GOVERNANCE INSTITUTIONS AND INCENTIVE STRUCTURES IN VIETNAM

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Introduction: Chaos of interest at Bangkok workshop

Last October a small workshop was held in Bangkok to present draft papers as a step towards this conference in Jakarta. The workshop was chaotic and fascinating. The vague topic of governance saw us fly off in many directions, and after some discussion of public sector reform processes we found ourselves naturally more interested in politics, corruption, and the grand sweep of political and social changes.

To cover all the aspects of governance, however, allows little to be studied in depth, and anyway that is not the objective of this research project. This paper therefore begins by making clear the nature of governance generally and then how and why this paper focuses on one aspect: the capacity of administrative and "policy-making elites". By way of historical background, the paper then surveys the particular governance challenge in Vietnam as it continues its transition from central planning to markets. The nature and characteristics of the present administrative structure in Vietnam are then surveyed, followed by a similar survey of policy-making processes and capacities. The paper concludes by identifying areas of governance "needs" for capacity building, and argues for a change in the approach and focus of governance technical assistance.

Governance and the focus of this study

Governance, if not an invention of the donor community, has certainly been embraced by it. Like "social capital", it is an imprecise concept that touches upon both economic and social considerations. For donors, however, imprecision is sometimes a virtue. Donors, somewhat belatedly, are agreed that the role of the state is crucial, and that the central development challenge for many countries is to move the state more towards the ideal national welfare-maximising objective and hence away from servicing the welfare of narrow elites[2] (World Bank, 1997). For donors to push this process is, however, little short of meddling in politics, or at least taking sides in interest group struggles. Donors therefore play a game of trying to empower those with little power, typically the poor, women, and ethnic minorities, and supporting their mobilisation within "civil society" and as NGOs, while nevertheless still officially subscribing to the welfare-maximising rhetoric of particular recipient governments. Governments are somehow above the madding crowd. It is assumed that while local governments may be "captured" by elites,

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2 Hirschman (1999) remarks that: "We may have moved into a relatively more pragmatic era where the experience of 'best practices' is more persuasive than ideological avoidance of anything to do with the state" (p.302). Similarly, the thawing of the ideological climate may have facilitated a more sophisticated appreciation of interest group dynamics in developing countries, and of bureaucracy's role as a particular stakeholder.

this is not the case for the central government[3]. This situation of polite intellectual hypocrisy makes for poor analysis. The arguments in many donor reports are often weak, accompanied by lavish assertions, and the focus tends to be on proximate causes of problems rather than on underlying structural causes. The texts tend to read as if governments are perpetually unaware of the inefficiencies and inequities caused by numerous "bad" policies. Otherwise, assuming they are in charge and not "captured by elites", why would they hesitate to act?

The World Bank and ADB (1999) define governance as "the manner in which power is exercised in the management of a country's economic and social resources for development" (World Bank, 1992: 1). The implication that the "manner" can be "improved" without changing the relative balance of power between interest groups is hardly defensible. Movements, for example, towards making the bureaucracy accountable, transparent and responsive to the public, of course involve shifts in authority and control. But such shifts are relatively minor compared to the debate about the virtues of meaningful democracy compared to other political systems, which also falls under the governance umbrella (see Blondel, *et al*, 1999).

The research focus of this research project, of which this paper is one country case study, is to examine "the capacity of administrative and policy-making elites" with a view to identifying "needs". This focus follows the traditional approach of donors to treat governance largely, if not entirely, as a technical problem that may therefore benefit from "objective" assistance to raise "awareness" and meet "identified needs". Accepting the welfare-maximising rhetoric of governments makes this inevitable. This approach ignores addressing the political and interest group dimensions of the governance challenge. It is rather like repainting your house when what may be needed are new walls and foundations – and maybe a new house.

It is easy to be critical of this approach. We must bear in mind, however, that it is not the business of other countries to meddle in what is essentially the politics of another country. Exceptions to this general rule are at the extremes, such as breaches of international protocols (weapons sales, environment, drug trafficking, etc.), or where gross injustices are evident (genocide). In the normal course of relations, however, pushing political and bureaucratic institutions in another country towards your interpretation of "good" is not justified – but advice and ideas are acceptable. That is the implicit understanding of donor research and assistance under the rubric of "governance". Donors can promote dialogue and provide advice and training, but that is it. Those with and without power in the recipient country must sort out their institutions over time and by themselves.

Given the above understanding about the reasonable role for external assistance, this case study will focus on "capacity issues" where external assistance may be effective and can be justified. Even this constraint, however, cannot avoid some general judgements

[3] This belief is expressed in the *2000/2001 World Development Report* (p.xx), which bases its argument that central government can be more objective on the school textbook myth that it led the 1960s civil rights movement in America. The action by the central government was, as always, the end product of a battle of interest groups, as Loewen (1995) reminds us on this issue: "High school American history textbooks simply credit the government for most of which gets done. This is not surprising, for when authors idealize the federal government, perforce they also distort the real dynamic between the governed and the government. It is particularly upsetting to watch this happen in the field of civil rights, where the courageous acts of thousands of citizens in the 1960s entreated and even forced the government to act" (p.230).

about "empowerment" (e.g. decentralisation, transparency) or about "good" policies (e.g. promoting competition, public awareness, administrative reform). Governance, no matter how it is tackled, must involve some meddling!

The transitional challenge of governance in Vietnam

Vietnam is a very poor developing country and a country "in transition" from central planning to a market-based economy. The transition process in Vietnam has been rather unique, particularly as central planning was always far from comprehensive. But in other ways it has been very similar to other transitional economies, including those in Eastern Europe. The fundamental institutional changes in Vietnam, and in the role of the state and its bureaucracy, has much in common with other transitional economies. like Vietnam, these countries have had to develop, almost from nothing, legal and taxation systems, as well as many other institutions of market economies.

Transition and visions of governance

The move from central planning to markets involves an upheaval of institutions and interest groups. The general winners are private sector households, and the general losers, with many exceptions, are state sector households previously hooked into the rationing mechanisms under planning. Where the process generates rapid economic growth, as in Vietnam, it quickly becomes a win-win situation for all concerned[4].

Politically, transition is typically viewed as a process of moving from tight control under a national Communist Party to something more flexible, democratic and responsive. In part this is because the rigid vertical structure of decision making under central planning cannot cope with the rapid pace of economic change during transition, but it is also because greater economic freedoms *cause* growth: a virtuous circle.

Under central planning, all control is focused upon the Communist Party. Good governance is to be achieved through principles of cooperation rather than competition. The Party, in theory, is to raise itself above the petty interests of particular interest groups and focus on national welfare maximisation[5]. The history of central planning reveals this "monopoly-led consensus governance" approach to be far from "best practice" and generally a failure.

Transition therefore involves a move from a single node of power to something like a tri-partite structure. This requires a shift in paradigm, from consensus governance to competitive governance. Under the consensus vision, a separation of powers makes no sense. Why is it needed when the Party can decide what is best after extensive consultations? It only makes sense under a vision of competing interests, where you have the desire to protect individual rights and due processes from centres of power – such as

[4] With only those remote rural households not linked to markets being "left behind". See Haughton (2000) for a survey of Vietnam's remarkable performance, which was made all the more remarkable by a sharply falling fertility rate.

[5] In much the same way that "Yes Minister" bureaucratic elites in developed countries strive to engender professionalism and "objectivity" to strengthen the focus on national interest rather than on the desires of particular interest groups (also with limited success).

political leaders. "Good governance" under the tripartite vision of competing "selfish interests" is achieved by keeping the judiciary, legislature and executive generally apart from each other. Similarly, government is to be responsive to interest groups, but not disproportionally, and democratic election processes try to ensure this, with varied results. The independence of particular institutions, clear rules, transparent processes, and good information flows all contribute to "keeping everybody honest" under this competitive vision. But they all become less urgent, indeed unnecessary, under the consensus vision.

Consensus governance Vietnam-style

The mutually-supporting blossoming of economic growth and individual freedoms under the transition process has been met by innovative responses by the political leadership of Vietnam. The leading role of the Party has never been explicitly questioned. For a Vietnamese leader, any deviation from the tight rhetoric of the archaic Socialist discourse is still viewed as an act of rebellion. But the Party has had to make substantial compromises to maintain its legitimacy.

Households have extensive economic, religious and social freedoms, and a middle class not directly dependent on the state is slowly emerging. Organised groups have had more room to express their views and even the National Assembly has shown life on occasion. The emergence of organised interest groups could not be limited in number as previously. The solution has been to allow interest groups to be active and even publicly vocal within a monopoly structure – a pyramid - where the Party sits at the top. This fits comfortably within the consensus governance vision: surely only one War Veterans organisation, or one Women's Union, or one Business Group, or one group of anything is needed? The media, although much more vocal on a range of issues, remains tightly controlled and knows the boundaries on particular issues.

