

Title: The Evolution of the Vietnam's State and Institutional Reforms - Progress and Challenges

Author: Le Dang Doanh

This paper has been submitted to the conference 'Vietnam: political and economic challenges and opportunities' at the Australian National University on 3 October 2019

This is a preliminary version. It is not for quoting or citations.

Do not remove this note.

The Evolution of the Vietnam's State and Institutional Reforms - Progress and Challenges

Le Dang Doanh

Summary

During the transition process from central planning to market economy with socialist orientation, integrating into regional and world economy, the State and the whole political system in Vietnam have undergone a significant evolution, deeply integrated into international economy, but this process has to be continued to build a real “state of the people, by the people, for the people”.

The reforms in Vietnam have been driven from internal development but impacts of international integration commitments were important for reforming the legal system and the state institutions.

After the national reunification on April the 30 1975, the market economy in South Vietnam impressed the leadership of the Vietnam's Party of Labourer (renamed into Vietnam's Communist Party in 1986), that's why the Resolution of the 24th. Plenum of the Central Committee of the Vietnam's Party of the Labourer on September the 29 1975¹ has temporarily accepted the presence of the private sector and market economic development in South Vietnam as an exception from the central planning economy in the North. Unfortunately, political circumstances have led to the Resolution of the IVth. National Congress of the Party in December 1976 to “unify the country and move the whole country directly to socialism”². After that, the central planning system from North Vietnam applied during the time of war has been administratively imposed to the market economy in the South. The following “socialist reconstruction” in the urban regions and “collectivization” in rural regions caused serious decline of economic growth, combined with fiscal deficit, galloping inflation in the 1980s. The Sixth National Congress of the Party in 1986 strongly criticized the failures of the policies in the past and started the Doi Moi (Renovation)-process. In the 1970s Vietnam could not reform without the acceptance from Moscow as Vietnam in this period was economically heavily depending from Moscow. Loosing huge assistances from the Soviet Union and the East European socialist countries in 1989 and 1990 created

¹ cpv.org.vn, Nghị quyết số 247-NQ_TW, ngày 29_9_1975 Hội nghị lần thứ 24 của Ban Chấp hành Trung ương Đảng Lao động Việt Nam về nhiệm vụ của cách mạng Việt Nam trong giai đoạn mới _ Tư liệu văn kiện Đảng_files (Resolution No.247-NQ_TW on 29_9_1975 of the CC of CPV on the tasks of the Vietnam's revolution in the new phase.

² <http://tulieuvankien.dangcongsan.vn/ban-chap-hanh-trung-uong-dang/dai-hoi-dang/lan-thu-iv/nghi-guyet-cua-dai-hoi-dai-bieu-toan-quoc-1522> Resolution of the IVth. National Congress of the CPV.

critical imbalances in the economy, but to another side, Vietnam was also able to implement reforms by using domestic grassroots experiments and market economic legacy from South Vietnam, gradually reducing the scope of the central planning economic model, introduced the “contract plan system” for farmer, developed the domestic private sector, calling for foreign direct investment and introducing market economic elements, e.g. market price system, reforming the banking sector, reforming the state-owned enterprises (SOEs) by gradual equitization of the SOEs.

The domestic grassroots reforms ignited the dynamism of the system but the whole political system and the state in Vietnam have been only reformed substantially by applying international standards, mainly from WTO. The driving motivation for Vietnam to diversify and multi-lateralize its international economic relations was and is to avoid to be too depending from only one power.

Vietnam has applied the National Treatment (NT) by unifying the Law on Promoting Domestic Investment (1998 and 2005) and the Law on Foreign Direct Investment into the Law on Investment and unifying the Law on State Owned Enterprises (2003)³ and the Law on Company and Private Enterprises to the Law on Enterprise (2005), the Law on Competition (2004, 2018).

Nevertheless, the Vietnam’s Government continued to control prices of electricity, fuel, land, exchange rate of the Vietnam’s currency (VND) and apply master plans for various products and services.

The Constitution has been promulgated in 1992 according to the Doi Moi-reform and amended in 2001, amended and newly promulgated again in 2013, various laws have been promulgated to implement the freedom to make business according to laws, fair competition to meet the requirements of WTO. Vietnam has joined ASEAN, signed the BTA with the United States, joined the WTO and signed 14 FTAs, diversified and multi-lateralized its economic relations, attracting Foreign Direct Investment. Vietnam has equitized its State Owned Enterprises (SOEs). Reforms have been conducted in public administration, enhancing the role of the National Assembly, using laws to regulate instead of administrative orders as previously, reducing bureaucratic procedures, improving transparency and openness. The Vietnam’s Government has gradually accepted international evaluation and rankings e.g. Doing Business of the IFC, Global Competitiveness Index of the World Economic Forum (WEF) etc. Vietnam has steadily improved its rank in

³ <https://thuvienphapluat.vn/van-ban/Doanh-nghiep/Luat-doanh-nghiep-nha-nuoc-2003-14-2003-QH11-51698.aspx>

international reviews and evaluations (World Bank, World Economic Forum etc.).

E-government and digital economy have been initiated and gradually implemented. A high share of the population is using Internet mobile phone and social media like Facebook, Twitter...

Regardless relevant economic reforms and international integration, the State in Vietnam remains the one-Party State, guided by the Communist Party of Vietnam (CPV), no three divisions of power between legislative – administrative and justice. The press and the public mass media remain strictly under the control of the CPV. A controversial Cybersecurity Law has been enforced on January the 1 2019.

The transition towards market economy has de facto elevated the role of local authorities since land, forestry, mineral resources etc. are located in their regions and these resources are valuable. Moreover, the election practices in Vietnam request the support of local authorities for candidates proposed from central agencies. Political geography is an important factor in the political life in Vietnam, leaders from the North, South and Central regions must be presented a balanced way.

In facts, the role of the Vietnamese state in a “market economy with socialist orientation” is still different from international concepts of market economy, e.g. by controlling certain commodities prices (electricity, fuel), intervening into market activities (like land market) and providing privileges to SOEs. Performance of state institutions is still low and inefficient by international standards, mainly by lacking control of power. Bulky, overstaffing of political institutions, wastefulness, corruption, vested interest groups in public investment leading to increasing fiscal deficit and public debts. The costs in time and money to make business in Vietnam is high. Innovation in science and technology is insufficient. Openness did not yet provide transparency, accountability is inadequate. Vietnam is struggling to control power within the framework of its one party system as reflected by the struggle against corruption and abusing of power.

