern Europe and Central Asia." *Journal of Public Policy*. 27:255-291; and James H. Anderson (2009) "A Review of Governance Indicators in East Asia and the Pacific", World Bank, processed.

<sup>72</sup> "Anticorruption in Vietnam: The situation after two years of implementation of the Law (Embassy of Finland, Cecodes, 2008)". Nine provinces in three areas of the country: four northern provinces, Ha Giang, Lao Cai, Ha Noi, and Thai Binh; three Central provinces, Thanh Hoa, Da Nang and Lam Dong; and two provinces in the South, Ba Ria – Vung Tau and Long An.

<sup>73</sup> Characteristics of the Vietnamese Business Environment: Evidence from a SME Survey in 2007 (CIEM and University of Copenhagen, 2008)

<sup>74</sup> Martin Gainsborough, Dang Ngoc Dinh, and Tran Thanh Phuong (2009) argue that corruption in Vietnam is systemic, rather than an aberration to an otherwise healthy system. James Anderson and Cheryl Gray (2006) found for countries in eastern Europe and Central Asia that in firms

in the countries of the former Soviet Union were more likely than elsewhere to report that corruption was frequent, but not a problem.

<sup>75</sup> Gainsborough (2007) refers to the relationship between civil society and the state as a "disciplined partnership."

<sup>76</sup> "Join the club: civil organizations in Vietnam" (Dr. Nguyen Minh Phuong, Scientific Institute on State Organization, MOHA, November 2007)

<sup>77</sup> "Filling the Gap: The emerging civil society in Vietnam" (Irene Norlund, 2007)

<sup>78</sup> "Forms of Engagement between State Agencies & Civil Society Organizations in Vietnam" (VUFO-NGO Resource Center, DFID and Embassy of Finland, 2008)

<sup>79</sup> CBOs' involvement in monitoring government programs. Lessons from Vietnam (Oxfam GB, 2009)

<sup>80</sup> By "locality-specific", we understand legal documents that do not directly implement legal documents issued by superior authorities. The 1996 Law on the Promulgation of Legal Documents allowed People's Councils to issue only legal documents that implement legal documents of superior authorities. The 2004 Law on the Promulgation of Legal Documents by People's Councils and People's Committees, allowed People's Councils to issue legal documents that do not directly implement legal documents of superior authorities e.g. legal documents approving the socioeconomic development plan of the locality.

<sup>81</sup> Department of Deputies' Activities, National Assembly, 2009.

<sup>82</sup> Report on the Analysis of Vietnam's Current Legal Framework for People's Councils: A Perspective from Ninh Thuan (Oxfam GB, 2009)

<sup>83</sup> On-line dialogue of National Assembly vice-chairman Nguyen Van Yeu with citizens on the

election to the National Assembly, hosted on 2 May 2007

<sup>84</sup> Office of the National Assembly, 2009.

<sup>85</sup> The National Assembly of Vietnam and its Oversight Role – Achievements and Challenges (Associate Professor Dr. Dang Van Thanh, former vice-chairman of Committee on Economic and Budget Affairs, 2007)

<sup>86</sup> Research Report on the Amendment of the Law on the Promulgation of Legal Documents and Issues Related to the Legislative Process (ONA and EC, 2008)

<sup>87</sup> National Assembly of Vietnam and its Oversight Role – Achievements and Challenges (Associate Professor Dr. Dang Van Thanh, former

vice-chairman of Committee on Economic and Budget Affairs, 2007)

<sup>88</sup> Report on the Public Opinion Survey Result on: National Election of Parliament members for the 12th mandate period (ONA and EC, 2007)

<sup>89</sup> The 2008 Millenium Development Report (UN)

<sup>90</sup> National Assembly of Vietnam: Represents voters at constituencies and the entire people (Dr. Nguyen Si Dung, 2007).

<sup>91</sup> This section draws on the excellent studies by Catherine McKinley (2009), Culpin Planning Limited (2009), and Davidsen and Rama (2008).

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# Annexes

## Annex 1- Timelines

This annex presents a series of timelines depicting changes in devolution and accountability. The purpose of the timelines is to provide a rough picture of how devolution and accountability have proceeded in Vietnam. The timelines capture not only the specific events, but give a sense of the cumulative changes that have taken place.

Devolution, shown above the arrow, refers to legal event that influence decision making rights, responsibilities and tasks, budget sources, human resources, and the right to be legally established. Accountability, shown below the arrow, refers to legal events that result in an increase in upward accountability to government authorities through approvals, reporting requirements, inspections and monitoring, sanctions, standards and other conditions. It also includes legal events that result in an increase in downward accountability to citizens and enterprises through increased transparency, fewer opportunities for corruption, public participation, governing structures, external oversight by citizens, enterprises, CSOs, people's elected bodies and SAV.

Two caveats are in order. First, an exercise such as this necessarily requires many judgment calls. Some actions may have characteristics of both devolution and accountability. Some may largely codify or consolidate other legal practices, or even informal practices. We have attempted to focus on changes in the legal environment and to the best of our knowledge the events depicted in the timeline were new. Second, the analysis is based only on policies specified in legal documents, not actual implementation. The date considered is generally the date of issuance of the legal document, not the date in which the legal document takes effect.

## Local Governments - State Budget

**1990:** Two budget layers are stipulated: the central and provincial governments.

**1996:** Provincial governments are assigned 100% of some taxes and are allowed to share other taxes with the central government. The taxes to be shared are: VAT, enterprise and personal income taxes and remittance tax. The taxes assigned 100% to provinces are mainly those on land, housing, natural resources and various fees and charges.

District and commune governments are assigned some minor revenues (trade license tax, slaughter tax, fees and charges, people's contributions) as well as a percentage of provincial revenues predetermined by law.

Spending powers over a wide range of activities are assigned to provincial governments, and to a lesser extent to district and commune governments, which are not assigned any spending powers in the areas of education, health, technology and environment, among others.

Provincial governments are empowered to formulate regulations on the collection of fees, charges and people's contributions at local levels.

**2000:** Provinces are allocated a block of funding for all NTPs and are entitled to decide the allocation of this funding between the different NTPs.

**2002:** Provincial governments are empowered to formulate budget allocations and revenue assignments for the lower level governments.

Provincial governments are empowered to formulate regimes and norms on expenditure and budget allocation, to be followed by all local levels.

Equalization transfers from central government to provincial governments are made stable for periods of 3 to 5 years.

Provincial governments are entitled to share with the central government two additional taxes i.e. special consumption taxes and fees of gasoline and oil, and to borrow domestically for infrastructure investment up to 30% of the provincial capital budget.

**2004:** The decision on the allocation of the NTP block funding is transferred back to the central level, but provinces retain the authority to allocate funds for specific projects within each NTP.

**2006:** Provinces are allocated capital expenditure transfers more transparently and equitably, based on criteria like population, poverty and ethnicity.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1996:** The allocation and execution of local budgets are required to be approved and supervised by the People's Councils of all levels.

The regulations on the collection of fees, charges and people's contributions at local levels are required to be approved by the Provincial People's Council.

Sharing rates for sharable taxes between the central government and the provinces are required to be approved by the NA Standing Committee.

Central budget allocations to provinces and sectors are required to be approved by the NA Standing Committee.

The Government-attached State Audit Agency is given the mandate to audit all state agencies and units with state budget revenues and expenditures.

**1998:** Individuals and organizations can submit complaints on administrative decisions, acts and denunciations on illegal acts, against all local governments and their employees.

Commune governments are required to publicize the estimates and uses of annual commune budgets, assorted funds and people's contributions. People are entitled to supervise commune budgets through various forms.

**2002:** The budget allocations and revenue assignments for the three local levels are required to be approved by the Provincial People's Council.

The regimes and norms on expenditure and budget allocation at local levels are required to be approved by the Provincial People's Council, and to be in compliance with Government's regulations.

The authority to approve central budget allocations to provinces and sectors is transferred from the NA Standing Committee to the NA plenary.

**2003:** Commune governments are required to publicize regulations on payers and levels of taxes, charges and fees.

**2004:** Local governments of all levels are required to disclose the estimates and uses of annual state budgets, the transfers received from higher levels, and the collection and use of people's contributions.

**2005:** Individuals, mass-organizations and media obtain the right to request information to local governments and to receive the information within 10 days, except in some cases.

**2007:** At commune level, the timing, forms and responsibilities for the publication of budgets are improved. People's Inspection Boards and Community Investment Supervision Boards are assigned to oversee commune budgets.

Deputy heads of division and higher positions in provincial and district governments, as well as certain commune government officials, are mandated to declare their assets and income.

CSOs, private sector, media and citizens are made responsible and assigned various tasks to prevent and detect corruption, including at local levels.

## Local Governments – Socioeconomic Development Planning

**1989:** Decisions on the five-year socio-economic development plan of a given level of government are decentralized to that same level of government.

**2003:** Local governments of all levels gain more responsibilities in the co-ordination, budget allocation and finalization of the SEDPs in their respective levels.

**2005:** The participation of local governments in the formulation of the national five-year SEDP is strengthened, remarkably by engaging them earlier in the process.

**2006:** The regulations for the preparation of regional development plans are adopted, specifying institutional responsibilities, including for local governments.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1989:** Local governments are required to develop their local planning based on overall national, sectoral and economic zone planning.

**1998:** Commune governments are mandated to publicize the socio-economic development plans of the commune, and to collect public comments on the drafts of these plans.

**2004:** People’s Councils of all levels are empowered to issue legal documents to decide on plans on socio-economic development in their respective localities.

Provincial annual and five-year socioeconomic development plans are required to be formulated based on evidence and public consultation.

**2006:** All state agencies are mandated to disseminate strategies and master plans in their websites.

Regional plans are required to be disclosed.

**2007:** At commune-level, the timing forms and responsibilities for disclosure and consultation of socioeconomic development plans are improved.

**2009:** The practices of publicizing socioeconomic development plans and conducting public consultation of their drafts are institutionalized for the three sub-national levels (*pending approval*).

## Local Governments - Public Investment

**1996:** Provincial governments are entitled to formulate the assignment of responsibilities at local levels to spend on public investment projects. Local governments of all levels are allowed to spend on public investment projects.

**1999:** Provincial governments are entitled to decide on public investments projects of categories B and C (projects of lesser importance).

**2000:** The threshold of category B projects is raised, which allows provincial governments to decide on investment projects of higher value.

**2005:** The decentralization of investment decisions to provinces is made irrespective of the project category, but the list of category A projects (projects of more importance) is decided by the Prime Minister, and the capital amount for individual category A projects must be decided jointly by provinces and ministries.

Provincial governments are authorized to issue licenses to foreign investment projects.

**2006:** The assessment and approval of ODA-funded projects is decentralized.

Provinces are allocated capital expenditure transfers more transparently and equitably.

**2007:** Provincial governments gain the authority to ratify the list of and granting licenses for investment projects in public-private arrangements such as BOT, BTO & BT.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1996:** The assignment of responsibilities at local levels to spend on public investment must be approved by the Provincial People's Council.

**1998:** Individuals and organizations can submit complaints on administrative decisions/acts and denunciations on illegal acts, against all local governments and their employees.

Commune governments are required to publicize investment projects in communes, and the estimates and uses of state funds and people's contributions for the investment projects.

People in communes are entitled to decide the amount and undertakings of their contributions for the construction of infrastructure, and to supervise all the communes' construction projects.

**1999:** Investment plans of provincial governments are required to be nested into sectoral and local development plans, and state budget capital plans. Investment plans of districts and communes are required to be approved by the immediately superior local government.

Pre-feasibility studies are made compulsory for all investment projects.

**2003:** Guidelines on the supervision and evaluation of investment projects at provincial level are issued. PMUs are required to produce and submit quarterly sum-up evaluation reports on their projects.

Public procurement is strengthened through open bidding and a bulletin for advertising procurement opportunities, award results, list of firms banned to receive state contracts, among other procurement-related information.

Commune governments are mandated to collect people's opinions on undertakings and plans on infrastructure construction before making decisions.

**2004:** The allocation and use of investment funds in all capital projects using state budget sources are mandated to be publicized.

**2005:** Foreign investment projects licensed by provincial governments are required to be suitable to local management capacity and socio-economic development.

Community participation is mandated during the formulation of construction investment master plans. After approval, plans are required to be publicized.

More types of procurement-related information are required to be disclosed. The information is required to be publicized in a website in addition to the bulletin.

Oversight over procurement processes is improved through the introduction of a bidding inspectorate and an advisory council on bidding complaints.

The legal framework for the establishment and operation of Community Investment Supervision Boards is adopted. These Boards are allowed to supervise public investment programs and projects "that directly affect the population in communes".

Individuals, mass-organizations and media obtain the right to request information to local governments and to receive the information within 10 days, except in some cases.

**2006:** Infrastructure master plans are required to be based on the broader, regional development plans.

**2007:** Standard and detailed reporting is introduced for all ODA-funded public investment projects. The reports are required to be submitted to the NA, Prime Minister and mass-organizations.

The modern principles of transparency and corporate governance are introduced in provincial infrastructure funds.

CSOs, private sector, media and citizens are made responsible and assigned various tasks to prevent and detect corruption, including at local levels.

At commune level, the timing, forms, and responsibilities for disclosure and consultation of investment plans and projects are improved.

People's supervision over infrastructure investment in communes is improved, remarkably by further empowering Community Supervision Investment Boards and People's Inspection Boards.

**2008:** The criteria for the selection of public investment projects by provinces are tightened. Projects without adequate funding or with outdated objectives must be stopped. MPI must review all projects and suspend those considered ineffective or inefficient.

Procurement examinations are mandated for a selection of investment projects and for the PMUs of all local governments, regularly based on a plan and extraordinarily upon a problem.

A hotline unit in MPI is created to receive and handle procurement complaints. Supervision by the community of project procurement activities is explicitly authorized.

**2009:** Standard monitoring and evaluation for all public investment projects is introduced.

## Local Governments - Public Investment under Program 135

**1998:** Program 135 is launched. District governments are entitled to receive funds for infrastructure investment projects in communes faced with extreme difficulties. Investment projects can be chosen by the commune governments out of a menu of options, but the plans of the commune require district approval.

**2000:** The authority over the planning, allocation and management of NTPs is transferred from the central government to the provinces. Provinces are allocated a block of funding for all NTPs and are entitled to decide the allocation of this funding between the different NTPs, including Program 135..