The Party has therefore retained its monopoly while embracing a new clutch of new interest groups. Households can roam relatively free, but anything organised is moved within the orbit of Party control. Thus, for example, trade unions exist but not in a combative form. Foreign enterprises, which are basically outside the consensus framework suffer numerous strikes, but workers within the framework, such as those in coal mines, are rarely militant despite Dickensian working conditions. The poor are also bascially ignored. The Farmer's Union is no voice for them. Rebellion is their only option, as it has been historically in Vietnam, which explains the prompt action and attention given to local uprisings. The "threat from below" is well understood.

The government is viewed as the structure through which Party agreed policy is implemented. The structures of a market economy are created, but real decision making autonomy is never given. The box below about the looks at the State Audit of Vietnam as a case study where a "market" institution is created but kept within the pyramid of consensus control - with which ideas of public disclosure and real autonomy are not compatible.

Box 1: Consensus and competitive governance views clash about auditing

The IMF and World Bank (1999) insist on "the need for the audit office to be independent of the executive; the need for adequate information, control, evaluation and reporting systems within the government to facilitate the accountability process; the need for the audit office to provide assurance that the State budget and accounts are complete and valid; and...." (p.33). Further, "an important feature of a national audit office is that it not be under the control of the government of the day". All sensible advice under competitive governance.

In fact, the State Audit of Vietnam (SAV) was established in 1994 specifically "to assist the Prime Minister" in ensuring the correctness and compliance of public agency accounts. None of the SAV's audit reports are made publicly available. It is there to audit and report directly to the political elite who will decide what to do for the "common good". Problems of corruption are treated as "internal matters", with some exceptions when disclosure slips into the public domain or examples of punishments are felt necessary.

The impression of a tightly controlled state is, however, misleading. As discussed below, central planning never extended over Vietnam as it did in other planned economies. Party control was probably also less extensive and intrusive. If it had been, then collectivistion of the south and the expansion of planning could not have been resisted. Thus, the nature of the Party in Vietnam may differ from the conventional stereotype of iron control. Certainly it is above and inside all organised activity, but it only intervenes when it feels threatened[6]. The interplay of interest groups is therefore allowed within this framework without permitting discrete points of authority to stand out. This happens at institutional levels, such as lack of clarity about who decides monetary policy, and at the highest levels of politics, where the emergence of a single dominant leader has been resisted since Ho Chi Minh.

The weaker extent of authoritarian control by the Party may therefore be the main reason behind the emergence of a rather unique form of consensus governance in Vietnam. It is almost unique anyway because it is one of the few Communist Parties to retain control during rapid economic transition[7]. Thus, the Party has "maintained its rule through a system of checks and balances operating around the principle of consensus" (Donge, White & Nghia 1999: 16). This "managed democracy" has allowed mass representation and enough room for changing power balances without fundamentally threatening Party control. As a model for political control it has worked admirably over more than a decade of rapid economic growth.

Vietnamese consensus governance should not be confused with some "Asian way". Rather, it is a blend of central planning politics with active markets. An illustration of the difference was the formation of product-specific corporations in Vietnam to consolidate

6 Experiments with democratic processes follow this model. At some Vietnamese institutions, leadership is openly voted for by staff, called the "outside vote", while the Party members conduct an "inside vote". If the winner is different, the outside vote rarely prevails.

7 The view that economic transition was some choice between gradualism or "shock therapy" has been a misleading debate given that all regimes chose gradualism if they had a choice.

"strategic industries" into national state-run monopolies. This brought these industries into the pyramid of monopoly structures under direct control of the state. Some pretence was made to say that the Vietnamese corporations were modelled on those in South Korea and Japan, but the purpose was never to create competitions for export markets.

Consensus governance Vietnam-style is also different in important ways to China. Chinese central planning, while not as comprehensive as that in Eastern Europe and the USSR, was nevertheless much more extensive than in Vietnam. The dominance of state control down to local levels was achieved in China, as elsewhere, through brutal means. North Vietnam followed this Stalinist/Mao approach in the 1950s, but shortly after rejected it, including a public apology from Ho Chi Minh about "mistakes" made. This break from the standard model of "power though the barrel of a gun" seems to have continued into present times. The Vietnamese leadership is extremely cautious about being seen to be dictatorial and wielding their authority.

Thus, for a seemingly "strong state" there is a remarkable inability to push powerless people around. This author was once working in an office next to the National Assembly. A group of about 14 protestors camped next door on some grass. They wrote placards and become vocal about their grievances (land). For two weeks they were visited by police and others who tried to cajole and move them on. Finally, they were removed in trucks one night. Why this was not done within the first 24 hours is the mystery. Similarly, the slow and tedious process of land clearance (even without any foreign investor involved) stands in stark contrast to China, where it is done with relative ease.

Legitimacy through Vietnamese consensus governance comes from the Party being seen to care for people and fight corruption, and from the protracted consensus system that allows a sharing of responsibility and blame throughout the state sector. Rapid economic development helps, but may not be a necessary condition. Nevertheless, the Party continues to strengthen legitimacy by taking credit for the economic development generated by removing its central planning policies. Finally, the war legacy remains a valuable foundation of ongoing legitimacy, helped by exaggerating "foreign influences" wherever possible. The "gun" is rarely and reluctantly used. Human rights abuses are less prevalent in Vietnam than in China, and dissidents, such as certain authors, have more freedom of expression. The VCP knows that it does not have an "iron grip" on the people and that it must therefore play much more sophisticated and more representative game to retain power.

The process of economic transition in Vietnam

Central planning was only ever partially implemented in Vietnam. A Stalinist/Mao-style land reform in North Vietnam in the 1950s saw the extension of Party control to village levels. After reunification in 1976, the northern model was not applied with the same brutality so that peasant resistance generally prevented the formation of controlled agricultural cooperatives. The invasion of Cambodia and war with China in 1979 continued to hide the failure of the planning system. Propped up by inflows of Soviet aid, the Vietnamese economy was on the brink of economic crisis and food insufficiency during 1978-1985. The planned economy, which was never extensive, began to fall apart.

The "renovation" process officially began in 1986, but it was not until 1989 that a degree of macroeconomic stability was achieved. Land reform and allowing private enterprises

in 1988 started a boom in the household economy, which was the main cause behind a decade of high growth rates. The booming private sector more than compensated for a brief state sector recession in 1989, and Vietnam never experienced the sustained "real sector" collapse that accompanied transition in many countries. The main reasons for the Vietnamese success being:

- Failure to extend central planning and make it dominate the economy (and hence control prices).
- Substantial undermining of the planned economy before 1986.
- A remarkable supply-response to greater household freedoms and land rights.
- Vietnam's exports were crude oil and agricultural products that quickly found new Western buyers.
- Vietnam's poverty saw its workforce willing and able to enter the international division of labour at the bottom (garments and footwear).

State sector employment, which was never more than about 16 percent of the Vietnamese workforce, fell rapidly to 10 percent in 1991 (Table 1), and then more slowly to 8.7 percent in 1994, where it has remained. About 25 percent of the industrial workforce is still employed in state-owned enterprises. The economic transition in Vietnam was therefore fast and relatively painless, in stark contrast to the political and institutional aspects, which are still very much "in transition".

Table 1: Employment trends by sectors, 1989-1999
(thousands of persons)

	1986	1989	1990	1991	1995	1999
Total employed labour force	27,398	28,941	30,294	30,974	34,590	38,546
State sector	*4,027*	*3,801*	*3,421*	*3,144*	*3,053*	*3,370*
Co-operatives	*19,730*	*19,750*	*20,414*	*18,071*		
Private	*3,641*	*5,390*	*6,459*	*9,759*		
State enterprises	2,658	2,506	2,180	1,916		
Central	*1,278*	*1,188*	*1,091*	*1,018*		
Local	*1,380*	*1,318*	*1,089*	*898*		
Share of total employment (%)						
State sector	14.7	13.1	11.3	10.2	8.8	8.7
State enterprises	9.7	8.7	7.2	6.2		

Source: World Bank (1995) *Vietnam: Poverty Assessment and Strategy*. Washington, DC.
World Bank (2000d)

The institutional challenge

The transition of institutions and related structures of power is still ongoing in Vietnam. As discussed in more detail below, the facade of a tri-partite system and various "market institutions" is being created, but without the substance of real autonomy, transparency or public accountability. The influence of the Party remains pervasive and undefined. Democratic processes are "managed" and civil society is channeled into monopoly organisations under the gaze of those in power.

It is a tense situation, but one far from being in crisis. Outbursts over the abuses of local authorities, and about land rights in the Central Highlands, have been recent exceptions to the general rule of stability. The Party has managed to balance and accommodate interests within its monopoly of control. Within the system, members can voice grievances and lobby. There is room for maneuver and compromise, and democratic processes seem to work to some extent.

On a more mundane level, transition has meant the creation and complete re-conceptualisation of government organisations. Under strict central planning, "money does not matter". This was never the case in Vietnam, where the rationing of goods applied to only a fraction of economic activity, and money fed into active markets and thus inflation. The decade since reunification is characterised by the constant struggle of government to maintain its "official" price regime and avoid the "leaking" of goods and money outside of the planned economy. Ministries had the futile job of trying to keep state enterprises focused on plan production.