Further institutional reforms and steady progressive evolution of the state are needed for improving the competitiveness of the Vietnamese economy and ensuring sustainable development.

I. The Role of the State from 1975 to 1986 in the central planning economy.

After the national reunification on April the 30 1975, impressed from the economic dynamism and the development of private sector in former Saigon, now renamed as Ho Chi Minh-City, the 24th.Plenum of the Central Committee of the Vietnam’s Party of the Labourer has decided to allow the private sector continue to operate in the South, temporarily for a certain transitional period. But political circumstances have forced the leadership to abandon this option and move the “whole country to socialism” at the IVth. National Congress of the Party, December 1976.

The IVth.National Congress of the CPV has passed the Five Years Plan 1976-1980 with astronomic targets: social brutto product should increase by 14-15%/annum, GDP should increase 13-14%/annum, agricultural production output should increase 8-10%/annum, social productivity should increase 7.5-8%/annum etc.

The real datas were following, far below the plan targets:

Unsuccessful Attempt of Centrally Planning and Collectivization

Sectoral GDP Growth Rates
chain-linked index, base year 1975

Year	Total GDP	Agriculture	Industries	Services
1977	105.3	100.7	113.2	104.9
1978	101.1	93.6	107.5	109.0
1979	98.2	103.3	95.4	92.4
1980	96.4	105.6	88.7	87.8
1981	102.3	104.3	99.9	100.7

Source: Dang Phong (ed.), Vietnam's Economic History 1975-2000.

Before the reform process ('Doi Moi') started in Vietnam 1986, the private sector was nearly non-existing and illegal in Vietnam. It primarily existed in form of very small micro households in the agricultural sector, handicrafts and services in urban regions. After 1975 most of agricultural households were forced to be organized in cooperatives and the state has also established some state farms in certain rural regions. In 1957-58 the North Vietnamese government in a campaign against private ownership in urban regions took over most firms in manufacturing and services, including micro business, such as rickshaw drivers, small eateries serving traditional *pho* (noodle soup), etc. Most of the takeovers by the state were expropriations whereby the state paid a lump sum to the previous owner(s). These new firms often started as state-private joint ventures but in 1964 most of these were transformed into SOEs, only some few of them remained nominally as state-private joint companies.

In the South, private capitalist firms, belonging to people related to the former regime, or people who had left the country before 30 April 1975 (when South Vietnam was liberated and the whole country reunified), were expropriated (in many cases confiscated) and turned into state owned companies. During central planning in North Vietnam, and also in the reunified Vietnam after 1975, there was neither a legal framework for the existence of a private sector, nor economic and social conditions for its operations. Smaller private businesses were collectivized to cooperatives.

These voluntaristic actions have cancelled the motivations for the farmers in agriculture and the small entrepreneurs in the urban regions. The Vietnamese economy was in deep trouble in the 1980s with slow, or even negative growth, especially in agriculture. Vietnam had turned from a rice exporting economy before 1975 to crops importing to feed its own population.

Following the model of a socialist, central planned economy, the North Vietnamese Government conducted during 1957-58 a heavy-handed campaign of "socialist reconstruction", expropriating or confiscating "private capitalist enterprises" and into state-owned enterprises, and collectivizing small, farmers, handicraft producers, traders etc. into cooperatives. The share of state ownership increased from 17.9% in 1957 to 44.6% in 1965. The share of the cooperatives increased from 0.2% in 1957 to 45.4% in 1965, while the share of the private sector declined from 71.9% in 1957 to 10% in 1965. (See table 1).

Table 1 Ownership Structure in North Vietnam, 1957-1975 (%)

	Socialized sector			Private sector
	Total	State owned	Cooperatives	
1957	18.1	17.9	0.2	71.9
1960	66.4	37.8	28.6	33.6
1965	90.0	44.6	45.4	10.0
1970	91.4	40.3	51.1	8.6
1975	91.6	51.7	39.9	8.4

Source: Tran Van Tho (2000)

However, the “socialist reconstruction” campaign in Vietnam has been not conducted further. Small private agricultural activities were allowed on 5% of the land for members of the cooperatives. This was one of the major income sources in form of cash for the members of the cooperatives because the farmers could sell products from this 5% of land to the free market at free market price, they could earn 40% of their cash income while the income from cooperatives were mainly in form of products like rice. The efficiency of this 5% land was much higher than the 95% of land cultivated by the cooperatives. Such facts worried government economists and policy makers. In the cities, small traders

were morally condemned, administratively pursued, but they did never totally disappear since they to some extent satisfied people’s real demands, which were neglected by the central planning and the rationing system.

After reunification the country on 30 April 1975, two major campaigns of socialist reconstruction were launched in 1976 and 1978, respectively, in the South of Vietnam. All 22456 private enterprises, employing 250000 workers, among these 8000 industrial enterprises, with a total capital of US\$ 800 million, were socialized (either through expropriation or confiscation). Thereby the share of the state-owned sector steadily increased as shown in Table 2. By the end of 1985, the socialist reconstruction of all Vietnam was declared to have been successfully completed.

Table 2 Ownership Structure in Reunited Vietnam, 1976-1985 (%)

Year	State-owned sector	Non-state sector
1976	27.7	72.3
1980	19.8	80.2
1985	28.0	72.0
1990	31.8	68.2
1995	40.2	59.8

Source: Tran Van Tho (2000)

Private capitalist enterprises were considered as “illegal and anti-socialist”. The central planning system did not allow the operation of any private enterprise outside of the planning system. No materials were allocated, no credits were provided to private enterprises, if they existed. Manual work was praised in contrast to intellectual activities and professional services that were seen as “non-productive” and discriminated socially. In such systemic economic, social, political and moral context, the capitalist elements could not exist. The society

was asked to work hard, restrain from consumption and endure economic hardship and shortages with the vision of a brighter and more prosperous future.

Even in 1983, the Hanoi Party Committee and the Peoples Committee still launched a campaign Z30 called "administrative control and inspection", which confiscated asset and houses of more than 50 successful private enterprises, including the well-known fish restaurant Cha Ca La Vong and the producer of rickshaw tyres, the so-called "king of tyres". After the 'doi moi' (see below), the appropriated goods were partially returned to owners, but such campaigns have created deep and bitter memories in the mind of the private entrepreneurs. Until the reform process started a large part of the ownership consisted of cooperatives, especially in agriculture. In 1986 no less than 72% of the total labor force in Vietnam was employed in cooperatives (McCarty 2001). The central planning system in Vietnam was comparatively less comprehensive compared to this system in the Soviet Union, but the state was directly involved in the operations of the cooperatives and SOEs.