**2004:** The decision on the allocation of the NTP block funding is transferred back to the central government, but provinces retain the authority to allocate funds for specific projects within each NTP.

**2006:** A second phase of Program 135 is approved for the period 2006-2010. The revised Program fully devolves the authority to manage investment projects to the commune level.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1998:** Information on investment projects and programs in communes is required to be publicized. The estimates and uses of state funds and people's contributions for investment projects must also be publicized.

People in communes are entitled to decide on the amount and undertakings of their contributions for infrastructure construction, and to supervise all the commune's construction projects.

**2003:** Commune governments are mandated to collect people's opinions on draft plans on the implementation of all NTPs, including Program 135.

**2005:** Community supervision of public investment programs and projects "that directly affect the population in communes" is facilitated through the adoption of the legal framework for the establishment and operation of Community Investment Supervision Boards. The reports and proposals of these Boards go to local governments, People's Councils, MPI, and Prime Minister.

**2006:** The revised Program 135 increases participation in planning and investment management at the commune level, and communications outreach to promote public access to information about Program 135.

**2007:** The timing and forms for disclosure of information at commune-level are improved, as well as the forms for collecting public comments on draft plans. The responsibilities of commune governments to implement those tasks are clearly specified and strengthened.

People's supervision over infrastructure investment at the commune level is improved, remarkably by further empowering Community Supervision Investment Boards and People's Inspection Boards.

## Local Governments – Land Use Management

**1993:** Local governments of all levels obtain the responsibility of formulating land use plans in their localities.

Provincial and district governments gain the authority to decide on land recovery and allocation to organizations (provincial governments) and individuals/households (district governments) for agricultural and forestry purposes.

Provincial governments gain the authority to decide on land recovery and allocation for purposes other than agriculture and forestry, but only for pieces of land of 1 to 10 hectares, depending on the case.

**2001:** Provincial governments can now decide on land recovery, allocation, conversion and lease to organizations regardless of the size and the purpose of the land, except for land for national security and defense and for generating capital for infrastructure.

District governments gain the authority to decide on land recovery, allocation, conversion and lease to individuals/households for purposes other than agriculture and forestry. Commune governments are empowered to lease of land for agricultural and forestry use.

**2003:** Provincial governments gain the responsibility to formulate and implement resettlement projects aimed at compensating persons subject to land recovery and relocating their residences. They also gain the authority to annually decide on the land price framework, which serves among other purposes to calculate compensations.

The authority on the formulation of the land use plans of communes inside the zoning area for urban development is transferred from commune to district governments.

### DEVOLUTION

1986

ACCOUNTABILITY

2009

**1993:** Land-use plans prepared by local governments must be first approved by the People’s Councils, and then submitted to the immediately superior government for approval.

Decisions on land allocation by local governments are mandated to be aligned with the approved land use plans. The management of land by local governments is subject to specialized land inspections.

The reasons, time and compensation arrangement for land recovery are required to be notified to the concerned land users in advance.

1998: Individuals and organizations can submit complaints on administrative decisions/acts and denunciations on illegal acts, against all local governments and their employees.

Commune governments are mandated to publicize land-use plans, and to consult with people draft land-use plans and the plans and undertakings on compensation for ground clearance.

People are entitled to supervise the management and use of land at the commune level.

**2003:** Land-use plans, land recovery decisions, plans for compensation, site clearance and resettlement, and land prices are required to be publicized.

Land-use right holders are entitled to increased compensation payments and better resettlement support policies. The land price framework used to calculate compensations must be close to the actual market prices and must be based on the price determination methods regulated by the Government.

Voluntary land conversion is introduced for some commercial investments projects. Under this modality, land holders are allowed to negotiate directly with investors to set the compensation price.

**2004:** Limitations are imposed on the types of projects for which land can be recovered

Land-use plans of hi-tech parks and economic zones are explicitly required to be disclosed. All land-use plans are required to be disclosed in detail.

The contact information for receiving land-related complaints and denunciations and the settlement decisions on land-related complaints are required to be publicized.

The land price determination system becomes much more flexible and is required to be adjusted in accordance with changing market values. Detailed support policies for people affected by resettlement are stipulated.

**2005:** People are entitled to be informed about the elaboration of land use plans by all agencies. The elaboration of land use plans must ensure democracy and publicity

Guidelines for the formulation of land use plans are issued, indicating clearly the authority and obligations of each level.

**2006:** The land price framework used for determining compensations is required to be the market price when the price set by the provincial government is not in line with market prices. Job-change support policies are improved for households losing more than 30% of their agricultural land.

**2007:** Draft plans on compensation, support and resettlement are mandated to be publicized for collection of public comments. Answers must be provided in cases when there are many opinions against the draft plans.

Resettlement and compensation procedures are clarified for cases where occupants lack land-use right certificates.

At commune level, the timing, forms and responsibilities for the disclosure and consultation of land-related plans are improved. People’s Inspection Boards and Community Investment Supervision Boards are assigned to oversee land use management at commune level.

**2008:** In the forest development sector, guidelines for participatory land-use planning are issued.

**2009:** Compensations for land recovery are required to be based on the market price at the time of issuance of the land recovery decision. Support policies for resettlement are further improved. Land development funds are mandated to be established at provincial and district levels to better implement land recovery, resettlement and compensation.

Urban plans are required to be accessible to the general public. Draft urban plans must be consulted with the public and sent to the NA and People’s Councils.

A more comprehensive framework is adopted on the compensation to individuals and organizations for damage caused by illegal activities of state employees, including while recovering, allocating and converting land, and while undertaking compensation, site clearance, and resettlement.

## Local Governments - Human Resource Management

**1998:** Provincial governments become responsible for managing civil servants "in accordance with the Government's assignment and provisions of the law". The management of civil servants includes: recruiting, appointing, deciding on staffing plans, organizing assignments, evaluating work, and inspecting the implementation of regulations, among others.

Managerial positions in local governments are made responsible for the performance of their subordinate staff.

**2001:** Administrative units at local levels under the block grant modality gain the power to use cost savings to increase staff salaries up to 2.5 times the basic salary.

**2003:** Provincial governments become responsible for the planning and evaluation of staffing in their attached units and in district governments.

**2004:** Provincial governments are given the power to decide increases in salary grades and certain allowances for civil servants in all local levels.

Provincial governments gain the right and responsibility to use their own financial resources to pay for the salaries of civil servants in local governments.

**2005:** Administrative units at local levels under the block grant modality gain more autonomy in relation to staff remuneration.

Heads and deputy heads of agencies and units in all local governments are made responsible for preventing corrupt acts in their respective domains.

**2009:** Heads of agencies and units in all local levels become responsible for the evaluation of the performance of civil servants under their domains.

Provincial governments gain the power to decentralize and delegate the recruitment of civil servants within their jurisdictions. They also gain the power to issue regulations on the authority, sequence and procedures for the appointment of civil servants to positions of leadership and management.

District governments can now decide on human resource management, but only if they are assigned to do so by the provincial governments.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1993:** A common minimum salary and standard salary-multiplying coefficients become compulsory for civil servants in all local governments.

**1998:** The recruitment and management of civil servants in local governments is required to abide to the standard rules, procedures and disciplines specified in the Ordinance on Officials and Public Employees.

Civil servants at local levels are entitled to complain about disciplinary decisions of competent persons that contravene laws and infringe upon their legitimate rights and interests.

**2003:** Staffing plans of local governments are required to comply with the quotas and norms determined by the central government. The management of staffing by provincial governments is subject to inspections by the central government.

The annual staffing plans of provincial and district governments are required to be approved by the Provincial People's Councils.

**2004:** Increments in salaries and allowances are required to follow the guidelines of the central government.

Units under local governments are prohibited to use 10% of their regular expenditure for paying salaries. In these units, at least 35-40% of the generated revenues are required to be used for paying salaries. Salaries must also be paid with 50% of the difference between planned and actual revenues of the local government.

**2005:** All local governments are mandated to publicize the recruitment of civil servants, in terms of quantity, criteria, forms and results, and the plans for promotion, appointment, commendation, training, dismissal, discipline and retirement of civil servants.

Civil servants at local levels obtain the right to request information to the heads of the agencies or units where they work, and to receive the information within 10 days, except in some cases.

The management of civil servants in all local governments is required to abide to the standard regulations of the Law on Anti-Corruption, such as rotation of sensitive positions, declarations of income and assets, payment of salaries through bank accounts, restrictions on the reception of gifts, and ethics codes.

**2007:** Chairpersons and vice-persons of commune governments become subject to votes of confidence by various community groups.

**2009:** The principles of competition, merit-orientation and transparency are required to be applied in the recruitment, appointment, promotion and dismissal of civil servants in all local governments.

The criteria for the evaluation of civil servants in all local governments include the results of the execution of assigned tasks and the attitude with people.



## Administrative Units

**1999:** Business registration units are delegated clear responsibilities in relation to business registration and administration.

**2001:** Administrative units in all levels of government gain substantial allocation control over a 3-year fixed block grant from the state for administrative expenditures and staff costs. Cost savings can be used to increase staff remuneration up to 2.5 times the basic salary.

**2003:** Land registration units are mandated to be established at provincial level and, on the basis of demand, at district level. The units are responsible for registering land transactions, managing land files, and carrying out land-related administrative formalities.

**2005:** Administrative units gain more autonomy in relation to administrative expenditures and staff remuneration.

**2007:** Tax administrative services nationwide are delegated to functional units e.g. tax collection units, taxpayer registration units.

The application of e-government is delegated to specialized IT units at both central and provincial levels.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1996:** The OSS is piloted for the first time in HCMC.

1998: Individuals and organizations can submit complaints on administrative decisions\acts and denunciations on illegal acts, against all agencies, organizations and individuals.

At commune-level, regulations on administrative procedures and settlement of people's affairs are required to be publicized.

**2001:** Heads of administrative units are required to streamline their organizational structure, reduce staff number, and prepare plans on the use of savings.

**2003:** The OSS is required to be implemented in four departments at provincial level, six procedures at district level and four procedures at commune level.

**2004:** The citizen report card survey is piloted in four urban cities for various public services, including administrative ones.

**2005:** Administrative units are mandated to publicize administrative procedures, as well as the decisions on the settlement of complaints and denunciations.

All provinces and ministries are required to conduct a review of their administrative procedures to reduce red tape.

The PCI enterprise survey is introduced to assess provincial governance aspects such as administrative procedures.

**2006:** All state agencies are required to publicize in their websites their administrative procedures and the responsible officials. State websites must also be used to provide on-line services.

Administrative units are mandated to publicize the contact information for receiving complaints and denunciations from the public on the handling of administrative services.

An investment climate monitoring tool with questions on administrative procedures is introduced as part of the annual enterprise survey.

**2007:** The OSS model is required to be applied to all administrative levels and units. OSS initiatives interlinking different units and/or administrative levels are introduced.

CSOs, private sector, media and citizens are made responsible and assigned various tasks to prevent and detect corruption, including in administrative units.

At commune level, the timing, forms and responsibilities for the disclosure of administrative procedures are improved.

**2008:** The plan for the simplification by 2010 of all administrative procedures of ministries and provinces is issued.

Individuals and organizations are entitled to send their feedback on all existing administrative procedures. The results of the handling of such feedbacks are required to be publicized in a national on-line database.

The national household living standard survey adds for the first time questions on administrative procedures.

**2009:** The principles of consultation and user-friendliness are required to be systematically applied in the development of new administrative procedures and in the review of existing ones (pending approval)

An on-line national database with all the administrative procedures is launched.

Ministries and provinces are required to provide level-2 online services and prioritize certain level-3 ones.

Citizens' and enterprises' surveys on unofficial payments are mandated to be undertaken on an annual basis.

A more comprehensive framework is adopted on the compensation to individuals and organizations for damage caused by illegal activities of state employees, including while granting various licenses and certificates.

## Service Delivery Units in Health and Education

**1989:** Public hospitals are allowed to charge fees to cover parts of their costs and alleviate their financial difficulties.

**2002:** Partially and fully self-financed SDUs gain substantial allocation control over a three-year fixed block grant from the state. SDUs are encouraged to expand revenue resources, and are allowed to use the receipts for reinvestment and for increasing staff remuneration. SDUs are allowed to borrow from commercial banks to expand and improve services, to keep the receipt of liquidated assets, and to hire additional staff on a contractual basis as needed. SDUs are given more autonomy to set user fees for on-demand and non-core services.

**2005:** SDUs in the health sector are allowed to mobilize private investment to establish joint ventures and business collaborations and to develop better quality services for those paying additional fees.

**2006:** Fully state-financed SDUs are also granted financial autonomy. More power is given to the heads of all types of SDUs to reduce costs and raise revenues. In addition, the heads gain control over manpower (e.g. recruitment, promotion, assignments, dismissal) and subordinate units (e.g. create, merge, dismantle). Fully self-financed SDUs are freed from any caps on staff remuneration, and the caps for partially self-financed SDUs are made less restrictive.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1994:** A user fee scheme in the health sector is established, with a range of fees for different types of services in various types of hospitals.

**1998:** Individuals and organizations can submit complaints on administrative decisions/acts and denunciations on illegal acts, against all agencies, organizations and individuals.

**2002:** The adjusted salary of staff in partially and fully self-financed SDUs is capped to 2 and 2.5 times the common minimum salary, respectively. Additional payments to staff must be made based on their performance. Salary packages are required to be disclosed and consulted with the labor union before approval. Heads of SDUs are made accountable for their financial and human resources decisions. They are mandated to submit budget estimates and annual financial reports to relevant state agencies

**2004:** Minimum quality standards for primary schools nationwide are adopted.

SDUs are mandated to publicize their annual state budget expenditures, as well as the collection and use of contributions received from organizations and individuals.

The citizen report card survey is piloted in four urban cities for various public services, including health and education.

**2005:** SDUs in the education sector are mandated to publicize information on enrollment, exams, and award of diplomas and certificates.

SDUs in the education and health sectors are mandated to publicize the collection, management and use of state properties

**2006:** Responsible line ministries are mandated to formulate specific criteria for evaluating the performance of SDUs, including quality of services. Feedback from service users should be used for the evaluations.