Further, because Vietnam was so poor, the failure to forcibly extract a surplus from agriculture gave the Vietnamese authorities few resources for their "industrialisation drive". The modest planned economy was therefore largely propped up by Soviet inflows of aid and subsidised trade, and the government and its ministries largely existed to distribute and manage these inputs.

Now with the "market economy" ministries find their role transformed. They are now responsible for the well-being of those outside the planned economy, and for "policy" – to the extent that consensus governance will allow such a clear delineation of responsibility. Instead of doing little beyond running state farms, the Ministry of Agriculture must turn its attention to poverty and what households grow. The Ministry of Industry must shift its gaze from the input-output targets of state enterprises to the policy environment for small-and-medium enterprises. And the Ministry of Planning is meant to move towards something called indicative planning, while local governments are being introduced to "participation".

The supply of subsidised physical inputs from overseas has dried up. There are no more official prices, and money must be paid for everything. Thankfully donors supply some of that, although their lack of direct support for industrialisation and pestering about "needed" policy changes is annoying[8]. But money certainly matters for government now. Thus a whole taxation system has been established in Vietnam during the past decade: Customs, profits taxes, land taxes, income taxes, and a value-added tax in 1999. This has evolved in parallel with the legal system. The commitment to "rule by law" has precipitated a vast output of Laws and regulations. Under central planning there was no commercial law, and judges only presided over criminal courts.

A great deal has been achieved since 1992 in the development of a legal system: many laws have been passed, courts and legal aid centres established, court houses built, standards set for judges, lawyers educated, prosecutors and law enforcement officials trained, legal information systems developed, programs to disseminate legal information to the public instituted, and legal education and professional training institutions created and/or greatly expanded and improved.

To complain that the pace of formal reforms has slackened in recent years, or that implementation of existing Laws and Decrees is very weak is, really, not being very fair. The legislative achievements of the past decade in Vietnam are staggering by comparison to any developed country. That the changes are more in form than substance is to be expected. The effective implementation of existing Laws, and the simplification and removal of much unjustified regulation, is the most important institutional challenge for Vietnam today. Donors and the government, however, like the visible output of new Laws more than the rather thankless and difficult to measure task of better implementing existing ones.

The next two sections of this paper look at, firstly, the formal administrative structure and processes in Vietnam and, secondly, the process of policy making and reform. They are essentially descriptive sections to provide the framework towards specification of "capacity needs" in the subsequent section. The paper then presents the argument that donors need to rethink the very nature and delivery of governance technical assistance itself.

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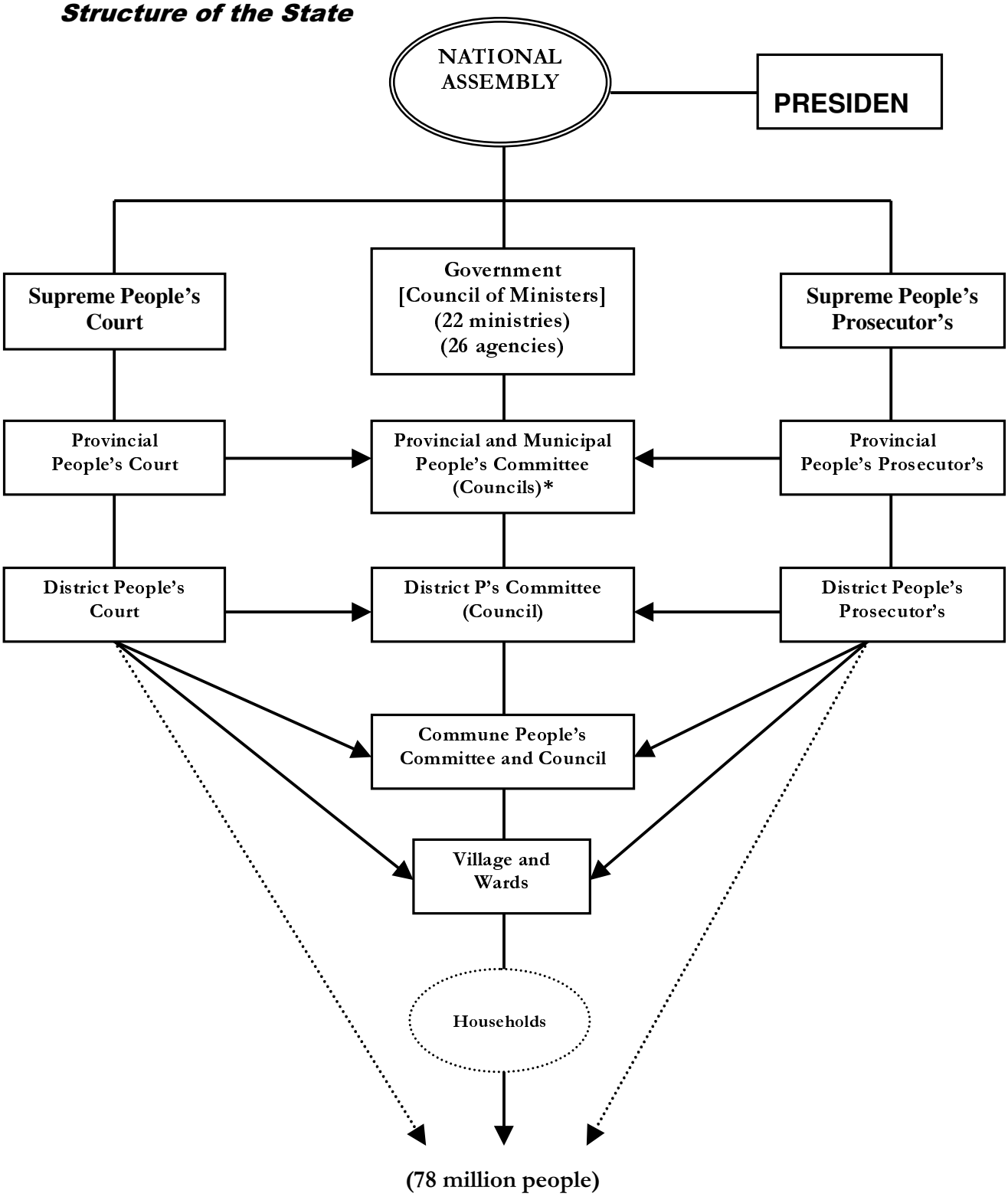
[8] The distinction between foreign aid and foreign investment is rather unclear to some Vietnamese officials (Donge, *et al* 1999: 19), as the latter was not evident under central planning and both contribute to "the fund for development" (the fixation on quantitative targets is pervasive, and is not assisted when some donors continue to use simplistic "gap" models in their arguments). This simple confusion illustrates the depth of the conceptual divide, which emphasises the need for more and better policy dialogue amongst Vietnamese, the need for donors to identify and address such misunderstandings, and the advisability of looking to at least "strengthen" the next generation of officials.

ADMINISTRATIVE STRUCTURE AND PROCESSES IN VIETNAM

Structure of the State



The President of the Republic and the National Assembly

In Vietnam, the President is the ceremonial Head of State and represents the State of Vietnam in domestic and foreign affairs[9]. The President is elected and appointed by the National Assembly for a term of five years. The National Assembly meets twice a year (May and October) for ordinary sessions. The National Assembly can establish committees to help advise on a new issue. Box 2 summarises the duties and powers of the National Assembly. At the request of the President, the Prime Minister, or one third of the number of its Deputies, the Standing Committee may convene extraordinary sessions. The current legislature is the 10th Legislature of the National Assembly, in position until 2002. The total number of Deputies is 450.

Box 2: The duties and powers of the National Assembly

1. Drawing up and amending the Constitution; making and amending laws; and deciding the programme for making laws and ordinances.
2. Practicing supreme power of supervision in order that people comply with the Constitution, laws and resolutions of the National Assembly; examining reports on the activities of the Head of State, Standing Committee of the National Assembly, Government, Supreme People's Court and the Supreme People's Prosecutor's Office.
3. Deciding on plans for the nation's socio-economic development.
4. Deciding the financial and monetary policies of the State; deciding on the State budget and State budgetary allocations and approving the final balance of the State budget; and imposing, amending or repealing various kinds of taxes.
5. Deciding on the State's ethnic minority policy.
6. Regulating the organization and activities of the National Assembly, Head of State, Government, People's Court, People's Prosecutor's Office and local authorities.
7. Deciding on fundamental foreign policy; ratifying or nullifying international agreements, which have been signed or adhered to in accordance with proposals by the Head of State.
8. Deciding on the organization of referendums.

[9] The descriptive sections that follow are a synthesis of various UNDP reports listed in the bibliography.

The Government

The Government is the executive body of the National Assembly and the highest administrative agency of Vietnam. The National Assembly elects, dismisses, and removes the Prime Minister at the request of the President of the republic. The central Government is chaired by the Prime Minister and contains 17 Ministries, 5 Ministry-level organisations, and 26 other agencies (see annex 2 for full listing). Each minister or head of State agency chairman has the following powers, in his or her own field of jurisdiction:

- Prepare strategies and development plans for the short, medium and long term to be submitted to the Communist Party and State authorities.
- Develop drafts relating to policies, laws and regulations, standards, criteria, etc, to be submitted to the Government, and then in appropriate cases to the National Assembly.
- Adopt the regulatory documents in his or her field and all appropriate measures for actual implementation of State policies (organization, procedures, personnel management, monitoring, inspection, etc) at all levels.