The central planning system included 105 socio-economic indicators and 338 products and services, allocated capital, material and financial resources to state-owned companies, imposed compulsory procurement of rice, pig meat and other agricultural products to agricultural cooperatives to fixed prices. Due to galloping inflation, fixed prices have been quickly turned to be below the production costs of the cooperatives, their losses increased by selling products to the state and they reduced their production to the level mainly to cover their own demand. The public press frequently reported from "natural disasters" and Vietnam need to use the very scarce foreign reserves for importing crops to cover the minimal crop consumption of the people.

The state introduced a system of coupons to sale rationed products according to a classification system of people:

Quantities of foods for a month available for classification of people⁴

Classification	Sorts of coupons	Meat (kg)	Sugar (kg)
Special level	A1	More 7	More the 3.5
Minister	A	6	3
Vice –minister	B	5	2
Gen.Director	C1	3	1.5
Vice Gen. Director	C	2	1
Director of Division	D	1	0.5
Public servant	E	0.3	0.5

For clothes, the quantities of meter stuff for people are:

Public servants	12m/year
Urban citizen	8 m/year
Citizen of small cities	6 m/year
Rural citizen	5 m/year

The state established a system of different shops for each classification on rice, meat, foods and other consumer products, shops for A1, A and B, shops for C and shops for D and E. For example, for A1, A and B and foreigners there were special shops , so-called “international shops” offering imported clothes, chocolades, powder milks, for C there were only shops for meat anf foods, other consumer goods had to be purchased in public state-owned shops with long queues.

⁴ Đặng Phong (Editor), History of the Economy of Vietnam 1945-2000, Volume II, Publishing House of Social Sciences, Hanoi, 2005 (Vietnamese).

Such special shops system has been established in South Vietnam after 1975. Speculations, “smuggling” goods from special shops saling at the so-called “free market” were widespreading and non-stoppable because of the high demand and huge price differences between the state price and the free market price.

De-facto the state in Vietnam in the central planning economy has established a detailed system of classifications on every things from rice, foods, consumer goods to hospitals, schools, informations etc.

For health care, for example, for classification A1 there was special personal doctor provided with special pharmaceuticas. For A, B and C there was a special hospital with different departments for each classification. For D and E there was other hospital available. The hospital had different equipments and staffs.

For the daily life, people had to developed an extensive system of “connections” to rice shops (for fresh or good quality rice), meat and foods (when something was available), consumer goods (for clothes), for hospitals, for schools and kindergartens etc.

Accountability did not exist, there was no clear personal responsibilty, all relevant decisions have been made in form of collective resolutions of certain committees of the CPV. There was no effective material incentive for the worker and the farmer.

Hopes that the use the expropriated or confiscated machinery, areal estate assets together with the collectivized land would lead to higher efficiency and productivity did not materialize. Huge investment into SOEs did not produce the expected economic growth.

Lacking know-how, management skills and incentives, production started to decline, and efficiency of the cooperatives and SOEs was low. Lacking an

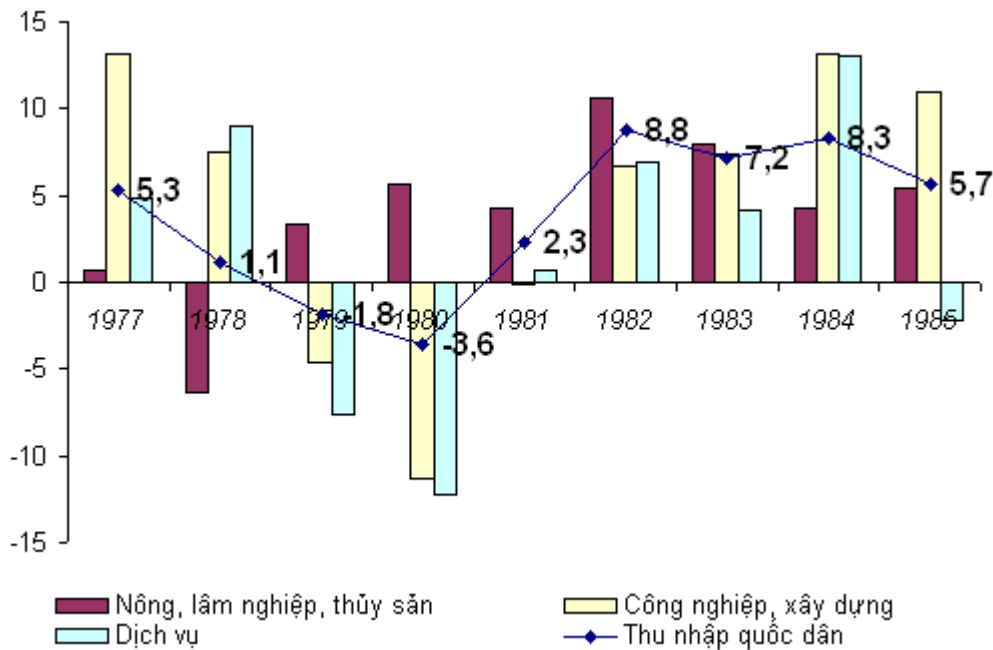
efficient control of power led to abusing of power, wastefulness and corruption.

In the 1960, Mr. Kim Ngoc, the Head of the CPV-Committee of Province VinhPhuc has initiated the “contract plan system” to provide more incentives for the farmers. This initiative has been repeated in Do Son, Hai Phong later in the 1970s. From Ho Chi Minh-City the initiative of “Three parts plan” of the SOEs in 1980s gained strong support and led to the adoption in the Resolution of the Polit Bureau. The leadership at central level in Vietnam was open-minded and pragmatic not to ignore or reject these initiatives, they studied carefully these “grass-root” initiatives, discussed and changed the regulations to apply the efficient experiences for reforms.

The inefficiency of the system, the failures in economic policies were severe but not strong enough to lead to a strong reform. Last but not least, the collapse of the Soviet Union deprived Vietnam from the massive assistance from Moscow, aggravated the situation and led to a critical socio-economic crisis in the 1980s with galloping inflation, huge macroeconomic imbalances.

SOEs could not operate anymore because there were no materials. Vietnam had to borrow crude oil from Iraq and Algeria to keep the fuel supply for the economy.