SDUs are mandated to set aside 25% of their net revenues to invest in service quality before making additional payments to staff. Caps on staff remuneration are imposed for fully state-financed SDUs.

Heads of SDUs are mandated to create conditions for the Party and mass-organizations to join in supervision and management of all aspects of the SDUs' operations.

**2007:** Performance standards for primary teachers are extended nationwide, including evidence-based assessments.

CSOs, private sector, media and citizens are made responsible and assigned various tasks to prevent and detect corruption, including in SDUs.

Heads and high-ranking officials in SDUs are mandated to declare their income and assets.

**2008:** In the health sector, annual performance self-evaluations by all SDUs are required.

The national household living standard survey includes for the first time questions on the cost, quality and corruption of public health and education services.

Negative behaviors and abuse of medical profession for making profit, such as asking for bribes or gifts, are banned.

**2009:** Tuition fees at secondary and tertiary levels are required to be revised to reflect local economic conditions and the contribution capacity of the people.

Annual citizens' surveys on unofficial payments are mandated.

Criteria for the evaluation of principals of all secondary schools are specified, to be used for promotions and dismissals.

A system for certifying health practitioners is outlined, to ensure that practitioners are qualified, and disciplined if they make mistakes repeatedly

## Non-State Actors in Service Delivery

**1993:** Private provision of health care is officially authorized

**1994:** Non-state provision of education services is authorized.

**1999:** Adoption for the first time of policies to encourage non-state activities in the health, education, culture and sports domains.

The legal framework allowing social and charitable funds to work non-for-profit on culture, sports, scientific and "social" development is adopted.

**2003:** Adoption of policies to support the further development of the private health sector

**2005:** Tertiary education opens to private sector participation.

The private sector is allowed to invest in public SDUs in the health sector through: joint ventures, business collaborations and development of better quality services for those paying additional fees.

**2006:** All social organizations, socio-professional organizations, economic organizations, groups of individuals and individuals are allowed to create non-state service delivery establishments in a wide range of domains. Policies to encourage the development of non-state establishments include preferential conditions for credit and land, as well as reductions or exemptions in various taxes and fees. Non-public establishments are allowed to raise revenues from various sources and distribute profits to their capital-contributing members.

**2007:** Social and charity funds are explicitly allowed to work non-for-profit on the development of education and healthcare.

**2008:** More generous preferential policies are granted to non-public establishments delivering health, education, vocational training, culture, sports and environment services.

Private enterprises with establishments, investment projects, joint ventures or partnerships in the above-mentioned services are now entitled to benefit from the same preferential policies as those applied to non-public service establishments.

### DEVOLUTION

**1986**

### ACCOUNTABILITY

**2009**

**1993:** Provincial health departments are assigned responsibility for monitoring private practitioners, including the issuance of operating certificates or licenses.

**1999:** Social and charitable funds are required to be managed by an elected council and inspected by an independent control board. Government approval is needed for their establishment, charter, merger, division and dissolution.

**2003:** The regulatory role of the Ministry of Health over the private health sector is strengthened.

**2005:** All establishments in the education sector are mandated to publicize information on enrollment, exams, award of diplomas and certificates.

**2006:** Non-public service establishments are mandated to make public their operations and finance, and to periodically report to and be subject to inspections by the corresponding line ministry, the ministry of finance and the tax administration. Line ministries and local governments of all levels are responsible for granting and withdrawing licenses to non-public establishments and for ensuring service quality.

**2008:** Private enterprises with establishments, investment projects, joint ventures or partnerships in public services are now subject to the same accountability measures as those applied to non-public service establishments.

## Law Making System

**1996:** Central-level authorities with the power to issue legal documents are restricted to: NA, Standing Committee of the NA, President, Prime Minister, Government, Ministers, heads of central-level agencies, Judges' Council of the SPC, and Chief Prosecutor of the SPP.

**2002:** The Chief Judge of the SPC is empowered by the Law on Laws to issue legal documents

**2004:** People's Councils and People's Committees are entitled to issue legal documents other than to implement documents of superior authorities, particularly in the areas of socio-economic development, budget, defense and security, people's livelihoods, and performance of state management functions.

**2008:** The State Auditor General is empowered by the Law on Laws to issue legal documents

The types of legal documents that each law-making authority can issue are reduced.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1996:** Before issuance, central-level legal documents are required to be evaluated by the MOJ, the NA Ethnicity Council and/or the NA specialized committees.

Approved legal documents are mandated to be published in the Official Gazette, posted for public notice and communicated to the mass media.

Collection of public comments on legal documents is required "depending on the nature and contents of the draft legal document".

Mass-organizations are allowed to issue joint legal documents with government authorities, and make suggestions on draft legal documents.

Approved legal documents are required to be supervised in order to detect and handle illegal documents.

**1998:** Commune governments are required to publicize legal documents issued by commune authorities, as well as documents of superior authorities relating to the commune.

All draft legal documents of Commune People's Councils are required to be consulted.

**2001:** The law evaluation responsibilities of the NA Ethnicity Council and all the NA specialized committees are clearly specified.

**2002:** Opinions of stakeholders directly affected by legal documents are required to be collected during the drafting process.

The NA Law Committee is assigned to evaluate and ensure the constitutionality, legality and consistency of draft laws and ordinances.

A two-session process for the hearing of laws and ordinances by the NA is introduced.

**2004:** Before issuance, local-level legal documents are required to be evaluated by the local justice departments and/or the sections of the People's Councils.

Clear guidelines on the rules and timing for publication of legal documents in the Official Gazette are issued.

**2005:** The effectiveness of legal documents is conditioned to their publication.

Clear guidelines on the collection of comments from stakeholders directly affected by legal documents are issued.

The MOJ launches an on-line legal database.

**2006:** The NA allows public access to its legal database.

**2007:** A separate NA committee specialized only on legal issues is established, facilitating its law evaluation tasks.

The NA launches a website for collection of public comments on draft laws and ordinances.

At the commune-level, the timing, forms and responsibilities for publicity of legal documents are improved.

**2008:** The specific responsibilities of the NA Law Committee in relation to evaluating the constitutionality, legality and consistency of draft laws and ordinances are strengthened.

All draft legal documents are mandated to be publicized in websites and other forms during at least 60 days for collection of public opinions.

All draft legal documents are required to collect opinions from MOF, MOHA, MONRE and MOFA on financial and human resources, environment and international treaties.

Fast-track law-making procedures are introduced for cases of emergency or necessity of immediate legal changes.

The MOJ is assigned to monitor the implementation of legal documents, focusing on macro and inter-ministerial problems.

**2009:** Drafting agencies are required to produce and publicize explanations on the assimilation of collected public opinions.

Draft law-making programs are mandated to be posted on MOJ's website for collection of public opinions for at least 20 days.

Impact assessments of legal documents (RIAs) become mandatory prior to the drafting process, during the drafting process, and 3 years after taking effect. All draft RIAs must be publicized for collection of public opinions.

Drafting agencies are allowed to mobilize organizations and individuals to assess impacts of legal documents, evaluating their enforcement, and conducting surveys and legal analysis.

Approved legal documents are required to be periodically reviewed by government agencies, and codified every 5 years by topic and area. Through the review and codification, overlapping, contradictory, inappropriate and outdated documents must be identified.

## Law Advocacy System

<p><b>1987:</b> Lawyers are allowed to provide legal consultancy and participate in legal proceedings as members of bar associations.</p> <p><b>1994:</b> Trade unions are allowed to provide legal advice on labor law</p> <p><b>1997:</b> State legal aid centers managed by the MOJ are authorized. Their function is to provide free-of-charge legal counseling and legal services for the poor and other policy beneficiaries.</p>	<p><b>2001:</b> Lawyers are allowed to practice in law offices or law firms.</p> <p>2002: A legal aid fund is set up to support state legal aid operations</p> <p><b>2003:</b> CSOs are allowed to provide legal consultancy services through legal consultancy centers. They have the responsibility of providing free-of-charge services for certain groups, but they can also collect charges.</p> <p><b>2004:</b> The new charter of the Vietnam Lawyers' Association recognizes the rights of the Association to take part in legal dissemination and consultancy, and to offer free-of-charge legal assistance to certain groups.</p> <p><b>2005:</b> The JRS to 2020 includes the objective of promoting the autonomy of lawyers' organizations.</p> <p>The LSDS to 2010 includes the objective of improving legal dissemination, legal consultancy and legal aid services.</p>	<p><b>2006:</b> The new Law on Lawyers sets the frame for independent law-practicing aimed at best protecting the legitimate rights and interests of clients.</p> <p>Lawyers are allowed to represent their clients in legal proceedings and to practice law not only in law-practicing organizations but also individually.</p> <p>Law-practicing organizations obtain the rights stipulated in the new Enterprise Law. A new type of law-practicing organization is allowed i.e. limited liability law firm.</p> <p>Foreign lawyers and branches of foreign lawyers' organizations are given the same treatment as domestic ones.</p> <p>Bar associations are allowed to operate on the principle of self-finance with own charters governing their internal affairs. They can represent and protect lawyers' rights, provide training to lawyers and organize their probation, and gather and report lawyers' opinions.</p> <p>Legal aid officials and the other authorized legal-aid providing persons gain the right of representing and defending legal aid beneficiaries in legal proceedings.</p> <p>The forms of legal-aid providing organizations and legal-aid providing persons are widened and diversified. All lawyers are encouraged to provide free-of-charge legal aid.</p>	<p><b>2007:</b> State legal aid provision is further decentralized and brought closer to the remote areas. Itinerant legal aid services and commune-level legal aid clubs are legally specified.</p> <p>The National Target Programs include financial support for legal dissemination and legal aid in disadvantaged communes</p> <p><b>2008:</b> Training institutions and law research units are allowed to provide legal consultancy services. Legal consultancy centers can now contract legal practitioners for representing their clients in legal proceedings.</p> <p><b>2009:</b> The National Bar Association is established, with governing documents and structures approved by the lawyers' community.</p>
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### DEVOLUTION

<b>1986</b>	<b>ACCOUNTABILITY</b>	<b>2009</b>
<p><b>1987:</b> Lawyers are required to have a license from a bar association to be able to practice.</p>	<p><b>2001:</b> Lawyers are required a law-practice certificate issued by the MOJ, and to go through a professional practice probation.</p> <p><b>2003:</b> CSOs' legal consultancy centers and consultants need a permit or card issued by the MOJ. Legal consultants and collaborators must meet certain conditions and qualifications.</p> <p><b>2005:</b> The JRS to 2020 includes the objective of enhancing the accountability of lawyers' organizations to their members.</p>	<p><b>2006:</b> Foreign lawyers must comply with the legal practice principles and obligations stipulated in the Law of Lawyers.</p> <p>The managing board and charters of bar associations are voted by members in a congress. The adopted charter of the bar association must be then approved by the government.</p> <p>The procedures for obtaining legal aid are made more efficient and convenient for beneficiaries. The management of legal aid cases is strengthened.</p>
<p><b>2008:</b> Standard criteria to assess the quality of legal aid cases are adopted. The satisfaction of legal aid beneficiaries must be considered in the assessment.</p> <p>Bar associations become subject to inspections by the MOJ, who can handle violations and stop the implementation of decisions contrary to the Law on Lawyers.</p>		

## Judicial System

**1989:** Procedures for civil cases under court jurisdiction are defined in a systematic manner.

**1992:** The Constitution requires judges to be independent and subject only to the law in adjudication.

**1993:** The courts are delegated the jurisdiction to settle economic cases. Economic courts are required to be established at provincial level.

**1994:** District courts are given jurisdiction over economic disputes with value less than 50 million VND.

The jurisdiction of the court on labor disputes is confined to cases settled first through conciliation and/or arbitration.

The court is authorized to make final adjudication on strikes and collective labor disputes.

**1996:** The courts are given jurisdiction on administrative cases, but only for 8 types of cases.

**1998:** The jurisdiction of the courts on administrative cases is limited to cases settled first by a government authority.

**2002:** The management of provincial and district courts is transferred from the MOJ to the SPC.

**2003:** The right to lodge to the court administrative cases related to land management is restricted, as second-settlement decisions by provincial governments become final.

**2004:** The court jurisdiction over civil disputes increases. The courts can now settle “civil matters” and accept cases from more types of civil-lawsuit right holders.

Jurisdiction on civil and criminal cases is extended to some district courts. District courts meeting certain capacity conditions obtain jurisdiction over most business and commercial disputes irrespective of the dispute value.

**2005:** The JRS to 2020 plans to enhance the independence of the judicial branch through: extension of the term of office and/or application of lifetime appointment; separation of judges, prosecutors and investigators from the court administration; organization of a jurisdiction-based court system independent from administrative agencies; removal of the functions of the procuracy on judicial supervision.

**2006:** The jurisdiction of the court on administrative cases is expanded to 22 types of cases.

**2009:** Jurisdiction on civil and criminal cases is extended to all district courts.

The management of civil judgment execution is strengthened through the stipulation of an agency from central to local levels independent from local justice departments.

The circumstances under which local governments or their civil judgment execution departments can veto judgments or send them back to the courts are eliminated.

A HCMC pilot on hiring private-sector bailiffs to assist in judgment execution and some court activities is approved.

### DEVOLUTION

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### ACCOUNTABILITY

2009

**2003:** The Criminal Procedural Code confirms the Constitutional principle of openness of trials to the public, except for some specific criminal cases.

**2004:** The Civil Procedural Code confirms the Constitutional principle of openness of trials to the public, except for some specific civil cases.

**2005:** The JRS to 2020 plans to enhance the oversight over the judicial branch through: strengthening of internal control mechanisms, promotion of the oversight by elected-bodies and mass-organizations; creation of favorable conditions for people to participate in court proceedings; enhancing the role of the mass media in providing and disseminating information on judicial activities.

The JRS to 2020 plans to enhance the transparency of the judicial branch through: gradual publication of judgments, and increased openness and democracy of proceedings.

**2006:** The results of investigations on corruption cases start being disclosed.

**2007:** A separate judicial committee is established in the NA to better supervise judicial affairs.

**2009:** The SPC launches its website and publicizes there a selection of cassational review judgments of the Justice Council of the SPC.

The procedures for civil judgment execution are simplified, and the monitoring and complaints system is improved.

A more comprehensive framework is adopted on the compensation to individuals and organizations for the damage caused by illegal activities of state employees, including while issuing decisions related to judgment execution or by intentionally not issuing those decisions.