Each minister follows the instructions issued by the Prime Minister, is accountable to the latter, and receives from the Prime Minister instructions in connection with any subject deemed to be on the borderline of or beyond the former's power. The Government and its committees have the power to decide whether a matter is up to the Government or not. Everything that must be submitted to the National Assembly or to the Central Party Agency must first pass through the Government. In theory, officials manage their administration accountable to a single leadership. In practice, conflicts with other ministries, or with local authorities or with the management of state enterprises are common.

The structure of the Ministries is quite uniform throughout the system. It consists of professional and functional divisions, the office of the minister, research institutes, training centres and schools, and state enterprises that are under the management of the ministry. Almost every ministry has within its structure an institute that is responsible for carrying out research relevant to the ministry's field. Institutes also act as think tanks, providing advice to the management of the ministries when it comes to formulating policies and making decisions at the ministry level.

Apart from Ministry institutes, there is the National Centre of Social and Human Sciences and the National Centre of Natural Sciences and Technology that consist of smaller institutes, each covering a specific discipline. These centres are under the direct control of the Government and carry out research as well as act as advisors to the Government. The Central Economic Management Institute has similar functions and is placed within the apparatus of the Communist Party.

The Communist Party of Vietnam

The role of the Party (CPV) remains opaque. That, of course, is intentional. Various documents, as noted in this study, record the need for CPV consultation or approval. This is generally a formality, as the monopoly-led consensus governance vision means that CPV members can be everywhere without concern about conflicts of interest, or the

need for institutional autonomy as under the competitive interest groups vision. Senior government officials, almost without exception, are therefore also CPV members. Indeed, if as Kolko argues, "party membership is a crucial prerequisite for entrepreneurial success" (1997: 10), then it is even more so in the public service.

Further, the Party maintains its own modest administrative structure of policy discussion and analysis groups parallel to those of the government. Within all organised groups, Party members form an explicit alternative point of decision making. With such extensive networks anything being submitted to the CPV for formal approval could hardly come as a surprise.

Terms and Conditions in the Public Service

Appointment and role of senior positions

Under the existing system civil servants in the central government Ministries and State Agencies are recruited directly by the Minister or equivalent head of the agency. The applicant applies to the Director of Personnel in the organization, and if the Director of Personnel considers the applicant suitable he recommends the candidate to the Minister or Deputy Minister, who then gives his decision. The successful applicant must then serve two years of probation before being eligible for permanent appointment to his or her post. Information about job opportunities in the public and civil service sectors is given on radio and television. In practice, the process is far from transparent (see Box 3), and Personnel Departments are often centres of corrupt and quasi-legal practices.

Promotions are similar to recruitment in that the power to promote is vested in the Ministries and agencies and in the Chairmen of the People's Committees at local levels. Promotion to the highest-level posts of Deputy Minister or Under Secretary requires the authority of the Council of Ministers.

For many posts with administrative or managerial responsibilities a candidate for promotion must first complete a two-year course of study at the National Institute for Public Administration (NIPA). Various courses at the Ho Chi Minh Political Academy are also compulsory.

Role of State Personnel Committee

The Government Committee on Organization and Personnel (GCOP) is an agency of the Government responsible for managing the State machinery, civil and public servants, as well as the establishment of mass and government associations. In addition, GCOP is also charged with demarcating administrative boundaries and archiving national documents. Specifically, GCOP formulates and drafts laws, ordinances and regulatory documents for the Government Organization of the State machinery. These laws are then submitted to the National Assembly, the Standing Committee of the National Assembly and the Government for approval. After these laws are approved, GCOP is then responsible for the implementation of the approved laws.

GCOP submits to the Government for approval statutes on responsibilities, function, authority, and organizational structure of Ministries, Ministerial Equivalents, Government-affiliated agencies and institutions, and other bodies of State management under the Government and the Prime Minister. GCOP is also responsible for Government staffing and organizational structures and guides, monitors and supervises the establishment of mass associations and non-governmental organizations, and makes recommendations to the Prime Minister on issues and problems with these organizations. GCOP prepares and submits to Government plans for training and up grading civil/public servants[10] and members of the People's Councils including rules and regulations on management, remuneration, reward, and punishment vis-à-vis civil/public servants, and administrators at communal, ward, and township levels.

Civil service legislation and regulations

At the moment, the most important legislation that governs the organization of Vietnam's civil service system is Ordinance 01/1998/PL-UBTVQH10, issued and ratified on February 26, 1998 by the Standing Committee of the National Assembly, 10th Legislature. This legislation provides the general guidelines and regulations for the organization and personnel management of the State of Vietnam. This ordinance and other legislation that dictate the manner in which government organization and management of personnel are carried out depend greatly on Vietnam's Labour Code, the legislation that governs all work relations in Vietnam[11].

[10] In Vietnam there is a distinction between "the civil service" and "the public service." The Civil Service includes the personnel of the central ministries and the offices and departments of the different levels of local authority in Vietnam such as the Provincial and Municipal People's Committees, the City Section and District People's Committees, and the People's Committees at the Commune level. The Public Service includes all of the above-mentioned plus a whole range of other servants such as doctors, nurses, teachers, and the police force. In 1999, the size of the Civil Service was 270,000 persons, while the size of the Public Service is 1,360,000 persons.

[11] See McCarty & Nicholson (2001) for an evaluation of the Labour Code and the labour market in Vietnam.

Box 3: Getting a Job

Under central planning, a job in the state sector meant a job for life, and in such a distorted policy environment, education and skills were secondary qualities to personal contacts and family background. The mechanisms for recruitment were non-transparent. The non-state sector offered few jobs outside of household enterprises. Most people stayed in their villages, and the populations of urban areas remained stable.

With the reforms, opportunities for private sector employment in urban areas have increased considerably. State sector employment, after an initial sharp fall in numbers, is rising slowly again. Foreign investment is creating some jobs.

The approach to getting a job today can therefore range from the traditional (state sector connections) to the international (joint-ventures), as one article outlined:

"Presently, graduates can also find jobs by taking advantage of family relations or friends, or by taking part in examinations. And a little bribery doesn't go astray in either case. Students who have relatives working in ministries or other state bodies are often given priority posts after graduation. Students from wealthy or influential families also find advantage through spending sometimes millions of VND to procure a job in a successful company…However, many businesses, especially foreign invested companies, use their own entrance examinations in selecting staff. This way, students compete for jobs fairly, and successful ones are encouraged to improve themselves by further study and training, so that they can work well in different positions in the company." [12]

It seems that the process of entry into the public service has not changed considerably. Moves to establish a more professional public service, including encouraging mobility between ministries and organisations, are needed. The process of getting jobs in state enterprises is a mix of the old and the new. Some have retained old habits, such as employing the sons and daughters of retiring workers, because incentive structures discourage change. Others have introduced examinations and interviews, and cut back on the arbitrary power of their Personnel Departments in an effort to choose the best persons for new jobs. In 1994, a general public service examination was introduced. This examination is now a requirement for anyone interested in entering the public service.

Using the guidelines set forth in this Ordinance and taking into consideration their own functions and characteristics, government ministries, departments, and agencies (MDAs) construct their own sets of regulations. Most Vietnamese MDAs publish brochures that include their own regulations regarding the organization and personnel management as well as other system-wide legal documents. The *Official Gazette (Cong Bao)*, a weekly publication published by the government in both English and Vietnamese, includes new laws, amendments, and updates, as well as news on the implementation of these laws.

There has been both a decrease in the number of civil servants and an improvement in the quality of the service, however remnants of the command system are still widespread (see Box 3). The existence of a sufficient legal framework that governs the public service

[12] Vietnam Economic News, Oct. 17, 1999. p.47.

in general makes it easier to manage the system but implementation of and conformity to the laws are still problematic.

Public sector ethics and corruption

Although statutes give directives for civil servants to act ethically, consensus governance, the low formal pay and weak training systems contribute to inefficient practices. Consensus governance fosters a lack of clarity about responsibilities down to the lowest levels, consequently leaving space for personalities to dominate. Although GCOP and the Ministry of Labour have raised the salaries of civil servants, at the same time they have eliminated a number of subsidies that civil servant receive, such as the cost of electrical power, and inflation has eroded most nominal gains.

Civil servants who break criminal laws are subject to arrest and trial in the People's Courts. Civil servants who apply government rules incorrectly may be reported to the office of the State Inspector General for their conduct to be investigated at the central level or to Provincial and District Inspectors for inspection at the local level. Where appropriate the Inspectors will recommend suitable penalties to the head of their department.