The real data were following, far below the plan targets:



Indeed, the Sixth Plenum of the Central Committee of the IVth. Legislation of the CPV (Communist Party of Vietnam) on September the 20. 1979, had promulgated the Resolution No. 20⁵ criticized the “centralized bureaucracy, did not combined planning and applying market economic relations” and requested microeconomic reforms in Vietnam. Farmers as well as SOEs had attempted to finding ways of escaping from the rigidity of the economic system. The farmers tacitly experimented (and later were allowed) to apply the "contract system", a de-facto allocation of arable land to the farmers for cultivation. The SOEs initiated "the fence-breaking" movement, a "three parts-plan", which enabled them to have more financial resources, and allowed them to buy and sell their products at market prices. The Resolution 25/CP and 26/CP of the Government in 1981 legalized the "three parts-plan". The Directive 100-CT of the Secretariat of the Central Committee of the CPV allowed the "contract system". In Long An province, an experiment to abolish the dual price system

⁵ <http://tulieuvankien.dangcongsan.vn/van-kien-tu-lieu-ve-dang/hoi-nghi-bch-trung-uong/khoa-iv/ngghi-quyet-so-20-ngtw-ngay-2091979-hoi-nghi-lan-thu-sau-ban-chap-hanh-trung-uong-dang-ve-tinh-hinh-va-nhiem-vu-cap-bach-1075>

and introducing the market system brought positive results. A stormy debate was taken place in the party, strongly criticizing the "bureaucratic centrally planning system" as well as the voluntaristic attempts to eliminate the private sector and collectivize the farmers.

At the time the country was confronted with a severe crisis. In spite of price control on essential goods and services the inflation rate was more than 700% in 1985. Exports amounted to only USD 500 million while imports to over USD 1.2 billion, leaving a widening trade deficit that was more than twice the value result of feeding a large army and subsidies to loss making State Owned Enterprises (SOEs).⁶

Reforms to mobilize internal resources, unfold the private sector were the only way to overcome this critical situation.

II. The Doi Moi (Renovation) Process, the Sixth National Congress of the CPV (1986) and the initial Reform Steps of the Vietnam's State

After the dead of General Secretary of the CPV Le Duan on July the 10 1986, at the 6th. National Congress of the Communist Party of Vietnam, the reelected General Secretary Truong Chinh delivered the Political Report⁷ (December the 15 1986) conducted a strong unprecedented self-criticism of the CPV without to name any person by analyzing the failures of the central planning model, "voluntaristic, subjective approaches and conservative concept", "bureaucratic style of management". The Congress initiated the "Doi Moi" (Renovation) policy by gradually transitioning to "an economy based on product-money relations, economic accounting and multi-economic sectorial strcuture"(state sector, cooperative, domestic private sector and

⁶ Le Dang Doanh, Cơ sở khoa học của công cuộc Đổi Mới kinh tế ở Việt Nam, NXB Chính trị quốc gia, Hà Nội, 1997.

⁷ <http://dangcongsan.vn/tu-lieu-van-kien/van-kien-dang/van-kien-dai-hoi/khoa-vi/doc-392420153571056.html>

foreign direct invested sector), “developing international economic relations”, “restructuring the state administration agencies”⁸. To this time the VIth Party Congress of the CPV did not accept yet the term of “market economy with socialist orientation”.

These bold decisions have been prepared by a series of pre-Congress reforms at micro level: based on pilot experiments in Vinh Phu Province in the 1970s and in Do Son, Hai Phong Province at the beginning of the 1980s the Secretariat of the 5th. Central Committee has issued the Directive 100 on the contract plan system (Directive 100-CT/TW, January the 131981) in the agricultural cooperatives, providing material incentives to the farmer. On 8 April, 1981 the [Politburo](#) issued the "[Draft Resolution on guaranteeing autonomy to basic economic units](#)", which decreed the implementation of the reform program agreed upon by the 8th plenum.

These reform efforts were elaborated and implemented under conditions of international embargo, without international consultation.

The VIth National Congress was convened on 15 December 1986 and lasted until 18 December.^[18] The Congress reaffirmed its commitment to the reform program of the 8th plenum of the 5th Central Committee, and issued five points:

- "concerted efforts to increase the production of food, consumer goods and exportable items";¹
- "continue the efforts to control small merchants and capitalists, while at the same time acknowledging the reality of supporting a mixed economy";
- "to regenerate the planning bureaucracy while making the economic management system more efficient by decentralizing authority and making room for more independent decision-making";
- "to clarify the powers and jurisdiction of the [Council of Ministers](#), and the reorganization of state management apparatus to make it more efficient;
- "to improve party organizational capabilities, leadership and cadre training."
- The reform program, ‘Doi Moi’, adopted at the Sixth Party Congress initiated a step-by-step liberalization of the private sector that was primarily induced by the practical needs of the daily life, and less from

⁸ <http://dangcongsan.vn/tu-lieu-van-kien/van-kien-dang/van-kien-dai-hoi/khoa-vi/doc-592420154022856.html>

theoretical rethinking. Reforms in agriculture were so impressive that other measures were introduced to accept the operation of the private sector in other fields. In 1987, the Government promulgated two Ordinances, allowing private business to operate freely. During the next two years, with mounting pressures against resources, the Government undertook bold, unprecedented and extraordinary measures, allowing individuals to trade gold and jewels, and as a result the price of gold was immediately normalized. Private housing construction was also allowed in 1989, which helped to ease the housing crisis. Private traders in retail trade, including rice retail trade, were also accepted. These measures produced such positive results that the Government decided to prepare a company law to be presented to the National Assembly in December 1990 to legalize the private sector. It was an important step of the evolution of the state in Vietnam: to regulate by law and not only by administrative order.

Vietnam promulgated the Law on Foreign Direct Investment on December 29 1987, hoping to attract foreign capital and technology substituting the disappearing assistance from the Soviet Union and East European socialist countries..

The Sixth Plenum of the Central Committee of the CPV (September 1989) for the first time replaced the “dictatorship of the proletariat” by the term “political system”.

The state accepted the gradual reduction of its administrative power to the market and the businesses.

The promulgations of the Company Law in 1990 and the Enterprise Law in 1999 contributed typical examples for this difficult process.

THE COMPANY LAW OF 1990

The initial draft, prepared by CIEM, tried to adapt the useful content of the Company Law of South Vietnam before 1975 with more than 300 articles. But several deputies of the National Assembly were unfamiliar with the market economy as well as with the practice of joint-stock company or company with limited liabilities. They therefore rejected on the ground that the draft was too complicated and decided to promulgate a very simple law with only 34 articles, without all regulations on internal company operations. They also followed the authorization of the establishment of company by state officials, requesting chartered capital for different industries and services. They split the law into two separate laws: Company Law for joint-stock company and company with limited liabilities, and Law on Private Enterprise with unlimited liabilities. Regardless of some constraints, the promulgation of a Company Law at the very beginning of the reform was a bold and positive step toward market economy and developing private sector. Indeed, during nearly nine years, from 1991-1999, some 45000 companies and private enterprises had been established, signaling the emerging of a new private sector in Vietnam.