Bailiffs must be appointed by the MOJ.

## National Assembly and People's Councils

**1992:** A Standing Committee of the NA is established in substitution of the old "State Council". Members of the NA Standing Committee are prohibited to be members of the Government at the same time.

The role of the chairman of the NA is no longer limited to administration and coordination. He becomes the head not only of the NA but also the head of the Standing Committee of the NA. He can now certify NA laws and resolutions.

The Constitution recognizes the right of the NA's and PCs' deputies to make questions and receive answers from the highest authorities in the presidency, government, court, procuracy, NA and PCs.

**1996:** The NA Standing Committee is empowered to approve the state budget allocation to sectors and provinces. The NA can also approve the list of national programs and projects.

Provincial PCs are empowered to approve regulations on fees, charges and people's contributions at local levels, as well as the assignment of authority at local levels to spend on public investment projects.

**2001:** The NA obtains the right to cast votes of confidence on officials elected or ratified by the NA, including the Prime Minister, president and ministers.

The oversight responsibilities of the NA ethnicity council and seven specialized NA committees are specified and strengthened.

Full-time deputies in the NA are set to a minimum of 25%

**2002:** The power to allocate budget to sectors and provinces is transferred from the NA Standing Committee to the NA plenary.

The NA Law Committee is assigned to evaluate law constitutionality, legality and consistency.

Provincial PCs are empowered to approve budget allocations and revenue assignments for the three local governments, as well as the norms on budget allocation and expenditure at local levels.

**2003:** PCs obtain the right to cast votes of confidence on officials elected or ratified by the PCs.

PCs gain responsibilities in the coordination, budget allocation and finalization of SEDPs in their respective levels.

**2004:** PCs are allowed to issue legal documents other than to implement documents of higher level authorities, particularly in the areas of socio-economic development, budget, defense and security, and people's livelihoods.

**2005:** The NA and PCs of all levels become responsible for supervising the work on anti-corruption.

**2007:** Separate law, judicial, economic and budget committees are established to strengthen the roles of the NA in these areas.

An NA committee is for the first time explicitly assigned to oversee the detection and handling of corruption.

**2008:** The specific responsibilities of the NA Law Committee in evaluating the constitutionality, legality and consistency of draft laws and ordinances are strengthened.

A pilot on the removal of PCs at district and ward levels is approved.

## DEVOLUTION

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## ACCOUNTABILITY

2009

**1992:** The Constitution mandates NA's and PCs' representatives to maintain close contacts with voters, accept their supervision, reflect their opinions, answer to their requests, and report to them on activities.

**1997:** A law detailing the election of NA deputies is adopted. The NA Standing Committee is entitled to propose the number and composition of deputies. Participation is open to citizens running on their own and to non-party members. The Fatherland Front is assigned to monitor the election process and organize conferences with voters to nominate candidates. Voters can express their complaints on the nominations.

**1998:** When receiving complaints and denunciations from citizens, the NA and PCs are obliged to urge competent officials to promptly settle them.

Ministerial Q&A sessions start being broadcast live on TV.

**2001:** Full-time NA delegations are established in provinces to facilitate contact with voters.

**2002:** Candidates to the NA are required to declare their assets.

**2003:** A law detailing the election of PCs deputies is adopted, along the same lines as the law detailing the elections of NA deputies.

Key positions in PCs at commune-level become subject to votes of confidence by mass-organizations.

Deputies in PCs can be dismissed by voters or by two thirds of the PC, depending of the seriousness of their violations.

**2006:** The NA allows public access to its legal database

**2007:** The NA launches a website for collection of public comments on draft laws and ordinances.

NA's and PCs' candidates and full-time deputies are required to declare their income and assets. Declarations can be verified.

**2008:** The NA Institute of Legislative Studies of the NA is established to mobilize knowledge and society's attention into the legislative work of the NA.

The Public Opinion Research Institute starts to assist the NA on collecting public opinions on some draft laws.

## State Audit of Vietnam

**1994:** The SAV is established as an agency attached to the Government

**1996:** The SAV is assigned to audit all state agencies and units tasked with state budget revenues and expenditures.

**2002:** The SAV is explicitly required to audit the budgets of all the levels of government.

**2003:** SAV is allowed to employ private audit firms and auditors to provide assistance to its audit work

**2005:** The SAV is transformed into an independent specialized agency established by the NA with power to audit all agencies and organizations using state budget, money and property.

The SAV is given the responsibility to assist the NA Budget Committee and other NA agencies in budget oversight.

The SAV is assigned to detect corruption cases through its audits and to forward them to competent agencies for handling.

The Auditor General is authorized to issue legal documents.

### DEVOLUTION



1986

2009

### ACCOUNTABILITY

**1994:** The State Auditor General is made accountable to the Prime Minister.

**2002:** The audit results are required to be reported to the NA, the Government and other agencies, including the People's Councils.

**2003:** Performance auditing is introduced

**2005:** The annual audit reports, their financial statements and the reports on the outcomes of the implementation of auditing conclusions, are mandated to be disclosed in the website and publications of the SAV and through press conferences.

Auditing standards consistent with international practices are adopted.

**2006:** An anti-corruption action plan to prevent and combat corruption within the SAV is issued.

**2008:** The detailed content and timing of disclosure of SAV reports are legally specified. Audit reports of individual entities are required to be disclosed. Prompt and transparent correction of errors is mandated.

**2009:** Procedures for the annual audit plan are adopted, ensuring sufficient frequency and adequate provincial coverage.



## Mass-Organizations

**1989:** A new legal framework for mass-organizations is introduced, providing them with more independent management and finance, and promoting voluntary membership.

**1996:** Mass-organizations are allowed to issue joint legal documents with central-level government authorities and to make suggestions on draft legal documents.

**1997:** The Fatherland Front is assigned to monitor the NA election process and to organize the nomination of candidates.

**1998:** Mass-organizations are given the responsibility to assist Commune People's Committees in the implementation of grassroots democracy at commune level

Mass-organizations are entitled to take part in conciliation groups to settle disputes at grassroots level

Mass-organizations and other CSOs are allowed to submit complaints and denunciations

**1999:** The roles of the Fatherland Front are expanded, including: supervision of all state activities; monitoring the People's Councils election process and organizing the nomination of candidates; participating in the selection of judges and nominating candidates for the courts' juries.

**2003:** The Fatherland Front is given the responsibility to organize votes of confidence for village chiefs and key positions of Commune People's Councils.

Mass-organizations and other CSOs are allowed to provide legal consultancy services.

**2004:** Mass-organizations become responsible for monitoring public finance transparency in all government levels.

The Fatherland Front becomes responsible for organizing the contribution of opinions of mass-organizations' members to legal documents issued by People's Councils.

**2005:** Mass-organizations obtain the right to request information to all agencies, organizations and units and to receive the information within 10 days, except in some cases.

**2006:** Mass-organizations and other CSOs are encouraged to create non-public service delivery establishments

**2007:** The engagement of mass-organizations and other CSOs in the provision of legal aid is strengthened.

Mass-organizations become responsible for coordinating with state agencies and People's Councils in disseminating the Law on Anti-Corruption and in overseeing its implementation

**2008:** Mass-organizations and other CSOs are entitled to provide feedback on all existing administrative procedures

**2009:** Mass-organizations and other CSOs are entitled to provide comments on all draft legal documents and to engage with drafting agencies in assessing impacts of legal documents, evaluating the enforcement, conducting surveys and legal analysis.

### DEVOLUTION

### ACCOUNTABILITY

1986

2009

**1989:** The establishment of mass-organizations is required to be authorized by the heads of People's Committees and/or the head of the Council of Ministers. Mass-organizations are to be managed by the corresponding sectoral state agency.

**1999:** The organization and activities of the Fatherland Front are required to be based on the principle of consultation.

**2003:** The activities of mass-organizations at grassroots level are mandated to be supervised by people.

**2004:** Mass-organizations receiving support from the state budget are required to publicize state budgets and expenditures.

**2007:** Certain positions in mass-organizations are obliged to declare their income and assets.

## Other Civil Society Organizations

**1992:** The legal framework for the establishment and operation of science and technology organizations is adopted.

**1995:** The legal framework for the establishment and operation of collaborative groups at commune level is adopted. Members of these groups can contribute assets and labor for carrying out certain tasks and mutually enjoy benefits.

**1998:** CSOs are allowed to submit complaints and denunciations.

**1999:** The legal framework for the establishment and operation of non-for-profit social and charity funds is adopted. These funds can work on culture, sports, scientific and social development.

**1999:** Policies to encourage service delivery by CSOs and other non-state actor are adopted.

**2000:** The rights and autonomy of science and technology organizations are expanded.

**2001:** The legal framework for the establishment and operation of social protection centers is issued

**2003:** The legal framework for the establishment and operation of associations is adopted. Associations can self-finance with various sources, carry out activities for their members, contribute opinions to legal documents and provide consultancy and criticism.

CSOs are allowed to provide legal consultancy services.

**2004:** The legal framework for the operation of business associations is improved.

**2005:** The legal framework for the establishment and operation of community investment supervision boards and people's inspection boards are adopted.

The legal framework for the establishment and operation of small-sized financial institutions is adopted.

**2006:** CSOs are encouraged through various preferential policies to create non-public service delivery establishments.

**2007:** Business and professional associations become responsible for actively participating in anti-corruption.

The legal frameworks for social and charity funds and small-sized financial institutions are revised to facilitate their establishment and operation. The legal framework for collaborative groups is specified in detail.

Community investment supervision boards and people's inspection boards gain additional responsibilities on anti-corruption and grassroots democracy.

The engagement of CSOs in the provision of legal aid is strengthened.

**2008:** CSOs are entitled to provide feedback on all existing administrative procedures.

**2009:** CSOs are entitled to provide comments to all draft legal documents, and to engage with drafting agencies in assessing impacts of the legal documents, evaluating their enforcement, and conducting surveys and legal analysis.

The activities of science and technology organizations established by individuals are restricted to seven fields.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1992:** Science and technology organizations must be established by the Council of Ministers, Ministries or mass-organizations, and must be registered under the state science committee.

**1995:** The cooperation contracts of cooperative groups must be authenticated by the commune government. The head of a cooperative group must be elected by the members.

**1999:** Social and charitable funds are required to be managed by an elected council and inspected by an independent control board. Government approval is needed for their establishment, charter, merger, division and dissolution.

**2000:** Taking advantage of science and technological activities is strictly prohibited e.g. distorting or opposing state policies and laws, infringing upon private and state interests.

**2003:** The charter, leadership and control board of associations are required to be voted by members. Government approval is needed for their establishment, initial mobilizing committee, charter, merger, division and dissolution. Associations are required to report to the government the use of their funds and their annual organization and operation situation.

The activities of CSOs at grassroots level are mandated to be supervised by people.

**2004:** A minimum number of founding members is imposed for associations and for their initial mobilizing committees.

All CSOs receiving support from the state budget are required to publicize state budgets and expenditures.

**2005:** Community investment supervision boards and people's inspection boards are elected by people in communes and approved by the Fatherland Front. They are required to submit reports periodically to the Fatherland Front.

**2007:** Business and professional associations are mandated to apply measures to prevent and detect their internal corruption.

**2009:** Evaluations of government policy by science and technology organizations established by individuals are required to be approved by the government before publication.

## The Media

**1989:** The State, the Party and social organizations are allowed to set up media agencies.

The media obtains the right to report citizens' feedback on public affairs and to receive a response from government on the feedback.

The media obtains the right to request and be supplied with information from state agencies, which bear responsibility for the content.

The Vietnam Journalists Association obtains the right to participate in the formulation and implementation of media policy, and to protect the legal rights and interests of journalists.

**1999:** Media agencies are allowed to use sources of finance other than the funds provided by the parent organization, including business revenues and voluntary contributions from organizations and individuals.

**2002:** Media agencies are allowed to "organize business and service activities" in some stages of the product cycle e.g. printing, distribution, advertisement..

The head of the media agency is separated from the head of the parent organization.

Media agencies are allowed to disagree with the reported corrections, and to refuse to publish the corrections that violate the law or infringe their prestige and honor.

**2005:** Media agencies obtain the right to be supplied within 10 days the requested information from government agencies, organizations and units, except in some cases.

**2006:** Administrative sanctions are stipulated for those who fail to supply information to the media, obstruct their lawful professional activities, or hurt or threaten journalists.

**2007:** The mechanisms for supply of information of the government to the media are comprehensively specified.

The media becomes responsible for disseminating anti-corruption policies, mobilizing people to participate in anti-corruption, praising good anti-corruption behaviors and condemning corrupt acts.

The media is explicitly allowed to report on corruption cases, to request and receive information on cases showing signs of corruption, and to be protected while reporting on corruption.

**2008:** The media obtains the right to be supplied quickly with information on issues capturing public interest or causing public concern.

### DEVOLUTION

1986

### ACCOUNTABILITY

2009

**1989:** A permit by the state management of the media, i.e. Council of Ministers, is required for setting up a press agency.

The media is prohibited to report on some "no-go areas" e.g. state secrets, propaganda against Vietnam, propaganda on ideologies and violence, incorrect or damaging information.

Tough sanctions are applied for journalists and media agencies that violate press regulations, including withdrawal of press licenses and cards and examination for criminal liability.

**1999:** The state management of the media is transferred from the Council of Ministers to the Ministry of Culture and Information.

Media agencies are required to promptly publicize corrections of false or harmful information reported by state agencies, organizations or individuals.

The press becomes subject to inspections from a specialized press inspectorate.

The Penal Code is ratified, stipulating various criminal sanctions applicable to the media.

**2001:** A wide range of administrative violations by the media and the corresponding administrative sanctions are specified.

**2002:** The organization of business and service activities by media agencies requires prior permission from the parent organization and the notification to the state.

(Deputy) heads and (deputy) editors-in-chief of media agencies are required to be appointed by the parent organization, in written agreement with the Ministry of Culture and Information.

The distribution into Vietnam of overseas published media requires the permit of the Ministry of Culture and Information.

**2006:** Administrative sanctions are strengthened and widened to ensure accurate and correct reporting by the media.

Journalists are required to receive ethics training, organized by the state management of the media.

**2007:** Tighter time limits and detailed instructions on content and format are required for the publication of corrections.