In the case of internal disciplinary action, not involving the police or the inspectorate, a disciplinary board on which the appropriate trade union is represented considers the case. The board will then make its recommendation to the superior official in charge of disciplinary action. The final decision, however, belongs to the Minister in the case of a Ministry and to the Chairman of the People's Committee at local levels. The level of disciplinary penalties can range from advice, through warning, to reduction in rank, compulsory retirement, or dismissal in the most serious cases. Civil servants have the right to appeal against disciplinary decision. The appeals go to the next higher level in the hierarchy.

Chapters II and III of Ordinance 01/1998/PL-UBTVQH10 specify a code of conduct for public service employees:

- Conform to the guidelines of the (Communist) Party, and policies and laws of the State; perform tasks within the permission of the laws;
- Be in close contact with the people; participate in the activities of the localities of their own residences; listen to and put themselves under the supervision of the people;
- Have a strong sense of discipline and responsibility in their daily work; be devoted to the implementation of the regulations of their respective agencies and organizations; protect public materiel; guard state secrets as required by law;
- Study to improve their qualifications; be creative and cooperative with their colleagues to reach the highest quality of performance;
- Accept unconditionally the orders and assignments of the management.

Public (civil) service employees must obey the decision of their superiors. They will notify their superiors when suspicion of the unlawfulness of such decisions arises; if their notification is ignored, they will carry out the decision as ordered but must notify the

direct management of their superior; in such cases they are not held responsible for their deeds.

Articles 17 and 18 provide guidelines on the management of State information and secrets in order to prevent public (civil) service employees from making any unlawful financial gains from the divulging of information that belongs solely to the State. Articles 19 and 20 make an attempt to prevent State information and power from being abused through family channels:

- The manager of a public organization or agency, his or her deputies, and their immediate families must not make capital contributions to private enterprises that operate in the same field that the manager and his or her deputies have state management responsibilities.
- The manager of a public organization or agency and his or her deputies must not appoint any members of their immediate families to a post of personnel, accounting, cash, or material management within their own organizations. The former are also banned from having an involvement in any procurement or contract negotiation activities.

Conflicts of interests at any level of the civil service ladder are usually dealt with through internal channels. A prevalent lack of transparency and the State's continuous desire to maintain its image are also factors that prevent information of such conflicts from becoming public information and thus making the collection of such information a difficult task. This is especially true with conflicts of interests between individuals within the civil service. The increasingly liberated media of Vietnam has played a crucial role in exposing cases of interest conflict among State agencies or even those between individuals and State agencies and vice versa. Such conflicts, if not resolved through an internal channel and depending on their magnitude, can fall under the scope of jurisdiction of either the Civil Code or the Criminal Code, and could be brought to the attention of the appropriate Courts. Justice is often brought about but in varying degrees of satisfaction and disciplinary or even legal punishments are promptly imposed according to the Court's decisions.

Article 14 of Ordinance 03/1998/PL-UBTVQH (Ordinance against corruption) requires a declaration of wealth and assets for senior level civil servants as follows:

- Senior level government officials are responsible for declaring assets and properties of large values.
- The declarer is held responsible by the law for the accuracy and completeness of their declaration.
- The Government is responsible for issuing a schedule and the type of assets and the value benchmark for such declaration.

The execution of this Ordinance was tested in Ho Chi Minh City immediately after it was released. The result was nominal rather than substantive.

Civil appeal and grievance procedures can be carried out either at the organization level or in the Administrative Court. The establishment of this court was ratified by the National Assembly at the end of 1995 and started in July 1996. At that time, 500 judges were mobilized to enroll in a course that would prepare them to take up positions in this

court at all levels. Graduates of the Hanoi Law School were also among those prepared for future endeavours in the Administrative Court.

Public service staff classification and remuneration structure

The Personnel Department of each MDA produces a system of staff classification suitable for the specific staff structure and functions of the agency. Within this system of classification, each grade is assigned a multiplier, which is used to multiply the basic salary to give the monthly salary that a civil servant receives. The basic salary has gone from VND120,000 (equivalent to US$12) in 1993 to VND180,000 (US$11) at the time of this report, an increase in terms of local currency but a decrease in dollar value owing to a 40% depreciation of the Vietnamese Dong against the dollar during recent years. Table 2 presents the salary matrix for state enterprise managers who, with their workers, are also subject to these bureaucratic pay structures.

Table 2: Salary Table for Enterprise Managers

	Categories of enterprises:				
	"Special"	Type 1	Type 2	Type 3	Type 4
Director: coefficient	6.72-7.06	5.72-6.03	4.98-5.26	4.32-4.6	3.66-3.94
Salary ('000 dong)	*1,210-1,271*	*1,030-1,085*	*896-947*	*778-828*	*659-709*
Vice-Director, or Chief Accountant: coefficient	6.03-6.34	4.98-5.26	4.32-4.6	3.66-3.94	3.04-3.28
Salary ('000 dong)	*1,085-1,141*	*896-947*	*778-828*	*659-709*	*547-590*

Source: MOLISA, 1997.
Note: The coefficient is the multiple of the minimum wage (or "basic salary").

Before 1999, Vietnamese public sector workers in general worked a 6-day, 48-hour week but this has now been changed to a 5-day, 40-hour week with no changes made to the structure of salary. Civil servants who work in management positions, hazardous conditions, or remote areas receive additional remuneration. Women with young children have extra days of paid leave.

At present, the salaries paid to civil servants are so out of alignment with the economic realities of Vietnam that, regardless of the relevant regulations, nearly all civil servants need to augment their wages with supplementary sources of income. A form of collective corruption has arisen that is collectively recognized, participated in, justified, and in general tolerated. Like the waiters in Western restaurant who pool their tips together to be divided equally at the end of the day, many MDAs today maintain a source of funds that operate in a similar manner. Unofficial income, both in cash and kind, is collected through official channels often under official disguise, and divided for all employees, usually at the end of the month. No formal study has been done on this practice, but it is conclusive that these benefits often far outweigh official income. Because it is collectively done, this practice saves one from feeling guilty and takes on a quasi-legal status. In fact, because everyone knows it happens, employees are even encouraged to participate in the fund mobilization for the pool.

Unofficial rules operate. The author is familiar with one research institute asked to pay 20 percent of a research grant back to the sponsoring government Agency. They were worried and declined the job because the normal and accepted kick-back was only 10 percent.

Low formal wages give rise to problems of divided loyalty, halfhearted performance of official duties, absenteeism, inefficiency and corruption. The result of all these lead to losses of potential revenues to the Government and wasted expenditure. One does not solve this problem simply by increasing the official income of civil servants. What is needed is an effective legal framework, in a country that already has too many laws.

Of course, the informal income raising activities remove many of the negative effects of low official salaries, while introducing other problems. Tables 3 and 4 show employment statistics and income comparisons among the state and non-state sector in Vietnam. According to this survey data, government salaries, even with "other income" added, averaged only 62 percent of those in private enterprises, and less than half of average total incomes in foreign enterprises. The importance of the quasi-legal incomes is probably grossly under-stated in this data. Further, the abuse of power offered by official positions to gain favours in cash or kind is common. Blatant abuse is not acceptable practice, but a continuous level of "modest rent seeking" is permitted. The correlation of wealth with official positions (or with relations in official positions) is remarkable, particularly in rural areas.

Table 3: State versus non-state employment of the work force (1992-1998)

Economic Sector	Percent of wage earners employed 1992-1993	Percent of wage earners employed in 1997-1998
Government admin., police, military	*18.6*	*19.8*
State enterprises	*13.7*	*14.5*
Communist Party, social organization	*2.3*	*1.9*
Cooperative	*5.6*	*0.1*
State total	40.1	36.3
Private enterprise	*0.2*	*10.8*
Small household enterprises	*58.8*	*30.5*
Mixed enterprise	*0.0*	*0.4*
100% foreign enterprises	*0.6*	*1.3*
Joint venture	*0.0*	*6.8*
Other	*0.3*	*13.9*
Private total	59.6	63.7

Source: Vietnam Living Standards Survey 1997-1998, Statistical Publishing House, Hanoi.

Table 4: Monthly average wage and average total compensation in main job (1997)

(Unit: 1,000 Vietnamese Dong)

Economic Sector	Wage	Other benefits	Total
Government admin., police, military	467	140	467
State enterprises	735	217	735
Communist Party, social organization	32	88	32
Cooperative	248	21	248
Private enterprise	749	104	749
Small household enterprises	624	45	624
Mix economic sector	716	131	716
100% foreign enterprises	982	204	982
Joint venture	796	172	796
Other	465	25	465

Source: Vietnam Living Standards Survey 1997-1998, Statistical Publishing House, Hanoi.

The retirement age for men is 60 years of age, but 55 for women. The pension is taken out of a social security fund set up in 1995 and is benchmarked at 75 percent of the pensioner's former pay. For every year of difference in case of early retirement, a 5 percent deduction is taken off the pension. The Government recently announced that employees in the administration might continue working beyond their retirement age if they have skills that cannot be substituted for immediately and if there is a clear demand for these skills. There is a general demand to increase the retirement age or to at least have equal retirement ages for men and women.