FIELD STUDIES AND SURVEYS

Surveys conducted by CIEM in 1998-1999 showed severe obstacles and shortcomings of both laws as well as in their implementation. Both laws requested that companies must be authorized by a high-ranking official, the Chairman of the Peoples Committee of the Province or the Municipalities before registration. This cautious and certainly not ill-intended step was in reality a fertile soil for corruption, abusing of power and harassment. Before signing the authorization by the Chairman of the Peoples Committee of the Province, the Chairmen of the ward and the district committee must have signed in order to provide safety; the directors of related departments of the Province must also have signed, that they have checked, proved the documents and materials. The surveys discovered that, 35 signatures from officials several administrative levels and agencies must be collected with 32 seals of various agencies in order to get the authorization. The applicant had to pay several extra –legal “lubrication fees” to keep this process going.

The Enterprise Law of 1999

The Drafting a Promulgation Process

The Resolution of the Fourth Plenum of the Central Committee of the CPV on 28 December, 1997 decided that a new law on companies should be prepared. The 28th draft of the Law, presented to the National Assembly's

Committee of Economic and Budgetary Affairs for pre-review comprised different types of companies, including company with limited liabilities with one person as owner, company with limited liabilities with a legal person as owner and private enterprises with unlimited liabilities. But the Committee could not differentiate between the two types of enterprises, the company with limited liabilities and the private enterprise with unlimited liabilities and decided to take this chapter out of the draft. Argumentation and explanation by the drafting committee could not reverse the decision.

Studies have revealed severe shortages of the Enterprise Law 1990, these facts have been used to prepare a new approach to the Enterprise Law 1999.

The Politburo of the Central Committee of the CPV discussed the draft of the Law based on the presentation of the Government and the comments of the National Assembly and approved the Enterprise Law. It provided the guidance on the main principles and conception of the Law and sent the Law to the plenary session of the National Assembly for consideration and possible approval. During the at times stormy, critical and open debate in the plenary session of the National Assembly, which took several days, one article after another was passed. Many amendments and corrections were made. The Chapter on the Partnership Company was debated with much doubts and concerns. The idea that practicing lawyers, medical doctors, or constructors, have to bear unlimited liabilities for their works, was unfamiliar to most of the deputies. During the debate there was a time where the chance of keeping this chapter in the Law was very slim. At last, this Chapter was accepted with major changes, only with four articles with general provisions and no more regulation on unlimited liabilities. On 29 May, 1999, the National Assembly the Law was passed by majority vote (84,5%) .

The main idea of the Enterprise Law (EL), is to provide the legal framework for all types of enterprises. In reality there are already the Law on State-owned Enterprises and the Law on Cooperatives. Foreign directly invested enterprises have been regulated by the Law on Foreign Direct Investment.

Article 2 of the Enterprise Law regulates the relation between this Enterprise

Law with other specialized laws: "where a difference exists on the same issue between this Law and a specialized law, the provisions of the specialized law shall apply". This article opens the way for other laws regulating business in specific services to request chartered capital (for insurance companies) or license, standards or permits, which aim to protect public interests.

Article 4 provides State's guarantees for enterprises and their owners: "the lawful assets and investment capital of enterprises and their owners shall not be nationalized or expropriated by administrative measures". Such guarantees were strongly requested as a legal protection for the private business during the drafting process. Considering the experiences in the past, such wish is understandable.

For implementing the freedom to do business according to laws, Article 6 was important. It said: "as prescribed by law, an enterprise may autonomously register and conduct lines of business other than those stipulated in Clauses 2, 3 and 4 of this Article". Clause 2 stipulated the prohibited lines of business.

Clauses 3 and 4 stipulated that: "Where a law, an ordinance or a decree prescribes conditions for conduct of line of business, an enterprise may only conduct such line of business if it satisfies all the prescribed conditions" and "where a law, an ordinance or a decree requires an amount of legal capital, or a practicing certificate, for a line of business, an enterprise may only register such line of business if it has sufficient capital or a practicing certificate as required by law". This article by that way automatically canceled all the numerous permits, licenses or certificates required by the minister or chairmen of the Peoples Committee. But because nobody knew what licenses existed, the implementation of this article was not easy.

Article 9 stipulated clearly the rights to establish and manage enterprises. It stated that "Organizations and individuals have the right to establish and manage enterprises, except for the following cases". Article 6 used the "Negative list" to exclude state officials and others to establish and manage enterprises. Article 10 regulated the rights to contribute capital, allowing a

larger circle of people, including foreign organizations and others to contribute capital.

In the same direction, Article 12 stipulated: "The business registration body is not entitled to request the founder of an enterprise to submit additional documents other than those prescribed by this Law for each type of enterprises". For the first time, a law has stipulated a clear restriction of the rights of a state agency. By that way the *prior registration checking*, exercised by the previous Company Law was replaced by the *post registration monitoring, internal control and the openness and transparency*. More importantly, it rigorously implemented the freedom to do business according to laws and ended the requirement to get the Decision of the Chairman of the Peoples Committee of the provincial level. By that way, the red tape and abuse of power was put to an end.

Article 20 and 21 stipulated the provision of information on business registration and publication of the business registration. It aimed to introduce the transparency of the business registration and provide interested people with access to this information. The Law required the enterprises to "declare and periodically report fully and accurately the information regarding the enterprise and its financial situation".

On the one hand, the intention of the Law was to implement the freedom to do business according to laws. On the other hand, the Law emphasized the internal control of the shareholders, the creditors, the mass media, and other interested people, and last but not least, the efficient governance of the state agencies. By that way, the freedom should not lead to chaos, as it had been argued might happen during the whole process of drafting and promulgation of the Enterprise Law.

The Implementation of the Law

Fully aware of the difficulties and obstacles emerging by the implementation the Prime Minister, for the first time, established a Task Force to assist him. The Task Force was responsible for elaborating the two Ordinances to implement the Law, for exchanging views with related ministries on their guidance, and for helping to apply Information Technology in the registration.