High ranking officials of newspapers using state budget and assets are mandated to declare their income and assets.

**2008:** Supplements, channels or programs on advertisement in the media are required a permit from the state management of the media.

## Annex 2- Statistical Data

**Table A1.1: POPULATION**

(thousand persons)

Year	Population (mid-year)	Growth Rate	By sex		By area	
			Male	Female	Urban	Rural
1976	49,160	2.35	23,597	25,563	10,127	39,033
1977	50,237	2.19	24,197	26,039	10,116	40,114
1978	51,337	2.19	24,813	26,524	10,105	41,226
1979	52,462	2.19	25,444	27,018	10,094	42,368
1980	53,630	2.23	26,047	27,583	10,295	43,335
1981	54,824	2.23	26,665	28,159	10,499	44,324
1982	56,045	2.23	27,297	28,747	10,708	45,336
1983	57,292	2.23	27,944	29,348	10,921	46,371
1984	58,568	2.23	28,607	29,961	11,138	47,429
1985	59,872	2.23	29,285	30,587	11,360	48,512
1986	61,109	2.07	29,912	31,197	11,817	49,292
1987	62,452	2.20	30,611	31,841	12,271	50,181
1988	63,727	2.04	31,450	32,277	12,662	51,065
1989	64,774	1.64	31,589	33,185	12,919	50,801
1990	66,017	1.92	32,203	33,814	12,880	53,136
1991	67,242	1.86	32,814	34,428	13,228	54,015
1992	68,450	1.80	33,242	35,208	13,588	54,863
1993	69,645	1.74	34,028	35,616	13,961	55,683
1994	70,825	1.69	34,633	36,191	14,426	56,399
1995	71,996	1.65	35,237	36,758	16,938	55,057
1996	73,157	1.61	35,857	37,299	15,420	57,737
1997	74,037	1.20	36,473	37,564	16,835	57,202
1998	75,456	1.92	37,090	38,367	17,465	57,992
1999	76,597	1.51	37,662	38,935	18,082	58,515
2000	77,635	1.36	38,166	39,469	18,805	58,830
2001	78,686	1.35	38,684	40,002	19,481	59,205
2002	79,727	1.32	39,197	40,530	20,004	59,723
2003	80,902	1.47	39,755	41,147	20,870	60,033
2004	82,032	1.40	40,311	41,721	21,737	60,295
2005	83,106	1.31	40,846	42,260	22,337	60,770
2006	84,137	1.24	41,355	42,782	22,793	61,344
2007	85,172	1.23	41,868	43,304	23,399	61,773
2008/e	85,790	0.73	42,483	43,307	25,374	60,415

Source: GSO (2009)

**Table A1.2: POPULATION BY SEX AND LOCALITY IN 2008**

(thousand persons)

Provinces/ Cities	Total	By sex		By locality	
		Male	Female	Urban	Rural
Ha Noi	6,449	3,176	3,273	2,632	3,817
Hai Phong	1,837	911	926	847	990
Ha Giang	724	363	361	87	637
Tuyen Quang	725	365	361	94	632
Cao Bang	511	253	258	88	423
Lang Son	732	365	367	141	590
Lai Chau	370	189	181	53	317
Dien bien	491	246	245	74	417
Lao Cai	613	308	305	130	483
Yen Bai	741	370	371	140	601
Bac Can	295	149	146	48	247
Thai nguyen	1,125	559	566	288	837
Son La	1,081	545	535	150	930
Hoa Binh	787	391	396	120	667
Vinh Phuc	1,001	496	505	224	776
Phu Tho	1,314	649	665	209	1,105
Bac ninh	1,024	503	521	242	782
Bac Giang	1,556	776	780	150	1,406
Quang Ninh	1,144	586	559	576	568
Hai Duong	1,703	833	870	325	1,379
Hung Yen	1,129	554	575	138	990
Thai Binh	1,781	861	920	175	1,606
Nam Dinh	1,826	896	930	323	1,502
Ha Nam	785	385	400	77	708
Ninh Binh	898	447	452	161	738
Thanh Hoa	3,400	1,683	1,717	355	3,045
Nghe An	2,913	1,449	1,464	368	2,545
Ha Tinh	1,228	608	619	184	1,044
Quang Binh	847	424	423	128	719
Quang Tri	598	297	301	165	433
Thua Thien - Hue	1,088	538	550	393	695
Quang Nam	1,420	692	727	264	1,155
Da Nang	887	438	450	770	117
Quang Ngai	1,217	600	617	179	1,039
Binh Dinh	1,486	726	760	413	1,073
Phu Yen	862	432	430	189	673
Khanh Hoa	1,157	572	584	459	697
Ninh Thuan	564	281	283	204	360
Binh Thuan	1,169	591	579	461	709
Gia Lai	1,273	640	632	363	909
Kon Tum	430	218	212	145	285
Dac Lac	1,728	874	855	388	1,340
Dac Nong	489	255	234	72	417
Lam Dong	1,187	596	591	449	737
Ho Chi Minh City	7,123	3,426	3,697	5,929	1,194
Binh Duong	1,483	713	769	444	1,039
Tay Ninh	1,066	531	535	168	898
Binh Phuoc	875	444	431	147	728

Dong Nai	2,483	1,232	1,251	825	1,658
Baria - Vung Tau	995	498	497	495	500
Long An	1,437	714	723	251	1,186
Dong Thap	1,665	832	833	287	1,378
An Giang	2,145	1,067	1,078	609	1,536
Tien Giang	1,670	821	849	230	1,440
Ben Tre	1,255	616	639	126	1,129
Vinh Long	1,028	507	521	159	870
Tra Vinh	1,001	494	507	154	847
Can Tho	1,187	590	598	781	406
Hau giang	757	381	376	149	607
Soc Trang	1,289	641	648	251	1,038
Kien Giang	1,683	850	834	453	1,231
Bac Lieu	856	427	429	225	631
Ca Mau	1,205	607	598	247	958

Note: Population by sex and by area may not add to the total due to the possible exclusion of the armed force and migrant workers.

Source: GSO (2009)

**Table A1.3: TOTAL EMPLOYMENT BY SECTOR**

(thousand of persons)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total Employment	39,508	40,574	41,586	42,527	43,339	44,174	44,916
State	3,751	4,035	4,142	4,039	3,949	3,985	4,073
Non-state	35,757	36,538	37,445	38,488	39,390	40,189	40,843
State Sector Employment	3,751	4,035	4,142	4,039	3,949	3,985	4,073
Central	1,569	1,628	1,678	1,613	1,573	1,569	1,590
Local	2,181	2,407	2,464	2,426	2,376	2,416	2,484
Employment by Sector							
Agriculture, forestry and fisheries	24,456	24,443	24,431	24,342	23,995	23,812	23,635
Industry and Construction	6,085	6,671	7,217	7,782	8,336	8,826	9,356
Services	8,967	9,460	9,939	10,402	11,008	11,536	11,925

Note: Figures are rounded

Source: GSO (2009)

**Table A2.1: GDP BY INDUSTRIAL ORIGIN AND BY ECONOMIC SECTOR**

(VND billion at current prices)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total	535,762	613,443	715,307	839,211	974,266	1,143,715	1,477,717
State	205,652	239,736	279,704	322,241	364,250	410,883	507,620
Non-State	330,110	373,707	435,603	516,970	610,016	732,832	970,097
Agriculture, Forestry and Fisheries	123,383	138,285	155,993	175,984	198,798	232,586	326,505
Agriculture and Forestry	103,043	114,160	128,519	143,037	160,463	186,462	268,096
Fisheries	20,340	24,125	27,474	32,947	38,335	46,124	58,409
Industry and Construction	206,197	242,126	287,616	344,224	404,697	474,423	587,156
Mining	46,153	57,326	72,492	88,897	99,702	111,700	131,968
Manufacturing	110,285	125,476	145,475	173,122	207,027	243,142	311,848
Electricity and Water	18,201	22,224	25,091	28,929	33,464	39,869	47,644
Construction	31,558	37,100	44,558	53,276	64,503	79,712	95,696
Services	206,182	233,032	271,698	319,003	370,771	436,706	564,055
Trade	75,617	83,297	96,995	113,768	132,794	156,442	204,735
Hotel and Restaurant	17,154	18,472	22,529	29,329	35,861	44,992	64,828
Transportation and Communication	21,095	24,725	30,402	36,629	43,825	51,118	67,100
Finance, Banking and Insurance	9,763	10,858	12,737	15,072	17,607	20,756	27,215
Science and Technology	3,009	3,694	4,315	5,247	6,059	7,065	9,221
Real Estate and Renting	24,452	27,287	31,304	33,635	36,814	43,509	53,743
Public Administration	13,816	16,676	19,061	23,037	26,737	31,310	40,992
Education and Training	18,071	21,403	23,335	26,948	30,718	34,843	38,510
Healthcare and social welfare	7,057	8,865	10,851	12,412	14,093	16,160	18,592
Culture and Recreation	2,987	3,376	3,693	4,158	4,617	5,200	5,989
Party and Association	712	774	885	1,054	1,217	1,425	1,874
Community and Social service	11,412	12,497	14,354	16,293	18,789	21,959	28,704
Private Household Employment	1,037	1,108	1,237	1,421	1,640	1,927	2,551

Source: GSO (2009)

**Table A2.2: GDP BY INDUSTRIAL ORIGIN AND BY ECONOMIC SECTOR**

(VND billion at constant 1994 prices)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total	313,247	336,242	362,435	393,031	425,373	461,344	489,833
State	128,343	138,160	148,865	159,836	169,696	179,718	187,310
Non-State	184,904	198,082	213,570	233,195	255,677	281,626	302,523
Agriculture, Forestry and Fisheries	68,352	70,827	73,917	76,888	79,723	82,717	86,082
Agriculture and Forestry	60,480	62,350	64,717	66,707	68,751	70,585	73,289
Fisheries	7,872	8,477	9,200	10,181	10,972	12,132	12,792
Industry and Construction	117,126	129,399	142,621	157,867	174,259	192,065	203,791
Mining	19,396	20,611	22,437	22,854	22,987	21,904	21,065
Manufacturing	63,983	71,363	79,116	89,338	100,436	113,801	125,115
Electricity and Water	7,992	8,944	10,015	11,247	12,604	13,485	14,899
Construction	25,755	28,481	31,053	34,428	38,232	42,875	42,712
Services	127,769	136,016	145,897	158,276	171,391	186,562	199,960
Trade	51,245	54,747	59,027	63,950	69,418	75,537	80,389
Hotel and Restaurant	10,125	10,646	11,511	13,472	15,145	17,086	18,561
Transportation and Telecom	12,252	12,925	13,975	15,318	16,870	18,793	21,266
Finance, Banking and Insurance	6,424	6,935	7,495	8,197	8,867	9,651	10,291
Science and Technology	1,909	2,044	2,196	2,368	2,543	2,738	2,906
Real Estate and Renting	13,106	13,796	14,396	14,816	15,252	15,872	16,268
Public Administration	8,768	9,228	9,773	10,477	11,270	12,186	12,974
Education and Training	10,475	11,260	12,125	13,127	14,231	15,477	16,721
Healthcare and social welfare	4,464	4,853	5,234	5,640	6,082	6,572	7,117
Culture and Recreation	1,706	1,857	1,997	2,163	2,329	2,518	2,682
Party and Association	353	372	395	423	454	491	525
Community and Social service	6,353	6,743	7,141	7,655	8,210	8,860	9,419
Private Household Employment	589	610	632	670	720	781	840

Source: GSO (2009)



**Table A2.2B: GDP BY INDUSTRIAL ORIGIN -- GROWTH RATE**

(in percent)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total	7.1	7.3	7.8	8.4	8.2	8.5	6.2
State	7.1	7.6	7.7	7.4	6.2	5.9	4.2
Non-State	7.1	7.1	7.8	9.2	9.6	10.1	7.4
Agriculture, Forestry and Fisheries	4.2	3.6	4.4	4.0	3.7	3.8	4.1
Agriculture and Forestry	4.0	3.1	3.8	3.1	3.1	2.7	3.8
Fisheries	5.7	7.7	8.5	10.7	7.8	10.6	5.4
Industry and Construction	9.5	10.5	10.2	10.7	10.4	10.2	6.1
Mining	1.1	6.3	8.9	1.9	0.6	-4.7	-3.8
Manufacturing	11.6	11.5	10.9	12.9	12.4	13.3	9.9
Electricity and Water	11.4	11.9	12.0	12.3	12.1	7.0	10.5
Construction	10.6	10.6	9.0	10.9	11.0	12.1	-0.4
Services	6.5	6.5	7.3	8.5	8.3	8.9	7.2
Trade	7.3	6.8	7.8	8.3	8.6	8.8	6.4
Hotel and Restaurant	7.1	5.1	8.1	17.0	12.4	12.8	8.6
Transportation and Telecom	7.1	5.5	8.1	9.6	10.1	11.4	13.2
Finance, Banking and Insurance	7.0	8.0	8.1	9.4	8.2	8.8	6.6
Science and Technology	9.1	7.1	7.4	7.8	7.4	7.7	6.1
Real Estate and Renting	3.8	5.3	4.3	2.9	2.9	4.1	2.5
Public Administration	3.9	5.2	5.9	7.2	7.6	8.1	6.5
Education and Training	8.1	7.5	7.7	8.3	8.4	8.8	8.0
Healthcare and social welfare	7.5	8.7	7.9	7.8	7.8	8.1	8.3
Culture and Recreation	3.5	8.9	7.5	8.3	7.7	8.1	6.5
Party and Association	5.7	5.4	6.2	7.1	7.3	8.1	6.9
Community and Social service	5.4	6.1	5.9	7.2	7.3	7.9	6.3
Private Household Employment	1.0	3.6	3.6	6.0	7.5	8.5	7.6

Source: GSO (2009)