Labour mobility issues

Under central planning, many state interventions worked to control labour movements according to centrally dictated allocations[13]. For instance, controls on housing and residence have tended to restrict movements towards areas with increasing income and employment opportunities.

Central planning segmented the labour market and discouraged labour mobility. State employment was lifetime, and generally in the same organisation or enterprise. The reform process has begun to erode labour market segmentation. Rural-urban migration - much of it informal and seasonal - has increased markedly, as development increased the income gap between cities and villages. Further, with increased opportunities in the private sector and in joint ventures, flows have increased between the state and non-state sectors. Nevertheless, there remain significant barriers to developing an efficient labour market in Vietnam (McCarty & Nicholson: 2001).

POLICY MAKING AND REFORM IN VIETNAM

Policy making in transition

Consensus governance involves a conscious choice not to delineate lines of authority and responsibility. Power is to be shared as widely as possible. Extensive consultations are required, involving protracted delays to accommodate the various concerns of stakeholders. Where consensus is difficult, such as equitising state enterprises, progress can be painfully slow. Indeed, the very choice of the word "equitise" rather than "privatise" illustrates the conceptual divide between the desire to involve more owners (the "multi-sector economy") vis-a-vis the desire to concentrate ownership at one point.

Policy-making suffers the same fate. Donors (and foreign investors), who would like to do business with policy-making Ministries with specific spheres of authority are constantly frustrated. Nothing is as it seems. The line between state and private is blurred. As Forde has noted: "Vietnamese SOEs [state-owned enterprises] operate mainly according to local and quasi-private interests, and should not be seen as fundamentally 'public' in nature" (1997: 20). The lines between the responsibilities of government Ministries and Agencies are blurred, as are those between central and local governments. And the line between the CPV and the government is particularly blurred.

Consensus governance in Vietnam has made conventional donor dialogue problematic and relatively ineffective, as Donge, White and Nghia (1999) observe:

> "A few facts suggest that the traditional role played by programme aid in supporting reform has been of limited relevance in Vietnam...examination of the

[13] For example, government sponsored migration schemes have moved people from the northern delta area into sparsely populated uplands regions. During the first Five Year Plan, 1976-1980, 706,000 people were moved in formal migration schemes with a further 420,000 during the Second Five Year Plan, 1981-1985.

> political economy of Vietnamese reform further supports the idea that [formal] policy dialogue has been of limited relevance...The policy making process in Vietnam is diffuse and does not follow the formal structures that a political scientist may map out. The system is one of consultation and consensus, with many different bodies being involved in a single decision – not just ministries but also agencies, such as the Women's Union, and the multitude of think-tanks (overlaying which is the government/party divide and the relationship between the two)." (p.vi).

The signing of the 1992 Constitution marked a new phase in Vietnam's development towards "a market economy regulated by the State". To build the new jurisdictional State, the National Assembly and the State promulgated over 30 laws and nearly 40 ordinances, including a criminal code, civil law and economic law, between 1986 and 1992.

The goal of reform in 1992 was also to define the working functions of the National Assembly as distinct from the Government, the Supreme People's Court and the Supreme People's Prosecutors Office. Reform of the State apparatus was based on the principle that supreme State power needed to be concentrated solely on the National Assembly. However, "close cooperation and coordination" between the government and the CPV was also explicitly agreed.

The National Assembly must approve all policies in Vietnam. There is a clear set of guidelines and legislation to ensure that all advice is coordinated and approved through a central agency. Laws are made and policies are changed if the Ministries submit a bill to the government, who in turn pass that bill and submit it to the National Assembly for Party approval. The CPV has the final approval or annulment rights.

Law on the organization of the government, Article 8 of Chapter 1, proscribes how the laws are passed. A new policy is developed when the Ministries submit a recommendation to the Office of the Government. If the Government passes that recommendation it will then be submitted to the National Assembly, to be passed (or annulled) in Parliament.

Before a submission can be made to the National Assembly it must pass a majority vote in the Government plenary sessions. Certain actions are not required to be passed through the National Assembly. The government shall discuss in plenary sessions and obtain a majority vote for the following important issues:

1. Government's annual programmes of action.
2. Bills, draft ordinances to be submitted to the National Assembly and the National Assembly Standing Committee.
3. Draft plans for long-term, five-term and annual socio-economic development, key projects, to draft State budgets and State budget allocations, settlements of annual State budgets to be submitted to the National Assembly.
4. Specific policies on socio-economic development, financial, monetary issues and other important matters relating to national defense, security and external relations.

In order for laws to be analysed, the National Assembly can establish *ad hoc* advisory committees to help advise on a new issue. The National Committee has also set up the following internal Sub-Committees:

- Legal Committee
- Economic and Budgetary Committee
- National Defence and Security Committee
- Committee for Culture, Education, Youth and Children
- Committee for Social Affairs
- Committee for Science, Technology and the Environment
- Foreign Relations Committee.

Fiscal transparency

Recent steps that have been taken to improve fiscal transparency in Vietnam include (World Bank 2000d):

- Publication of 1997 final accounts and 1999 budget plan.
- Publication of Government Financial Statistics (GFS) data in the IMF Government Finance Statistics yearbook.
- The development of new manuals on audit standards and procedures.
- Commune budgets posted outside commune offices.
- Provision of fiscal information to international organizations and donors as well as to all relevant government agencies in a consistent format.
- Improved fiscal management by requiring improved accounting of foreign grants and clarification of roles in management of external debt and in debt monitoring.

- Improvements in reporting by agencies of self-raised revenues, external grants and their associated expenditures.
- Clarified processes for managing fees, charges and revenues raised and spent by spending agencies.
- The drafting of new accounting standards (95 percent in compliance with the International Accounting Standards), targeted for approval and implementation in 2002.

Neither the budget nor any supporting documentation had been published in Vietnam prior to the publication of the 1999 budget. Previously the government has presented only a short summary of the budget to the National Assembly for approval, showing only the gross amounts of spending classified in terms of categories retained from the old central planning system. At the ministry spending level, the former centrally planned economy accounting procedures remain in place. Donors have been very active in promoting fiscal transparency, partly because it is an important part of the conventional competitive governance structure involving public accountability, but also because it is necessary to facilitate the trend towards programme aid.

Donors hailed the budget publication as a significant icon of progress, the apparent decision to make monetary policy a "state secret" has received less donor comment[14]. Donors are bemused by the reluctance to share such basic data, which most developing country governments have no compunction about revealing. The answer is that public disclosure is not compatible with Vietnam-style consensus governance.

The Public Administration Reform

Public administration reform has been supported by the UNDP and other donors for some years. Donors and the government seem to have different views about precisely what this concept means. Nevertheless, commitment towards some aspects from the government, and inputs from donors for others, has enabled the process to move slowly forward. The recent Public Administration Reform (PAR) review has made numerous recommendations including:

- new provisions requiring public comments on draft laws and regulations before promulgation
- new provisions that laws and other official instruments will only take effect after being published in the Official Gazette
- replacing discretionary licensing with registration and making information on registrations public (following the pattern of the recent decree on registration of secured transactions);
- improving legislative drafting;
- providing for codification and indexing of all laws and other official instruments;
- requiring compulsory publication of court judgements;
- streamlining aspects of the corporate regulatory framework;
- forming a clear distinction between roles, responsibilities and finances of agencies under the Prime Minister; other ministries; agencies under sector ministries; People's Councils; Peoples Committees; and non-state organisations;

[14] This decision is presently heresay to the author, who is yet to find the relevant document.

- professionalising the civil service, including rationalising salaries, training, with recruitment and promotion grounded on merit; and,
- wide-ranging financial management reforms at both national and sub-national levels of government

There is much scope for carefully targeted and responsive assistance to the Vietnamese administrative reform process. But it must involve flexible inputs, with the ability to stop or start an activity quickly. Donors cannot in any way "lead" this complex and highly sensitive process. Aside from this modest advisory role, the best thing they can do is to strengthen training institutions and curriculum over a long time-frame, as discussed in the next section.

CAPACITY BUILDING NEEDS IN ADMINISTRATION AND POLICY MAKING

In the view of this author, there are nine "needs" where donor assistance can be effective in Vietnam, and these can be grouped under four broad headings as follows:

Making big changes happen

- Reactive advice and information access mechanisms

Strengthening the capacity of key organisations

- Strengthened capacity of the National Institute of Public Administration
- Strengthened capacity of the PAR Government Steering Committee
- Strengthened capacity of the Government Committee on Organisation and Personnel

Training

- Short-term training courses for civil servants
- Long-term degree training of civil servants
- Training of accountants, auditors, and accounting professors, etc.
- Training of lawyers, judges, prosecutors, police officers, and other law enforcement officials and regulators.

Better and more policy analysis

- Promotion of systematic Vietnamese-led research on public administration and governance issues
- Training of social scientists and promotion of Vietnamese-led policy analysis and debate

The above list, which will be explained in more detail below, is based on the principle that donors should focus on advice and training. "Advice" can be directly from international experts, or indirectly by promoting domestic institutions and processes for policy analysis and improved information flows. A judgement is made, however, that donors are probably not justified in more overt actions of governance, such as directly "mobilising" pro-poor organisations. It is also judged that donor-led assistance to try and "speed up" changes almost always fail, waste the time of the better government officials, and distorts public sector remuneration by setting up "donor-run semi-autonomous cost centres" (Wuyts: 1996). In other words, they do more harm than good[15].