The Vietnamese Government has issued 72 documents guiding the implementation of the Enterprise Law, including 22 Decrees, 12 Decisions by the Prime Minister, and 35 Circulars and Decisions by relevant Ministries and Government authorities. In that way the Enterprise Law is one of the most comprehensive and rapidly implemented laws in the history of Vietnam. In addition, the country's National Assembly and its Standing Committee have over the past three years issued two further laws and six ordinances related to the Enterprise Law.

The Enterprise Law 1999 has improved efficiently the business environment for the private sector as following comparison presented:

Comparison of regulatory practices	
<ul style="list-style-type: none">• <i>Permission for private business (1990-1999)</i>	<ul style="list-style-type: none">• <i>From January the 1 2000 according to the Enterprise-Law</i>
<ul style="list-style-type: none">• <i>Permission from the Chairman of the Provincial People's Committee;</i>	<ul style="list-style-type: none">• <i>Main idea is the freedom to make business according to laws. Business registration 15 days, costs VND 220.000; no permission needed;</i>
<ul style="list-style-type: none">• <i>Registration</i>	<ul style="list-style-type: none">• <i>After four years 88.000 enterprises have been registrated</i>
<ul style="list-style-type: none">• <i>Main concept is prior-registration checking: 6 months to 1 year, costs VND millions 10-30, required 35 signatures and 32 seals of different agencies.</i>	<ul style="list-style-type: none">• <i>From more than 400 licenses and permits 180 have been cancelled or turned to business standards and conditions.</i>
<ul style="list-style-type: none">• <i>In 9 years 43.000 private enterprises have been registrated, mainly in big cities and urban areas</i>	<ul style="list-style-type: none">• <i>Task force of the Premier Minister has been very efficient but has limited power.</i>

The role of related state agencies have been changed dramatically.

The Amended Constitution in 2001 and the Resolution No.14-NQ/TW, dated 18 March, 2002, adopted of the Fifth Plenum of the Central Committee of CPV on the development of the private sector strongly confirmed the long term development of the private sector as an integral part of the national economy without restriction in all industries and services.

One of the most important contributions of the Task Force was the revealing studies on required licenses and permits for doing business. As mentioned before, Article 6 of the Enterprise Law automatically canceled all licenses and permits, issued by ministries and provinces. But these permits have to be explicitly canceled so that the enterprises do not need to observe these regulations. Responding to a request by the Task Force about permits and licenses, all ministries and state agencies ensured that they do not require any special permit or licenses. But a survey on the licenses and permits showed that at least 402 permits and licenses existed. After a process of long and difficult negotiations with the related ministries and agencies, the Prime Minister and the Government abolished altogether 180 licenses and permits. This has tremendously reduced the costs in term of time and money to do business for the enterprises.

With the support of all of the related Government agencies, the Task Force and the Vietnam Chamber of Commerce and Industry worked together to compile and publicize a list of over 200 business certificates, valid until July 25, 2002. But the review on the licenses and permits will have to continue because in various areas like access to land and credits, investment procedures and administrative procedures are still very cumbersome, and not sufficiently transparent.

In the meantime, state agencies continue to increase the number of licences to

6 191 with cumbersome procedures, raised the costs on time and money to make business.

In 2018, the Government has decided to cut 3345 licences, but the business community continues to complaint about extra-legal payment and harassment.

The Enterprise Law of 2005

The Enterprise Law 2005 continued this effort of reforms and the private sector in Vietnam grew impressively. Up until to 2005 Vietnam had separate laws for private enterprises and SOEs. In order to comply with WTO commitments Vietnam promulgated a new Law Enterprise Law in 2005, replacing the Enterprise Law of 1999 incorporating SOEs in the new law. SOEs can now take the form of sole owner, joint stock company (jointly or without private partners), or conglomerates (see further below)

An Impressive Growth of the Non-State Sector since 2000

If success is measured by the contribution to the downsizing of the state sector, the Enterprise Law has undoubtedly been a success. From 1 January, 2000 to 1 February, 2004, 88 000 private enterprises were registered, which is nearly twice the number of companies established during the nine preceding years. Besides the Enterprise Law, other reforms like trade liberalization and the improvement of technical infrastructure have also contributed to this development.

There have been encouraging changes in the types of ownership structure among company registrations since January 2000. The share of companies registered as sole proprietorships has fallen from 64 percent of the total before the Enterprise Law to 34 percent. Joint stock companies increased their share most dramatically over the same period, from 1.1 percent to 10 percent. In absolute numbers, about 7,000 joint stock companies has been registered - nearly ten times the number registered over the previous nine years.

In the period 2000-2017, the private sector in Vietnam has increased their capital investment 100 times, increased the employment 7 times and contributed to budget revenue more than the FDEs, according to CIEM.⁹

A negative feature with the development of the private sector in Vietnam is the bad habit of relying on ‘connections’ (in Vietnamese ‘quan he’) when doing business. This is often important in Vietnam for rent seeking and in order to get access to land, timber, minerals and other assets, even to get tax reductions, tax holidays etc. This is nothing but bribery and corruption and has given additional ammunition to party members that have been critical of an expanding private sector.

Table 3 Ownership Shares of GDP, Employment and Industrial Output

	Share of GDP (current prices)			Share of Employment		Share of Gross Industrial Output	
	1995	2005	2009	2005	2009	2005	2009
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0
STATE	40.2	38.4	35.1	11.6	10.5	25.1	18.5
NON-STATE	53.5	45.6	46.5	85.8	86.1	31.2	37.1
Collective	10.1	6.8	5.4	0.7	0.3	0.4	0.3
Private	7.4*	8.9	11.0	5.5	6.4	22.7	30.0
Households	36.0	29.9	30.1	79.6	79.4	8.1	6.8
FDI	6.3	16.0	18.3	2.6	3.4	43.7	44.4

* Includes ‘mixed ownership’

Source: Elaborated by the authors from Statistical Yearbook of Vietnam 1998 (Table 13) and Statistical Yearbook of Vietnam 2009 (Tables 17, 31 and 162)

⁹ http://www.ciem.org.vn/Content/files/2018/vnep2018/C%20C4%9018%20-Ph%20C3%A1t%20tri%20E1%BB%83n%20kinh%20t%20E1%BA%BF%20t%20C6%B0%20nh%20C3%A2n%20v%20C3%A0%20c%20C6%A1%20c%20E1%BA%A5u%20l%20E1%BA%A1i%20n%20E1%BB%81n%20kinh%20t%20E1%BA%BF%20trong%20C4%91i%20E1%BB%81u%20ki%20E1%BB%87n%20CMCN%204_0-converted.pdf