**Table A2.3A: GDP DEFLATOR**

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total	1.7	1.8	2.0	2.1	2.3	2.5	3.0
State	1.6	1.7	1.9	2.0	2.1	2.3	2.7
Non-State	1.8	1.9	2.0	2.2	2.4	2.6	3.2
Agriculture, Forestry and Fisheries	1.8	2.0	2.1	2.3	2.5	2.8	3.8
Agriculture and Forestry	1.7	1.8	2.0	2.1	2.3	2.6	3.7
Fisheries	2.6	2.8	3.0	3.2	3.5	3.8	4.6
Industry and Construction	1.8	1.9	2.0	2.2	2.3	2.5	2.9
Mining	2.4	2.8	3.2	3.9	4.3	5.1	6.3
Manufacturing	1.7	1.8	1.8	1.9	2.1	2.1	2.5
Electricity and Water	2.3	2.5	2.5	2.6	2.7	3.0	3.2
Construction	1.2	1.3	1.4	1.5	1.7	1.9	2.2
Services	1.6	1.7	1.9	2.0	2.2	2.3	2.8
Trade	1.5	1.5	1.6	1.8	1.9	2.1	2.5
Hotel and Restaurant	1.7	1.7	2.0	2.2	2.4	2.6	3.5
Transportation and Telecom	1.7	1.9	2.2	2.4	2.6	2.7	3.2
Finance, Banking and Insurance	1.5	1.6	1.7	1.8	2.0	2.2	2.6
Science and Technology	1.6	1.8	2.0	2.2	2.4	2.6	3.2
Real Estate and Renting	1.9	2.0	2.2	2.3	2.4	2.7	3.3
Public Administration	1.6	1.8	2.0	2.2	2.4	2.6	3.2
Education and Training	1.7	1.9	1.9	2.1	2.2	2.3	2.3
Healthcare and social welfare	1.6	1.8	2.1	2.2	2.3	2.5	2.6
Culture and Recreation	1.8	1.8	1.8	1.9	2.0	2.1	2.2
Party and Association	2.0	2.1	2.2	2.5	2.7	2.9	3.6
Community and Social service	1.8	1.9	2.0	2.1	2.3	2.5	3.0
Private Household Employment	1.8	1.8	2.0	2.1	2.3	2.5	3.0

Source: GSO (2009)

**Table A2.3B: CHANGE IN GDP DEFLATOR**  
(in percent)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total	4.0	6.7	8.2	8.2	7.3	8.2	21.7
State	3.9	8.3	8.3	7.3	6.5	6.5	18.5
Non-State	4.0	5.7	8.1	8.7	7.6	9.1	23.2
Agriculture, Forestry and Fisheries	5.9	8.2	8.1	8.5	8.9	12.8	34.9
Agriculture and Forestry	5.5	7.5	8.5	8.0	8.8	13.2	38.5
Fisheries	7.5	10.1	4.9	8.4	8.0	8.8	20.1
Industry and Construction	2.6	6.3	7.8	8.1	6.5	6.4	16.6
Mining	2.9	16.9	16.2	20.4	11.5	17.6	22.9
Manufacturing	3.8	2.0	4.6	5.4	6.4	3.7	16.7
Electricity and Water	1.9	9.1	0.8	2.7	3.2	11.4	8.2
Construction	2.2	6.3	10.2	7.8	9.0	10.2	20.5
Services	4.1	6.2	8.7	8.2	7.3	8.2	20.5
Trade	4.0	3.1	8.0	8.3	7.5	8.3	23.0
Hotel and Restaurant	4.0	2.4	12.8	11.2	8.8	11.2	32.6
Transportation and Telecom	1.4	11.1	13.7	9.9	8.6	4.7	16.0
Finance, Banking and Insurance	4.2	3.0	8.5	8.2	8.0	8.3	23.0
Science and Technology	4.2	14.7	8.7	12.8	7.5	8.3	23.0
Real Estate and Renting	9.2	6.0	9.9	4.4	6.3	13.6	20.5
Public Administration	4.0	14.7	7.9	12.7	7.9	8.3	23.0
Education and Training	2.9	10.2	1.2	6.7	5.1	4.3	2.3
Healthcare and social welfare	2.3	15.6	13.5	6.2	5.3	6.1	6.2
Culture and Recreation	3.1	3.8	1.7	4.0	3.1	4.2	8.1
Party and Association	3.5	3.2	7.7	11.2	7.6	8.3	23.0
Community and Social service	4.0	3.2	8.5	5.9	7.5	8.3	23.0
Private Household Employment	4.2	3.2	7.8	8.4	7.4	8.3	23.1

Source: GSO (2009)

**Table A2.4A: NATIONAL ACCOUNTS: SOURCES AND USES**

(VND billion at current prices)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Sources	563,446	664,671	769,307	874,299	1,018,704	1,325,017	1,722,165
GDP	535,762	613,443	715,307	839,211	974,266	1,143,715	1,477,717
Trade Balance	27,684	51,228	54,000	35,088	44,438	181,302	244,448
Uses	563,446	664,731	769,307	874,299	1,018,704	1,325,017	1,722,165
Total Consumption	382,137	445,221	511,221	584,793	675,916	809,862	1,084,876
Gross Capital Formation	177,983	217,434	253,686	298,543	358,629	493,300	607,746
Statistical Discrepancy	3,326	2,076	4,400	-9,037	-15,841	21,855	29,543

Source: GSO (2009)

**Table A2.4B: NATIONAL ACCOUNTS: SOURCES AND USES**

(VND billion at constant 1994 prices)

	2002	2003	2004	2005	rev 2006	est 2007	est 2008
Sources	334,640	367,691	392,558	417,469	455,924	548,166	591,617
GDP	313,247	336,243	362,435	393,031	425,373	461,344	489,833
Trade Balance	21,393	31,448	30,123	24,438	30,551	86,822	101,784
Uses	334,640	367,691	392,558	417,469	455,924	548,166	591,617
Total Consumption	225,610	243,515	260,940	280,104	303,520	335,776	366,045
Gross Capital Formation	104,256	116,623	128,916	143,291	160,247	203,191	215,948
Statistical Discrepancy	4,774	7,553	2,702	-5,926	-7,843	9,198	9,624

Source: GSO (2009)

**Table A3.1: BALANCE OF PAYMENTS**

	2002	2003	2004	2005	2006	rev 2007	est 2008
(In millions of U.S. dollars, unless otherwise indicated)							
Current account balance	-604	-1,931	-1,591	-561	-163	-6,992	-10,706
Trade balance	-1,054	-2,581	-3,854	-2,439	-2,776	-10,360	-12,782
Exports, f.o.b.	16,706	20,149	26,485	32,447	39,826	48,561	62,685
Imports, f.o.b.	17,760	22,730	30,339	34,886	42,602	58,921	75,467
Non-factor services (net)	-750	-778	61	-296	-8	-894	-835
Receipts	2,948	3,272	3,867	4,176	5,100	6,030	7,096
Payments	3,698	4,050	3,806	4,472	5,108	6,924	7,931
Investment income (net)	-721	-811	-891	-1,206	-1,429	-2,168	-4,400
Receipts	167	125	188	364	668	1,093	1,357
Payments	888	936	1,079	1,570	2,097	3,261	5,757
Transfers (net)	1,921	2,239	3,093	3,380	4,050	6,430	7,311
Private	1,790	2,100	2,919	3,150	3,800	6,180	6,804
Official	131	139	174	230	250	250	507
Financial account balance	2,090	3,305	2,753	3,083	2,987	17,191	11,180
Net foreign direct investment (FDI) inflows	1,400	1,450	1,610	1,889	2,315	6,550	9,065
Medium and long-term loans (net)	66	457	1,162	921	1,025	2,045	995
Disbursements	1,102	1,540	2,047	2,031	2,260	3,397	
Amortization	1,036	1,083	885	1,110	1,235	1,352	
Portfolio Investment	0	0	0	861	1,313	6,243	-580
Short-term capital (net)	624	1,398	-19	-588	-1,666	2,353	1,700
NFA of commercial banks	624	1,372	35	-634	-1,636	2,623	677
Errors and omissions	-1,038	777	-279	-391	1,398		
<b>Overall balance</b>	448	2,151	883	2,131	4,222	10,199	474
<b>Financing</b>	-448	-2,151	-883	-2,131	-4,322	-10,199	-474
Change in SBV's NFA (-, increase)	-464	-2,151	-883	-2,131	-4,322	-10,199	-474

Sources: State Bank of Vietnam, IMF and World Bank

**Table A3.2: MAJOR EXPORTS BY COMMODITY**

(US\$ million)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Total Exports	16,706	20,176	26,485	32,442	39,826	48,561	62,685
Rice	726	721	950	1,047	1,276	1,490	2,894
Quantity (000 tons)	3,241	3,813	4,060	5,250	4,643	4,558	4,742
Average Unit Value (US\$/ton)	224	189	234	199	275	327	610
Crude oil	3,270	3,812	5,671	7,373	8,265	8,488	10,357
Quantity (000 tons)	16,879	17,143	19,501	17,967	16,419	15,062	13,752
Average Unit Value (US\$/ton)	194	222	291	410	503	564	753
Coal	156	184	355	669	915	1,000	1,338
Quantity (000 tons)	6,049	7,246	11,624	17,986	29,307	31,948	19,355
Average Unit Value (US\$/ton)	26	25	31	37	31	31	69
Rubber	268	378	641	804	1,286	1,393	1,604
Quantity (000 tons)	449	433	975	587	708	715	658
Average Unit Value (US\$/ton)	597	872	658	1,370	1,817	1,948	2,436
Tea	83	60	96	97	110	131	147
Quantity (000 tons)	75	60	99	88	106	114	104
Average Unit Value (US\$/ton)	1,103	1,002	961	1,103	1,045	1,143	1,407
Coffee	322	505	641	735	1,217	1,911	2,111
Quantity (000 tons)	719	749	975	892	981	715	1,060
Average Unit Value (US\$/ton)	449	674	658	824	1,241	2,674	1,993
Cashew Nut	209	284	436	502	504	654	911
Quantity (000 tons)	62	84	105	109	127	153	165
Average Unit Value (US\$/ton)	3,358	3,390	4,150	4,610	3,973	4,287	5,510
Black Pepper	107	105	152	150	190	271	311
Quantity (000 tons)	77	74	112	109	117	83	90
Average Unit Value (US\$/ton)	1,399	1,416	1,362	1,381	1,632	3,269	3,448
Marine Products	2,023	2,200	2,401	2,739	3,358	3,763	4,510
Vegetable & Fruits	201	151	179	235	259	306	407
Textiles and Garments	2,752	3,687	4,386	4,838	5,834	7,750	9,120
Footwear	1,867	2,268	2,692	3,040	3,592	3,994	4,768
Handicraft	331	367	426	569	630	825	1,363
Wood products	435	567	1,139	1,563	1,933	2,404	2,829
Electronic and Computer parts	605	855	1,075	1,427	1,708	2,154	2,638
Electric cables and wires	188	292	389	523	705	883	1,001
Plastic products	153	154	261	350	480	711	921

Source: GSO (2009)

**Table A3.3: MAJOR IMPORTS BY COMMODITY**

(US\$ million)

	2002	2003	2004	2005	2006	rev 2007	prel 2008
Total Imports	19,733	25,227	31,954	36,978	44,891	62,682	80,714
Petroleum products	2,017	2,433	3,574	5,024	5,970	7,710	10,966
Quantity (000 tons)	9,966	9,995	11,050	11,478	11,213	12,850	12,964
Average Unit Value (US\$/ton)	202	243	323	438	532	600	846
Fertilizers	477	628	824	641	687	1,000	1,473
Quantity (000 tons)	3,824	4,119	4,079	2,877	3,189	3,792	3,035
Average Unit Value (US\$/ton)	125	152	202	223	216	264	485
Steel and Irons	1,334	1,657	2,573	2,931	2,936	5,112	6,721
Quantity (000 tons)	4,951	4,574	5,186	5,524	5,707	8,027	8,264
Average Unit Value (US\$/ton)	269	362	496	531	515	637	813
Others							
Machinery and Equipment	3,793	5,359	5,249	5,281	6,628	11,123	13,994
Textile fiber and yarn	314	298	339	340	544	741	775
Cotton	97	106	190	167	219	267	467
Material for garment & footwear	1,711	2,034	2,253	2,282	1,951	2,152	2,355
Motor vehicles and parts	604	834	904	1,193	672	1,881	3,228
Motorbikes	422	329	452	541	557	725	764
Pharmaceutical material	83	76	100	116	133	158	158
Medicine	320	374	410	502	548	703	864
Paper of all kinds	193	230	248	362	475	600	753
Chemicals	406	510	683	865	1,042	1,466	1,776
Chemical products	482	582	706	841	1,007	1,285	1,604
Plastic materials	617	785	1,191	1,456	1,866	2,057	2,945
Computer and Electronic components	664	975	1,342	1,706	2,048	2,958	1,785
Wood - sawn and log	179	274	539	651	775	1,016	1,098
Meat and dairy products	122	164	206	311	321	462	534
Animal feed and materials	234	421	475	594	737	1,181	1,747

Source: GSO (2009)

**Table A4.1: MONETARY SURVEY**

	2002	2003	2004	2005	2006	rev 2007	prel 2008
(in VND trillion, end of period)							
Net Foreign Assets	117.4	131.4	145.8	191.1	287.9	410.4	429.0
Foreign assets	135.9	150.5	172.3	220.5	327.0	472.3	404.8
Foreign liabilities	-18.4	-19.1	-26.4	-29.4	-39.1	-61.9	24.2
Net Domestic Assets	211.7	279.8	390.3	499.6	634.7	937.9	1,193.2
Domestic credit	239.9	316.9	435.2	585.6	730.3	1,096.8	1,400.7
Net claims on government	8.8	20.1	14.9	32.5	36.5	29.1	61.4
Credit to the economy	231.1	296.7	420.3	553.1	693.8	1,067.7	1,339.3
Claims on state enterprises	89.5	105.4	142.9	181.3	218.5	334.2	
Claims on other sectors	141.6	191.3	277.4	371.8	475.3	733.5	
Other items, net	-28.2	-37.0	-44.9	-86.0	-95.6	-159.0	-207.5
Total liquidity (M2)	329.1	411.2	536.2	690.7	922.7	1,348.2	1,622.2
of which: total deposit	254.9	320.6	427.1	559.5	763.9	1,127.7	1,385.3
Dong liquidity	235.5	314.1	408.1	531.5	723.2	1,089.6	1,291.8
Currency outside banks	74.3	90.6	109.1	131.2	158.8	220.5	
Deposits	161.2	223.6	299.0	400.3	564.4	869.1	
Foreign currency deposits	93.6	97.1	128.1	159.2	199.5	258.6	330.4
(Annual change in percent )							
Net Foreign Assets	-0.2	11.9	11.0	31.0	50.7	42.6	4.5
Net Domestic Assets	30.5	32.2	39.5	28.0	27.0	47.8	27.2
Domestic credit	25.5	32.1	37.4	34.5	24.7	50.2	27.7
Credit to the economy	22.2	28.4	41.7	31.6	25.4	53.9	25.4
Claims on state enterprises	12.3	17.8	35.6	26.9	20.5	53.0	
Claims on other sectors	29.4	35.1	45.0	34.0	27.8	54.3	
Total liquidity (M2)	17.6	25.0	30.4	28.8	33.6	46.1	20.3
of which: total deposit	19.4	25.8	33.2	31.0	36.5	47.6	22.8
Dong liquidity	23.2	33.4	29.9	30.2	36.1	50.7	18.6
Currency outside banks	12.0	22.0	20.4	20.2	21.1	38.9	
Deposits	29.2	38.7	33.7	33.9	41.0	54.0	
Foreign currency deposits	5.6	3.7	32.0	24.3	25.3	29.6	27.8