[15] Of course, a defensive donor official would never claim to have initiated such projects and could always wave a letter or project document recording "the government's" strong support and commitment to this important project.

Making big changes happen

Most governance technical assistance (TA) provided by donors falls into this category. It is, however, as discussed in the next section, very difficult to achieve the ambitious objectives of these projects. Basically, donors cannot *make* big changes happen in Vietnam, even when desired changes are tied to large amounts of money. There are exceptions to the rule, but normally only in times of crisis.

Consequently, donors must be patient and respond only to sincere desires to initiate institutional reforms. But sometimes the evaluation of "sincerity" is lukewarm: the particular Ministry wants grant funding, and the donor may be particularly keen on this reform. Nevertheless, success is entirely dependent on genuine commitment and ownership by the Vietnamese authorities. When this is evident, donor assistance can facilitate the whole process of introducing an important reform. The recent passing of the Enterprise Law in Vietnam is a case in point (see Box 4).

In short, for institutional changes donors should provide advice when it is genuinely requested and needed, and in the meantime continue to strengthen training and support all forms of policy dialogue.

Box 4: The new Enterprise Law demonstrates good practices in Vietnam

Over a period of 24 months, the Enterprise Law Task Force undertook diagnostic work and designed the new law, while steering the process forward and building consensus. Its success was in part due to:

- Extensive consultations during formulation, facilitated by earlier support that provided experience, developed relationships, and allowed in-depth assessment of needs and what external agencies and experts could deliver;
- Strong Vietnamese commitment to the project. Benefits from earlier assistance were recognised and a clear vision developed as to how the project could assist ongoing work. Motivated staff were a key factor;
- The project was driven by the Vietnamese and therefore counterpart support was always available. The project also provided assistance to undertake the day-to-day activities so that it added minimal funding agency and experts, maximised opportunities to adjust inputs in line with changing priorities and opportunities;
- An innovative mix of domestic and international experts provided cost efficient results[16];
- Wide-ranging consultations – especially with the business community – and applied studies on constraints and impacts of proposals, were critical in building support for reform. Consultations are also expected to facilitate implementation; and
- The task-force was pro-active in seeking cooperation from the media to raise public awareness of key issues and constraints, and to build support for reform.

Source: CIEM/UNDP (2000) in World Bank (2000d)

[16] Ray Mallon, resident in Hanoi, was employed part-time, while short-term international experts were recruited when needed.

Strengthening the capacity of key organisations

The National Institute of Public Administration (NIPA), as noted above, is the focal point for the training of central government officials in Vietnam. It has been the subject of various bursts of donor attention, but really deserves a sustained effort to completely renovate its curriculum over, say, eight years. "Deserves" in this context refers to its official position as the key training institution, not to any present impressive capacities. It would be much easier to build a training degree parallel to those now provided by NIPA, but this would only be an option if that degree were to have the same accreditation as the NIPA degree, which is unlikely.

Strengthened capacity of the PAR Government Steering Committee seems desirable. Their mandate is large, although direct authority is very limited. Nevertheless, improved capacity to collect and analyse data, and to build awareness and support for its reform agenda, could have a considerable impact. The patient building of consensus for the Enterprise Law, discussed above, is a lesson for designing support for the PAR Steering Committee.

The Government Committee on Organisation and Personnel (GCOP) is an important focal point for broad public service policy and short-term training. It, like NIPA, has many structural weaknesses, as noted below. "Strengthening" GCOP and NIPA are substantial challenges that should be approached flexibly over a long time-frame. Donors, however, typically underestimate the problems and resistance to "curriculum reform", or opt for quick solutions by trying to implant whole foreign courses or just provide once-off in-country or overseas training.

GCOP has insufficient capacity to provide strategic policy advice on public administration reforms as they relate to a national programme. Crucial weaknesses are the absence of a strategic public administration reform programme, methodologies concerning implementations, supporting systems, as well as change and risk management. In addition, the current internal organization, management, and coordination systems are inadequate. The internal cultural and management style of the GCOP is, as elsewhere, based more on personal style rather than on results and corporate service delivery capacity.

Working with NIPA, GCOP and trying to "strengthen the curriculum" of the numerous training courses delivered by each Ministry and Agency is hard work. But these institutions, along with the Ho Chi Minh Political Academy, constitute the integrated training system for career public servants. They deliver compulsory courses, and promotions are tied to results. These are the courses that those elusive "middle and senior managers" attend[17]. Generally speaking, donors have totally neglected this important opportunity for sustainable capacity building.

[17] In-country donor-funded short courses always claim to be targeting "middle and senior managers", but their classes are invariably full of fresh young officials, often there to improve their English.

Training

This area, in the view of the author, is relatively neglected by the donor community in the rush to provide advice and push reforms within a time-frame that rarely extends beyond two years. Central Vietnamese Ministries and Agencies have their own short-term training courses linked to promotions. The strengthening and expanding of these is an ideal opportunity for effective assistance. However, as mentioned above, strengthening existing training programmes is a long and complex task. Yet once achieved, this creates a sustainable training impact integrated into the existing institutional structures.

The strengthening of long-term degree training of civil servants receives even less donor attention. It takes too long. Aside from some assistance to NIPA, there is only one donor-supported Masters in Development Economics degree in Hanoi[18], and no Masters in Public Administration. There are, however, at least seven donor funded Masters in Business Administration – MBAs.

Vietnam is certainly short of appropriately trained accountants, auditors, bankers and lawyers. But the justification for spending donor funding on individuals who are or may soon be working in the private sector gets confused. Attention to the "training of trainers" is probably more warranted.

Vietnam has a well established system for the training of specialist public servants such as lawyers, judges, prosecutors, police officers, and other law enforcement officials and regulators. we could also add valuation officials, customs officers, librarians, and many others. The opportunities for reforming and strengthening these training schools are enormous. The Vietnamese would be receptive to such assistance, although it would take many years of slow and mundane "capacity building". Experimenting with more innovative modalities of assistance, such as internships in donor country public service organisations, would be interesting.

Better and more policy analysis

> "In summary, formal policy dialogue has played little role in economic reform in Vietnam to date. However, the input of ideas has supported policy change and allowed it to be moved forward, and this is precisely the sort of input which may be expected to be most successful in Vietnam given the way that the political system works." (Donge, White & Nghia 1999: viii).

It is arguable that the only important output of a donor-funded governance project could be to "raise awareness" about an issue. The process of doing research and disseminating the findings is an example of an "awareness raising" project. This whole area tends to be neglected because of the welfare-maximising central government paradigm, discussed above, to which donors must subscribe and which many seem to believe. If the government floats above "elites", interest groups, and suchlike in its autonomous pursuit of the common good, then donors need only point out where the government does not seem to be aware of "best practices" and the great welfare benefits of pro-poor policies.

[18] Dutch funded: <http://welcome.to/neu-iss>

The recent *World Bank Development Report* (2000c) assumes "governments" to be free of narrow sectoral interests apparently only to be found amongst the non-poor (p.109), and in local governments (p.110), NGOs (p.110), and in the public service:

> "In nearly every country the public sector often pursues activities that are not socially justified and, in some cases, that generate rents for the elite. During the past two decades, societies and their governments have become aware of this problem..." (p.100)[19]

What is the point then of promoting domestic policy research to come to the same (or different!) conclusions that a consultant report can dictate as what "international experience" shows? The production of such words of policy wisdom is a major activity of donors, particularly multi-lateral donors. It is a valid and useful activity, albeit done to excess. But support of research by and for Vietnamese is probably more important and grossly neglected – particularly when you view "the government" as the product of swirling and competing interest groups. Few donors, with the notable exception of Canadian IDRC, strive to minimise foreign inputs and support Vietnamese groups to stimulate policy debates within the Vietnamese system.

Donors also show a lack of imagination in appreciating, designing and evaluating "policy analysis" activity. A survey of Vietnamese state enterprises about pending tariff reductions under ASEAN could raise awareness of the need to respond now rather than later. The actual implementation of existing policies is a ripe field for important research. Decree 29/CP on the Exercise of Democracy in Communes, for example, was issued in 1998 and requires that information on commune plans, budgets, and actual expenditure and revenues be made widely available to households. A modest survey of 6 communes for the Public Expenditure Review (World Bank: 2000a) showed this not to be happening. This and many other "realities" deserve systematic study and reporting.

The desirability of stimulating domestic research and policy debates has been an area grossly neglected by donors, who prefer to listen to themselves and to print their own words of policy advice (or those of foreign consultants). Research conducted by Vietnamese – even including the poor themselves - with minimal advisory inputs from foreign consultants, can have dramatic results. Research is "good governance".