Table 4: Vietnam: Number of Enterprises/Companies by Size* and Ownership, 2008

	Total Employed	Number of Companies	Average Number Employed	Very Small Companies	Small Companies	Medium Sized Companies	Large Companies
TOTAL	8 154 850	205 689	40	114 928	84 507	2 145	4 109
STATE	20.0%	1.6%	497	0.1%	2.1%	18.5%	26.3%
NON-STATE	57.5%	95.7%	24	99.4%	93.9%	61.5%	45.3%
Collective	3.3%	6.6%	20	5.4%	8.6%	2.6%	1.3%
Private	6.9%	22.6%	12	28.4%	16.2%	4.6%	2.0%
Limited	27.2%	50.1%	22	51.7%	50.1%	27.5%	19.3%
Joint Stock with state	6.1%	0.9%	276	0.1%	1.4%	8.4%	9.5%
Joint Stock without state	13.9%	15.4%	36	13.8%	17.6%	18.5%	13.9%
FDI	22.4%	2.7%	325	0.5%	4.0%	20.1%	28.4%
100% foreign	19.7%	2.2%	348	0.4%	3.2%	17.1%	24.1%
Joint Ventures	2.7%	0.5%	222	0.1%	0.8%	3.0%	4.3%

*Very small (micro) = less than 10 employed; Small= 10-200 employed; Medium= 200-300 employed; Large=300 or more employed

Source: Elaborated by the authors from Tables 64 and 79 in Statistical Yearbook of Vietnam (GSO)

The state in Vietnam has made a relevant evolution from a central planning state to a state ruled by Constitution and laws.

The Constitution of Vietnam 2014 defined the Vietnam's State as following:

“Article 2 1. The Socialist Republic of Vietnam is a socialist rule of law State of the People, by the People and for the People. 2. The people are the masters of the Socialist Republic of Vietnam; all state powers belong to the people whose foundation is the alliance between the working class, the peasantry and the intelligentsia. 3. The State powers are unified and delegated to state bodies, which shall coordinate with and control one another in the exercise of the legislative, executive and judiciary powers.”

This article clearly rejected the idea of three divisions of power.

“Article 3 The State guarantees and promotes the People's mastery; acknowledges, respects, protects and guarantees human rights and citizens' rights; implements the objectives of prosperous people, state powers, democracy, justice, civilisation, and all that people enjoy that is abundant and free for a happy life with conditions for all-round development. Article 4 1. The Communist Party of Vietnam - the Vanguard of the Vietnamese working class, simultaneously the vanguard of labourers and of the Vietnamese nation, the faithful representative of the interests of the working class, labourers and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the leading force of the State and society. 2. The Communist Party of Vietnam maintains close ties with the People, serves the People, submits to People's supervision and is accountable to the People in its decisions. 3. All organisations and members of the Communist Party of Vietnam operate within the framework of the Constitution and the law.”

So far there is not yet any law promulgated on the leadership of the CPV and is also not on the agenda for the future.

On the economic system the Constitution stated:

“Article 50

The Socialist Republic of Vietnam builds an independent and self-reliant economy which shall promote its internal resources, international integration and cooperation and closely connects with cultural development, practices social progressiveness and equality, protects the environment and exercises industrialisation and modernisation of the country

Article 51

1. The Vietnamese economy is a socialist-oriented market economy with multi-forms of ownership and multi-sectors of economic structure; the state economic sector plays the leading role.

2. All economic sectors are important constituents of the national economy. Participants in different economic sectors are equal, cooperate and compete in accordance with the law.”

The term of the “state economic sector” (kinh tế nhà nước) has been firstly applied since the VIIth. National Congress of the CPV (1996) in difference to the previously used term “state operated economy” (kinh tế quốc doanh), it has been identified as following: state ownership on land and natural resources, state budget and state foreign reserves. The “leading role of the state economy” has been elaborated as “the important material power and instrument of the state to fix the direction and keep the macroeconomic balance of the national economy”¹⁰

¹⁰ http://www.hids.hochiminhcity.gov.vn/web/guest/cac-khu-vuc-kinh-te?p_p_id=EXT_ARTICLEVIEW&p_p_lifecycle=0&p_p_state=normal&p_p_col_id=center-top&p_p_col_count=1&EXT_ARTICLEVIEW_struts_action=%2Fext%2Farticleview%2Fview&EXT_ARTICLEVIEW_groupId=13025&EXT_ARTICLEVIEW_articleId=49731&EXT_ARTICLEVIEW_version=1.0&EXT_ARTICLEVIEW_i=4&EXT_ARTICLEVIEW_curValue=1&EXT_ARTICLEVIEW_redirect=%2Fweb%2Fquest%2Fcac-khu-vuc-kinh-te

But the efficiency of state-owned enterprises (SOEs) is low, its share 28% of GDP but contributes only 22% of revenues of the state budget. The rate of return and other criteries of SOEs are lowest compared to the private enterprises¹¹ The Government had the strategy to develop the stae-owned conglomerates to the “iron fists of the national economy” but nearly all major state-owned conglomerates have been punished because of corruption charges or wastefulness like PetroVietnam, Chemical Conglomerates, Vietnam Electricity (EVN), Vietnam Coal and Mineral Conglomerates etc. The out standing debts of the SOEs reached USD billion 73 (2016)¹². Ministry of Industry and Trade (MOIT) alone has 12 inefficient investment projects, several leading officials of the SOEs faced criminal charges and prosecutions¹³

The restructuring plan of the SOEs proceed very slowly.

“Equitization (privatization) has been at the core of the policy debate in Vietnam over the last decade but the government’s attitude seems ambivalent. On the one hand, equitization is emphasized in policy statements. On the other, the progress on equitization has been relatively modest and SOEs continue to dominate the Vietnamese economy.” (Sjöberg 2006)

When it comes to state vs. non-state, or private, sector Communist Party leaders on the one hand argue that the “private enterprises shall be an engine of growth and development in Vietnam” but in they also make it clear that “SOEs shall continue to play a leading role in the economy” (CPV 2000, 2017).