Note: Data from 1999 onwards comprise the SBV, six SOCBs and 83 non-state banks

Source: SBV and IMF



**TABLE A5.1: STATE BUDGET REVENUES**

(VND billion)

		final account				2006	rev	est
		2002	2003	2004	2005		2007	2008
A	Total revenues and grants	121,716	158,057	198,614	238,687	264,261	315,914	416,783
I	Current revenues	118,346	145,823	180,197	219,439	244,043	282,565	377,444
II	Taxes	106,154	127,948	155,579	191,725	230,565	265,862	359,109
1	Corporate income tax	36,826	47,410	56,987	75,847	100,820	103,054	135,361
2	Individual income tax	2,338	2,951	3,521	4,234	5,181	7,422	12,940
3	Land and housing tax	336	359	438	515	592	711	902
4	License tax	407	778	657	726	794	881	1,031
5	Tax on the transfer of properties	1,332	1,817	2,607	2,797	3,363	5,690	7,404
6	Tax on land use right transfer	327	408	640	984	1,250	2,331	3,017
7	Value added tax	25,916	33,130	38,814	45,878	54,773	69,899	90,197
8	Special consumption tax	7,272	8,851	12,773	15,716	17,144	17,454	21,556
9	Natural resources tax	8,543	9,719	17,398	21,236	20,232	19,922	26,676
10	Agricultural tax	772	151	130	132	120	113	98
11	Export & import tax	21,915	22,374	21,614	23,660	26,296	38,385	59,927
12	Other taxes	170						
III	Fees, charges and non-tax	12,192	17,875	24,618	27,714	13,478	16,703	18,335
13	Revenue from discrepancy of import prices	168	133	40	0	0	0	0
14	Fees and charges (include gasoline fee)	6,016	6,483	7,765	8,135	8,008	8,516	11,170
15	Rental of land	459	513	1,035	1,004	1,596	2,017	2,591
16	Others	5,549	10,746	15,778	18,575	3,874	6,170	4,574
IV	Capital revenues	1,120	9,265	15,540	15,459	16,600	29,093	32,064
VIII	Grants	2,250	2,969	2,877	3,789	3,618	4,256	7,275
B	Brought forward revenue	2,145	19,353	26,162	45,161	8,510	26,987	11,617

Source: MOF (2009)

**TABLE A5.2: STATE BUDGET REVENUES**

(share of GDP)

		final account					rev	est
		2002	2003	2004	2005	2006	2007	2008
A	Total revenues and grants	22.7	25.8	27.8	28.4	27.1	27.6	28.2
I	Current revenues	22.1	23.8	25.2	26.1	25.0	24.7	25.5
I.1	Taxes	19.8	20.9	21.7	22.8	23.7	23.2	24.3
1	Corporate income tax	6.9	7.7	8.0	9.0	10.3	9.0	9.2
2	Individual income tax	0.4	0.5	0.5	0.5	0.5	0.6	0.9
3	Land and housing tax	0.1	0.1	0.1	0.1	0.1	0.1	0.1
4	License tax	0.1	0.1	0.1	0.1	0.1	0.1	0.1
5	Tax on the transfer of properties	0.2	0.3	0.4	0.3	0.3	0.5	0.5
6	Tax on land use right transfer	0.1	0.1	0.1	0.1	0.1	0.2	0.2
7	Value added tax	4.8	5.4	5.4	5.5	5.6	6.1	6.1
8	Special consumption tax	1.4	1.4	1.8	1.9	1.8	1.5	1.5
9	Natural resources tax	1.6	1.6	2.4	2.5	2.1	1.7	1.8
10	Agricultural tax	0.1	0.0	0.0	0.0	0.0	0.0	0.0
11	Export & import tax	4.1	3.6	3.0	2.8	2.7	3.4	4.1
12	Other taxes	0.0	0.0	0.0	0.0	0.0	0.0	0.0
I.2	Fees, charges and non-tax	2.3	2.9	3.4	3.3	1.4	1.5	1.2
13	Revenue from discrepancy of import prices	0.0	0.0	0.0	0.0	0.0	0.0	0.0
14	Fees and charges	1.1	1.1	1.1	1.0	0.8	0.7	0.8
15	Rental of land	0.1	0.1	0.1	0.1	0.2	0.2	0.2
16	Others	1.0	1.8	2.2	2.2	0.4	0.5	0.3
II	Capital revenues	0.2	1.5	2.2	1.8	1.7	2.5	2.2
III	Grants	0.4	0.5	0.4	0.5	0.4	0.4	0.5
B	Brought forward revenue	0.4	3.2	3.7	5.4	0.9	2.4	0.8

Source: MOF (2009)

**Table A5.3: STATE BUDGET EXPENDITURES**

(VND billion)

		final account					rev	est
		2002	2003	2004	2005	2006	2007	2008
A	Total expenditures	129,434	162,150	187,353	229,092	267,575	341,418	433,222
I	Current expenditures	84,216	102,521	121,238	149,893	181,491	229,258	297,311
1	Administration expenditure	8,599	11,359	15,901	18,761	18,994	29,214	32,855
2	Expenditure on economic affairs & services	7,987	8,164	10,301	11,801	15,010	20,082	25,423
3	Social expenditures	40,747	50,185	55,185	74,458	91,409	115,837	144,050
3.1	Education	13,758	17,390	20,401	22,031	33,822	43,396	51,465
3.2	Training	4,086	5,491	4,942	6,580	8,376	10,378	12,082
3.3	Health	4,656	5,372	6,009	7,608	12,685	16,426	19,918
3.4	Science, technology & environment	1,852	1,853	2,362	2,584	3,235	3,667	3,859
3.5	Culture	1,066	1,258	1,584	2,099	2,024	2,346	2,713
3.6	Radio and television	681	1,056	1,325	1,464	1,140	1,410	1,550
3.7	Sports	586	648	883	879	943	1,005	1,126
3.8	Population and family planning	841	666	397	483	533	612	1,072
3.9	Social subsidies	13,221	16,451	17,282	30,730	28,651	36,597	50,265
4	Interest payment	5,330	6,395	7,217	6,621	8,913	11,100	15,477
5	Defence		13,058	14,409	16,278	22,892	28,922	34,848
6	Public security		5,745	6,576	7,266	11,150	13,817	16,920
7	Others	21,553	7,615	11,649	14,708	13,123	10,286	27,738
II	Investment expenditure	45,218	59,629	66,115	79,199	86,084	112,160	135,911
1	Capital expenditure	40,740	54,430	61,746	72,842	81,730	107,440	124,664
2	Others	4,478	5,199	4,369	6,357	4,354	4,720	11,247
B	Brought forward expenditure	4,443	16,390	34,439	10,475	22,515	20,695	26,455

Source: MOF (2009)

**Table A5.4: STATE BUDGET EXPENDITURES**

(share of GDP)

		final account				2006	rev	est
		2002	2003	2004	2005		2007	2008
A	Total expenditures	24.2	26.4	26.2	27.3	27.5	29.9	29.3
I	Current expenditures	15.7	16.7	16.9	17.9	18.6	20.0	20.1
1	Administration expenditure	1.6	1.9	2.2	2.2	1.9	2.6	2.2
2	Expenditure on economic affairs & services	1.5	1.3	1.4	1.4	1.5	1.8	1.7
3	Social expenditures	7.6	8.2	7.7	8.9	9.4	10.1	9.7
3.1	Education	2.6	2.8	2.9	2.6	3.5	3.8	3.5
3.2	Training	0.8	0.9	0.7	0.8	0.9	0.9	0.8
3.3	Health	0.9	0.9	0.8	0.9	1.3	1.4	1.3
3.4	Science, technology & environment	0.3	0.3	0.3	0.3	0.3	0.3	0.3
3.5	Culture	0.2	0.2	0.2	0.3	0.2	0.2	0.2
3.6	Radio and television	0.1	0.2	0.2	0.2	0.1	0.1	0.1
3.7	Sports	0.1	0.1	0.1	0.1	0.1	0.1	0.1
3.8	Population and family planning	0.2	0.1	0.1	0.1	0.1	0.1	0.1
3.9	Social subsidies	2.5	2.7	2.4	3.7	2.9	3.2	3.4
4	Interest payment	1.0	1.0	1.0	0.8	0.9	1.0	1.0
5	Defence		2.1	2.0	1.9	2.3	2.5	2.4
6	Public security		0.9	0.9	0.9	1.1	1.2	1.1
7	Others (including salary increase in 2007)	4.0	1.2	1.6	1.8	1.3	0.9	1.9
II	Investment expenditure	8.4	9.7	9.2	9.4	8.8	9.8	9.2
1	Capital expenditure	7.6	8.9	8.6	8.7	8.4	9.4	8.4
2	Others	0.8	0.8	0.6	0.8	0.4	0.4	0.8
B	Brought forward expenditure	0.8	2.7	4.8	1.2	2.3	1.8	1.8

Source: MOF (2009)

**Table A5.5: EXTERNAL DEBT**

(US\$ million, unless otherwise indicated)

	2002	2003	2004	2005	2006	rev 2007	est 2008
Public and Publicly Guaranteed	9,413	11,383	13,505	14,208	15,641	19,253	21,817
Official Creditors							
Multilaterals	3,256	4,490	5,323	5,540	6,149	7,594	8,086
Of which IDA	1,693	2,474	3,050	3,236	3,593	4,609	4,863
Bilaterals	5,427	6,162	7,294	7,070	7,772	9,032	10,747
Private Creditors	730	731	888	1,598	1,721	2,626	2,983
Bonds	382	382	382	1,113	1,095	1,076	1,057
Commercial Banks	184	184	350	362	516	1,407	1,782
Other Private	165	165	156	122	110	144	144
Total Long-Term DOD	9,413	11,383	13,505	14,208	15,641	19,253	21,817
Disbursement	986	1,751	1,845	2,455	1,477	2,825	3,104
Payment (Debt services)	849	776	612	698	765	886	1,104
Principal	642	573	327	435	436	505	679
Interest	207	202	285	263	329	381	424

Source: MOF (2009)

**Table A6.1A: MONTHLY CHANGE IN CONSUMER PRICES**

(in percent)

Month/ Year	2002	2003	2004	2005	2006	2007	est. 2008
January	1.1	0.9	1.1	1.1	1.2	1.1	2.4
February	2.2	2.2	3.0	2.5	2.1	2.1	3.6
March	-0.8	-0.6	0.8	0.1	-0.5	-0.2	3.0
April	0.0	0.0	0.5	0.6	0.2	0.5	2.2
May	0.3	-0.1	0.9	0.5	0.6	0.7	3.9
June	0.1	-0.3	0.8	0.4	0.4	0.9	2.1
July	-0.1	-0.3	0.5	0.4	0.4	0.9	1.1
August	0.0	-0.1	0.6	0.4	0.4	0.5	1.6
September	0.2	0.1	0.3	0.8	0.3	0.5	0.2
October	0.3	-0.2	0.0	0.4	0.2	0.7	-0.2
November	0.3	0.6	0.2	0.4	0.6	1.2	-0.8
December	0.3	0.8	0.6	0.8	0.5	2.9	-0.7

Source: GSO (2009)

**Table A6.1B: MONTHLY CONSUMER PRICE INDEX**

(January 1995 = 100)

Month/ Year	2002	2003	2004	2005	2006	2007	est. 2008
January	130.4	135.3	139.6	152.9	166.0	176.6	201.4
February	133.2	138.2	143.8	156.7	169.5	180.4	208.5
March	132.2	137.4	144.9	156.8	168.7	180.1	214.8
April	132.2	137.4	145.6	157.7	169.0	180.9	219.5
May	132.6	137.2	146.9	158.5	170.1	182.2	228.1
June	132.7	136.8	148.1	159.1	170.7	183.8	233.0
July	132.6	136.4	148.8	159.8	171.4	185.5	235.6
August	132.6	136.3	149.6	160.3	172.1	186.5	239.3
September	132.8	136.4	150.1	161.5	172.6	187.5	239.7
October	133.2	136.1	150.1	162.2	172.9	188.8	239.3
November	133.7	137.0	150.4	162.7	173.9	191.1	237.4
December	134.1	138.0	151.2	164.0	174.6	196.7	235.8
Annual Index	132.7	136.9	147.4	159.3	171.0	185.0	227.7
Annual Growth Rate	4.0	3.2	7.7	8.1	7.3	8.2	23.1
Dec/ Dec Growth Rate	4.0	3.0	9.5	8.5	6.5	12.6	19.9

Source: GSO (2009)

**Table A6.2A: CONSUMER PRICE BY COMMODITY GROUPS**

(monthly change in percent)