Some examples of neglected research activities include:

- Regularly translating into Vietnamese and posting to "policy makers" copies of international literature on policy issues.
- Carefully designing and publishing in Vietnamese "economics for non-economists" arguments for policy changes (e.g. tariff reform).
- Promoting grass-roots research about local problems (e.g. environmental) and about the awareness and implementation of policies (e.g. Decree 29).
- Sponsoring Vietnamese research projects and workshops without any foreign involvement.

The quality of policy research conducted by Vietnamese also deserves more attention. The training of economists and other social scientists overseas has been very important,

[19] A tri-partite system of autonomous power is, however, "essential for guarding against abuse of power by the state of other actors" (p.103) which would seem to imply that governments without such a system have got a serious problem.

but not enough attention has been given to directly strengthening domestic teaching institutions and curriculum[20].

RETHINKING GOVERNANCE ASSISTANCE

In governance, government is both the problem and one of the main solutions (the other being to mobilise demand for a more representative government). Government *is* the ruling elite, particularly in Vietnam where rich and powerful Vietnamese outside of Government and Party circles are almost unknown. Thus, in essence, what donors are recommending through the vague articulation of governance is a shift of power from the elite and its bureaucrats to the people at large. Meddling indeed.

This skepticism about the government is healthy. Without it there is a tendency to really subscribe to the welfare maximising rhetoric and to see the government and its bureaucrats as somehow different and free from narrow interest groups. Without the skepticism, donors become bemused when so many "clearly needed" governance technical assistance projects flounder and fail. But rarely are such projects win-win power situations. The only win-win situations are where no bureaucratic balances of authority are disturbed and donors provide apolitical inputs such as overseas training or computers.

So what is to be done? The approach in recent years has been to promote "reform from within" by direct assistance to the public sector, while also encouraging the mobilisation of interest groups (civil society, NGOs) to empower the poor and strengthening demand for a more responsive public sector. In the opinion of this author, this dual approach is desirable, but the pretence that it is somehow apolitical turns the dialogue into a farce. But as donors, as external agents, there is no other way. The acceptable boundaries of governance "meddling" should be defined by each donor, and then assistance given when opportunities are identified within these boundaries. The design, implementation and evaluation of that assistance should, however, incorporate a much realistic appreciation of interest group resistance.

There is no reason why a more realistic perception about the difficulties of governance projects could not be incorporated into project design and implementation. It is different. It is also useful to divide "working from within" into looking at "this generation" and "the next generation" of policy makers. Both these matters are discussed below.

Governance technical assistance is different

The nature of governance technical assistance (TA) requires a rethinking. It is more difficult than other forms of TA. It is more likely to fail. But, if successful, the welfare returns can be huge. What is the "value" of a significant pro-poor policy reform assisted into being by a TA project? The lack of concrete measurable outputs make it more difficult to evaluate. Further, effective governance TA is not just a matter of identifying

[20] The Dutch, British, and the Ford Foundation have been or are active in strengthening social science teaching. A World Bank tertiary education sector loan has been initiated, although the strongest need at many universities is for quality technical assistance rather than budget funding.

"needs", but rather of "opportunities". Needs, from a welfare maximising perspective, are obvious and numerous – the list of "not yet best practice" is long for Vietnam. Opportunities are harder to identify, and they can be here today and gone tomorrow. Opportunities are *where the Vietnamese are ready for change*. That is, where some form of political-bureaucratic coalition has decided to move in a "good" direction and would now, please, like some assistance while deciding exactly how. Some examples of governance TA in Vietnam illustrate this point:

- The National Assembly approved a new constitution in 1992, but in the year prior to that donors (and even individual foreigners) were able to provide and discuss examples from around the world. The Vietnamese were eager to listen and took on board what they liked. Similarly, when the Vietnamese decided to examine seriously bankruptcy law options, the funding of relevant foreign lawyers to visit Vietnam several times was very effective.

- Since about 1990, the Vietnamese authorities have been eager to "learn market economics", and so all TA in this area has performed well. In 1993, UNDP funded 27 Vietnamese to go to England for Masters degrees in economics, and in 1994 the Dutch established Masters in Development Economics programmes in Hanoi and Ho Chi Minh City.

- On the other hand, state enterprise equitisation and reform of the Ministry of Finance have been substantially "donor-led" processes with only weak domestic coalitions for change. The results have therefore been cosmetic and disappointing.

The existence of a strong domestic desire for change defines a governance TA "opportunity". It must be sincere desire, and not a lukewarm expression exciting donor ears to get grant funding. Yet how to make such a judgement? And what if apparent desire is not enough and change is not possible, yet your project has begun? These questions are the reality of doing "good governance" TA.

The solution is to accept these realities and work with them. To accept that "governance is different". AusAID is developing an innovative Governance Facility in Vietnam which is designed around a better appreciation of the governance challenge[21]. AusAID want to make available AUS$10 million to fund governance TA activity over five years. The facility would be run as a project in Hanoi, but the scope of activity depends on detailed investigation of governance areas. In this way, the Facility should be able to identify opportunities with related needs and respond quickly. A blueprint to address specified needs has been avoided. Assistance can begin small and build upon success, or even stop with failures. Ideally, accepting a degree of "failed investments" would be part of a more sophisticated, realistic and sympathetic implementation and evaluation of the Facility. It is a model for other donors to watch carefully.

The need for a generational perspective

The most important, effective and justifiable role for donors to promote "good governance" in Vietnam is to strengthen training institutions and to increase the quantity

[21] As far as the author is aware, this Governance Facility is still awaiting approval from the Government of Vietnam, although it is listed as a pending project on the AusAID website.

and quality of policy debates. Both of these activities require long-term investments which will produce "outputs" in the form of a "second generation" of policy makers and officials. It is helping the Vietnamese to help themselves. Somewhat paternalistic maybe, but less offensive than policy conditionality and lectures about policies "needing" change.

The emphasis here is on training institutions, not on training as such, although that has mostly been useful. However, short-term training has its limitations and the impact is invariably once-off. It is also rarely integrated into existing structures. Overseas training has been extremely important, and probably the most effective donor spending on "good governance" over the past decade in Vietnam. These activities should continue, but the lack of attention to longer-run investments in strengthening and reforming Vietnamese training institutions is remarkable. It is very difficult, takes many years, and is far from glamorous, but it is important.

Support for "policy analysis" is really support to inform and build coalitions for change. As such, the promotion of focused and quality *research and policy dialogue for and by Vietnamese* is an essential aspect of promoting good governance. An impact can happen from grassroots research, say to study the use and abuse of local water rights, to the highest levels of debate about, say, the sequencing of capital account liberalisation. There are many exciting and innovative ways to promote such a discourse, and donors seem to have neglected them all. But the supply of quality social scientists is limited, particularly of economists. The strengthening of institutions training social scientists is another "second generation" challenge for donors.

CONCLUSION

Consensus governance Vietnam-style remains the ruling paradigm in Vietnam. While it may not be "best practice", it works. It does, however, make it difficult for donors to conduct a conventional policy dialogue. Suspicion of foreign influence and a "drifting [reactive] attitude toward policy making" (Donge, *et al* 1999: 18) mean that: "Even if 'government' agrees to a PFP [Policy Framework Programme], or even legal covenants in an adjustment credit, the process of consultation begins only once steps are taken to meet the conditions" (Donge, *et al* 1999: 27).

Thus, consensus governance requires a rethinking of "doing aid" in Vietnam in general, and of promoting "good governance" in particular. The path donors are presently taking, to move towards some form of comprehensive development framework (CDF) and to better integrate their assistance into government programmes is admirable but very problematic. This approach is also premised on a government with proactive capacity and with adequate and transparent reporting systems. Probably a move towards budget support linked to some CDF that tries to minimise fungibility problems is the way to go[22]. At the same time, however, more and more varied technical assistance is needed. Not in the traditional crowded areas of "key ministries", but in the much more mundane but important task of strengthening training institutions and promoting the flow of ideas and research.

[22] But the "herd mentality" of donors in this direction neglects the arguments for retaining project aid in some areas. Further, the budget support modalities proposed sound very similar to those of the 1960s, when donors were "plugging financial gaps for take-off". The "herd mentality" can also be blamed for the relative neglect of important governance areas, such as research and strengthening training institutions, as donors talk themselves into specialising in the same areas.

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Annex 1: Terminology

Laws are passed by the National Assembly and are Vietnam's highest form of legal direction
Ordinances are passed by the Standing Committee of the National Assembly when the Assembly is not in session.
Decrees are passed by the government and generally implement Laws and Ordinances. Decrees are often supplemented by more detailed "Regulations".
Circulars are issued by individual ministries and usually provide guidance as to how a particular ministry will administer a Law, Ordinance or Decree.
Official Letters are also issued by ministries. They are meant to be minor decisions about implementation matters, and may not be for public distribution.
Guidelines are not legal instruments. There are policy outlines issued by the prime minister indicating that governmental committees should be set up to deal with issues.
The recital of each legal instrument normally sets out the other legal instrument to which it is subordinate. If a legal instrument is intended to replace an earlier one this will usually be mentioned near the end of the new instrument.