GOODS and SERVICES	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08
General Index	2.4	3.6	3.0	2.2	3.9	2.1	1.1	1.6	0.2	-0.2	-0.8	-0.8
Food & foodstuff	3.8	6.2	3.9	3.1	7.3	3.3	1.0	0.5	0.0	-0.4	-0.1	-0.1
<i>of which: Food</i>	3.3	3.3	10.5	6.1	22.2	4.3	-0.4	-1.1	-1.8	-1.9	-3.1	-3.1
<i>Foodstuff</i>	3.8	7.5	1.4	2.2	2.6	3.1	1.3	0.5	0.3	0.0	0.9	0.9
Beverage & tobacco	1.8	1.9	0.7	0.7	1.9	1.1	1.0	0.7	0.5	0.7	0.9	0.9
Garment, hats, footwear	1.4	1.4	0.9	1.0	1.0	0.9	1.4	1.0	0.7	0.7	0.9	0.9
Housing & construction materials	2.9	1.4	3.6	2.6	1.2	1.9	1.7	2.2	-0.6	-1.1	-4.9	-4.9
Household appliances	0.8	0.7	1.5	1.0	0.9	1.3	1.5	1.1	1.1	0.7	0.7	0.7
Healthcare, pharmaceutical items	0.7	0.5	0.7	0.8	0.5	0.7	2.0	1.2	0.8	0.6	0.3	0.3
Transport & Telecommunication	0.0	1.5	5.8	2.3	0.3	0.3	0.5	9.1	-0.5	-0.9	-4.4	-4.4
Educational items	0.2	0.1	0.3	0.4	0.5	0.7	1.0	1.2	1.4	0.7	0.1	0.1
Cultural and recreation items	0.1	2.3	1.3	0.5	0.6	0.4	0.8	1.1	1.5	0.4	0.3	0.3
Goods and other services	2.6	3.4	0.1	0.5	0.3	1.0	1.1	0.9	0.4	0.8	0.4	0.4
Gold	5.1	5.9	6.5	-2.1	-3.9	4.4	3.2	-3.0	-6.4	3.2	-5.8	-5.8
US Dollar	-0.3	-0.1	-1.5	1.2	1.0	4.7	1.8	-3.0	-0.8	0.0	2.1	2.1

Source: GSO (2009)

**TABLE A6.2B: CONSUMER PRICE INDEX BY COMMODITY GROUPS**

(December 2007 = 100)

GOODS and SERVICES	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08
General Index	102.4	106.0	109.2	111.6	116.0	118.4	119.8	121.6	121.9	121.6	120.7	119.8
Food & foodstuff	103.8	110.2	114.4	118.0	126.6	130.7	132.0	132.7	132.7	132.1	132.0	131.9
<i>of which: Food</i>	103.4	106.7	117.9	125.1	152.9	159.4	158.9	157.1	154.4	151.4	146.7	142.2
<i>Foodstuff</i>	103.8	111.6	113.1	115.6	118.5	122.2	123.8	124.4	124.8	124.8	125.9	127.1
Beverage & tobacco	101.8	103.7	104.4	105.1	107.1	108.2	109.3	110.0	110.6	111.3	112.3	113.3
Garment, hats, footwear	101.4	102.8	103.7	104.7	105.7	106.7	108.2	109.2	110.0	110.8	111.8	106.3
Housing & construction materials	102.9	104.3	108.0	110.8	112.2	114.3	116.2	118.8	118.0	116.8	111.1	111.8
Household appliances	100.9	101.6	103.1	104.1	105.1	106.4	108.0	109.2	110.5	111.3	112.0	112.3
Healthcare, pharmaceutical items	100.7	101.1	101.9	102.7	103.2	103.9	105.9	107.3	108.1	108.7	109.1	104.3
Transport & Telecommunication	100.0	101.5	107.3	109.8	110.2	110.6	111.2	121.3	120.7	119.6	114.3	114.4
Educational items	100.2	100.3	100.6	101.0	101.4	102.1	103.2	104.4	105.8	106.5	106.7	107.0
Cultural and recreation items	100.1	102.4	103.7	104.3	104.9	105.3	106.2	107.3	108.9	109.3	109.6	110.0
Goods and other services	102.6	106.1	106.2	106.8	107.1	108.1	109.4	110.4	110.8	111.7	112.1	112.1
Gold	105.1	111.3	118.5	115.9	111.4	116.3	120.0	116.4	109.0	112.5	106.0	99.9
US Dollar	99.7	99.6	98.1	99.3	100.3	105.0	106.9	103.8	103.0	102.9	105.1	107.3

Source: GSO (2009)

**Table A7.1: AGRICULTURAL PRODUCTION**

(VND billion at current prices)

	2002	2003	2004	2005	2006	rev 2007	prel 2008
Gross Output	145,021	153,955	172,495	183,342	197,855	236,935	363,324
Crop Cultivation	111,172	116,066	131,552	134,755	145,808	175,007	259,469
Livestock	30,575	34,457	37,344	45,226	48,487	57,803	97,859
Services	3,275	3,433	3,599	3,362	3,560	4,125	5,997

Source: GSO (2009)

**Table A7.2: AGRICULTURAL PRODUCTION**

(VND billion at constant 1994 prices)

	2002	2003	2004	2005	2006	rev 2007	prel 2008
Gross Output	122,150	127,628	132,888	137,112	142,711	147,847	156,682
Crop Cultivation	98,061	101,763	106,423	107,898	111,613	115,375	122,376
Food Crops	59,619	61,029	63,621	63,853	64,186	65,194	29,580
Industrial Crops	22,247	24,175	25,612	25,586	28,422	70,060	31,015
Livestock	21,200	22,907	23,439	26,108	27,907	29,196	30,939
Services	2,890	2,958	3,027	3,107	3,191	3,276	3,368
<i>Memorandum Items:</i>							
Paddy Output (000 tons)	34,447	34,569	36,149	35,833	35,850	35,943	38,725
Cultivated Area (000 ha)	7,504	7,452	7,445	7,329	7,325	7,207	7,414
Yield (ton/ ha)	4.59	4.64	4.86	4.89	4.89	4.99	5.22

Source: GSO (2009)



**Table A7.3: INDUSTRIAL CROP PRODUCTION AND YIELDS**

	2002	2003	2004	2005	2006	rev 2007	prel 2008
<b>Production (000 metric tons)</b>							
Cotton	40	35	28	34	29	16	7
Jute	20	12	13	13	11	26	9
Sedge	88	96	90	81	90	99	85
Sugar cane	17,120	16,855	15,649	14,949	16,720	17,379	16,128
Peanut	400	406	469	489	463	510	534
Soya-beans	206	220	246	293	258	275	269
Tobacco	33	32	23	26	42	32	29
Tea - raw and fresh	424	449	514	570	649	706	761
Coffee	700	794	836	752	985	916	1,056
Rubber	298	364	419	482	555	606	660
Black pepper	47	69	73	80	79	89	98
Coconut	915	893	960	977	101	1,035	1,086
<b>Area Cultivated (000 ha)</b>							
Cotton	34	28	28	26	21	12	2
Jute	10	5	5	6	6	11	3
Sedge	12	14	13	13	12	14	12
Sugar cane	320	313	286	266	288	293	271
Peanut	247	244	264	270	247	255	256
Soya-beans	159	166	184	204	186	187	192
Tobacco	27	23	16	17	27	19	16
Tea	109	116	121	123	123	126	129
Coffee	522	510	497	497.4	497	509.3	530.9
Rubber	429	441	454	482.7	522.2	556.3	631.5
Black pepper	48	51	51	49.1	48.5	48.4	50
Coconut	140	134	133	132	134	135	138
<b>Average Yield (metric ton/ ha)</b>							
Cotton	1.2	1.3	1.0	1.3	1.4	1.3	3.1
Jute	2.1	2.6	2.6	2.3	1.7	2.3	2.6
Sedge	7.2	6.8	6.9	6.4	7.3	7.2	7.2
Sugar cane	53.5	53.8	54.7	56.1	58.0	59.2	59.5
Peanut	1.6	1.7	1.8	1.8	1.9	2.0	2.1
Soya-beans	1.3	1.3	1.3	1.4	1.4	1.5	1.4
Tobacco	1.2	1.4	1.4	1.5	1.6	1.7	1.8
Tea - raw and fresh	3.9	3.9	4.3	4.7	5.3	5.6	5.9
Coffee	1.3	1.6	1.7	1.5	2.0	1.8	2.0
Rubber	0.7	0.8	0.9	1.0	1.1	1.1	1.0
Black pepper	1.0	1.4	1.4	1.6	1.6	1.8	2.0
Coconut	6.5	6.7	7.2	7.4	0.8	7.6	7.9

Source: GSO (2009)

**Table A8.1: INDUSTRIAL PRODUCTION OUTPUT**

(VND billion at constant 1994 prices)

	2002	2003	2004	2005	2006	rev 2007	prel 2008
Gross Industrial Output	261,092	305,080	355,624	416,613	486,637	568,141	647,232
State sector	105,119	117,637	131,655	141,117	149,332	156,789	163,120
Central	69,640	80,917	92,896	104,372	113,666	121,388	127,968
Local	35,479	36,720	38,759	36,745	35,666	35,400	35,152
Non-state sector	63,474	78,292	95,785	120,177	151,102	188,443	222,269
Collectives	1,668	1,770	1,893	2,019	2,151	2,249	2,331
Private, households and mixed	61,807	76,522	93,892	118,158	148,950	186,194	219,939
Foreign-invested sector	92,499	109,152	128,184	155,319	186,203	222,909	261,842
Key Industries							
Coal	3,189	3,689	4,752	6,111	6,941	7,587	7,064
Oil and gas	23,817	25,132	28,403	27,410	25,466	23,817	22,566
Mining and metal ores	281	344	467	476	622	727	737
Stones and other mining	3,039	3,597	3,842	4,354	4,775	4,954	5,421
Food and beverage	56,061	64,585	74,694	84,482	103,079	121,907	142,661
Cigarettes and tobacco	7,658	9,189	10,160	11,234	11,186	12,480	12,918
Textile products	12,338	14,214	16,626	19,079	23,736	25,627	26,952
Garment - apparel	8,182	10,466	12,792	15,304	19,166	22,444	26,217
Leather tanning and processing	11,096	13,535	16,018	18,920	22,496	24,361	26,191
Wood and wood products	4,488	5,485	6,570	8,120	8,765	10,935	11,319
Paper and paper products	4,877	5,655	7,140	8,311	9,419	11,354	13,102
Printing and publishing	2,876	3,515	3,774	4,626	5,205	5,887	6,701
Chemicals	14,714	16,323	19,029	23,848	28,688	33,420	38,477
Rubber products and plastic	9,706	11,291	15,169	18,237	21,373	26,453	31,879
Non-metallic products	25,913	29,855	33,483	37,055	43,793	47,569	48,906
Metal production	8,516	10,430	11,226	13,949	15,707	18,492	20,015
Metallic products	8,506	10,646	12,963	17,595	22,836	27,972	33,709
Machinery and equipment	3,711	4,612	5,371	5,495	5,561	7,228	9,025
Computer and office equipment	1,003	1,538	1,846	3,206	5,223	6,702	8,606
Electric and electronic equipments	6,520	7,462	9,050	11,992	15,841	20,186	25,273
Radio, TV and telecom	6,169	7,162	7,956	9,137	9,138	12,462	15,105
Production & repairing motor vehicles	5,774	8,306	8,692	9,753	9,344	12,698	15,712
Production & repairing other transport means	8,534	9,676	12,172	15,834	20,712	28,274	36,039
Furnitures	6,057	7,846	10,179	13,411	18,130	21,708	25,727
Recycled products	174	204	261	267	321	409	490
Electricity and gas	15,741	18,071	20,385	23,427	26,134	29,060	32,521
Water supply	1,328	1,361	1,409	1,570	1,756	1,837	1,995

Source: GSO (2009)

**Table A8.2: MAJOR INDUSTRIAL PRODUCTS**

	Unit	2002	2003	2004	2005	2006	rev 2007	prel 2008
Assembled automobiles	unit	29,536	47,701	50,954	59,152	47,576	71,892	100,076
Assembled motorbikes	1,000	1,052	1,180	1,828	1,982	2,147	2,729	2,880
Assembled tivi sets	1,000	1,597	2,188	2,660	2,515	2,446	2,928	3,367
Beverage	mil. liters	940	1,119	1,343	1,461	1,547	1,655	1,850
Bicycle tires	000 Pieces	22,778	26,686	26,008	20,387	22,832	24,556	26,275
Bicycle tubes	000 pieces	24,032	36,083	32,386	26,848	28,964	27,499	26,018
Bricks	mil. pieces	11,365	12,810	14,661	16,530	18,005	15,106	18,278
Cement	000 tons	21,121	24,127	26,153	30,808	32,690	37,120	40,047
Chemical fertilizers	000 tons	1,158	1,294	1,714	2,190	2,183	2,499	2,524
Cigarettes	mil. packs	3,375	3,871	4,192	4,485	3,941	4,549	4,413
Coal	mil. tons	16.4	19.3	27.3	34.1	38.8	42.5	39.8
Crude oil	mil. tons	16.9	17.7	20.1	18.5	16.8	15.9	14.9
Diesel engines	000 pieces	32.6	184.4	182.4	201.6	170.0	229.4	275.2
Electric engines	000 pieces	64.1	95.8	132.3	194.4	120.9	152.2	165.3
Electricity	mil. kWh.	35,888	40,546	46,202	52,078	57,917	64,147	72,100
Fabrics of all kinds	mil. meters	470	496	502	561	570	700	771
Glass products	000 tons	115	147	154	163	240	215	258
Insecticides	tons	20.7	40.9	54,523	45,877	53,113	59,485	65,433
Paper and paper products	000 tons	490	687	809	901	1,031	1,727	1,900
Porcelain	mil. pieces	284	524	404	514	407	396	418
Rice mill equipment	pieces	13,433	10,112	5,749	2,734	8,687	6,317	5,685
Salt	000 tons	974	909	906	898	842	857	847
Sawn wood	000 m3	2,667	3,291	3,009	3,232	4,322	4,441	5,329
Soap and detergent	000 tons	361	377	401	421	427	409	452
Steel	000 tons	2,503	2,954	3,280	3,403	3,837	4,612	5,073
Sugar (refine)	000 tons	790	1,073	1,191	1,102	1,099	1,312	1,417
Tea	000 tons	100	85	122	127	124	182	200
Textile yans	000 tons	227	235	241	259	269	385	481
Tin (billet)	Tons	1,565	1,915	2,356	1,766	2,665	3,369	3,566
Transformers	pieces	18,633	33,364	50,146	45,540	28,149	44,681	46,915
Water pumps for agriculture	pieces	3,578	7,787	10,038	8,298	5,118	2,267	2,196

Source: GSO (2009)

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