Recently, the Vth.Plenum of the CPV’s Central Committee of the XII Legislative Periode (2017) adopted the Resolution considering “the private as a

¹¹ <https://bnews.vn/hieu-qua-san-xuat-kinh-doanh-cua-doanh-nghiep-nha-nuoc-con-thap/101442.html>

¹² <https://news.zing.vn/doanh-nghiep-nha-nuoc-dang-ganh-so-no-1-6-trieu-ty-dong-post846322.html>

¹³ <http://vneconomy.vn/12-dai-du-an-nganh-cong-thuong-da-giam-no-124-ty-dong-20181017183810565.htm>

driving force for the market economy with socialist orientation in Vietnam”, marking a positive political move. In 2016 the private economic sector contributed 38.6% of GDP (among them, legally registered companies shared 8.2% GDP, the household sector contributed 30.43% GDP). Very importantly, 25% of private registered companies are led or headed by female leaders, much more higher to the regional average in South East Asia by 8%, improving significantly to gender equality in Vietnam. The private sector employs 51% of the total employment and creates 1.2 million new employment per annum.

Shares of Economic Sectors in GDP (i%n): High share of Household Sector
Source: GSO

	2005	2006	2007	2008	2009	2010	2011	2015
Total	100	100	100	100	100	100	100	100
Share of Economic Sector								
State Sector	37,6	36,7	35,3	35,1	34,7	33,5	32,7	35,69
Non-State Sector	47,2	47,2	47,7	47,5	48,0	48,8	49,3	49,3
Collective Sector	6,6	6,3	6,1	5,9	5,8	5,3	5,2	5,0
Private Sector (registered)	8,5	9,0	9,7	10,2	10,5	10,7	10,9	7,88
Household Sector	32,1	31,9	31,9	31,4	31,7	32,8	33,2	31,33
FDI	15,2	16,1	17,0	17,4	17,3	17,7	18,0	20,1

Big private conglomerates emerge, investing into car industry like the first Vietnamese Vinfast car from the Vingroup or the Hoa Phat steel producer etc.

The Truong Hai Group has the highest value-added assembly line of the South Korean Hyundai while no SOE is present on the car production. Similarly, the state-owned Steel conglomerate Thai Nguyen stands on the brink of bankruptcy,

several leaders of this conglomerate faced criminal charges while the private steel producer Hoa Phat is flourishing and expanding its market share.

A negative feature of the development of the private sector in Vietnam is the habit of relying on ‘connections’ (in Vietnamese ‘quan he’) when doing business. This is often important in Vietnam for rent seeking and in order to get access to land, timber, minerals and other assets, even to get tax reductions, tax holidays, permission for import and exports etc. This is nothing but bribery and corruption from the related state officials.

Regardless progress on market economic development, the Vietnam’s Government still had 11.667 masterplans in 2017, controlled by the ministries and local government agencies¹⁴, highly restricting market mechanism (e.g. masterplan on cement, masterplan on catfish production ...). These masterplans impose restrictions and conditions to make business. The newly promulgated Law on Masterplan¹⁵ and in force on 01.01.2019 reduce significantly the number of masterplans and open more room for market operations.

¹⁴ <http://baodauthau.vn/dau-tu/de-xuat-bai-bo-dung-nhieu-quy-hoach-76539.html>

¹⁵

http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=1&mode=detail&document_id=192206

An important task has also been to reform the SOEs, many of which have proven to be grossly inefficient.

The Government started a pilot equitization program in 1992 that was extended in 1996 with a formal decree on equitization. The decree targeted so-called non-strategic SOEs that were allowed to become joint-stock companies. The equitization process was very slow and at the beginning restricted to limited number of non-profitable SOEs (until 1998 only 18 SOEs had been equitized). One reason was that there was a lot of resistance to equitization from many vested interests, above all SOE managers. Many managers saw changing ownership structure as a threat since they would be faced with tougher demands (no longer any 'soft budget constraints') and other changes.

The main objective of the SOE reform in Vietnam was at the outset to consolidate the role of the SOEs in the economy, by making them more competitive, rather than privatizing them. As a means to reach this objective the Government set in 1994 up 18 General Corporations (GC) and 64 Special Corporations (SC), acting as large conglomerates with SOEs belong to what was considered strategic industries, or specific geographical areas. Later on, with the State Owned Enterprises Law of 2003, the Government also decided launch a pilot project, establishing five so-called Economic Groups (EC): Post & Telecommunications, Textiles, Ship Building, Coal and Minerals, and the Bao Viet Financial Group (Sjöholm 2006).

The Government established the Commission for the Management of State Capital at Enterprises, (CMSC) on March the 2 2018 to distinct between the administrative role of the ministries from the management of state capital in SOEs, reduced the power of the line ministries on capital management, hoping to enhance the efficiency of this huge state's capital in the SOEs.

The role and functions of the state in Vietnam have been changing dramatically. The domestic private sector required legal framework and

financial institutions, private banking system, financial company and credit cooperatives have been established.

The Vietnamese Government – and the Communist Party – are becoming increasingly aware of this importance and gradually providing an appropriate legal framework:

In 2001 the Government published a Decree, whereby it recognized that *”Development of SMEs is an important task in the Socio-Economic Development Strategy, accelerates the industrialization and modernization of the country”*

Furthermore, *”The State shall encourage and facilitate SMEs release their initiatives and creativity, improve their managerial capacities and develop their science, technology and human resources”*

”The Government shall support the investment (of SMEs) through financial and credit measures”

The establishment of a *”Credit Guarantee Fund to guarantee credits to SMEs that do not have sufficient collateral, mortgage to get loans from credit institutions”*

In a new Decree in 2009 the Vietnamese Government went further by setting up a Council for Encouragement of Development of SMEs, directly under the Prime Minister.

These steps have led to significant economic and social changes in Vietnam. State agencies and state officials, public servants have to operate in the framework of legal regulations. Planning agencies still existed but had no more strong power to distribute materials for enterprises. State agencies had no more power to intervene into business operations of SOEs and private companies but they still had a lot of “licences”.

The state had to learn how to regulate demand and supply and keep macroeconomic balances, controlling credit and inflation.

Also the functions and operations of the members of the “political system” have to accommodate to this quick development.

The “political system” in Vietnam includes:

- The Communist Party of Vietnam (CPV), according to Paragraph 4 of the Constitution of the Socialist Republic of Vietnam (2013) “plays the leading role” in the State and the society.
- The State in Vietnam includes the National Assembly, The President, the Judiciary with the highest judicial organ is the Supreme People Court, the Prosecutor with the Supreme People Prosecutor, the Fatherland Front described as the “political base of people’s power” including the main member organisations as the Vietnam Confederation of Labour, Vietnam Farmers Union, The Ho Chi Minh Youth Union, The Vietnam Women Union etc. The State Budget in 2015 paid for these mass organisations VND billion 1.615,710 VND, for all other mass organisations the State Budget spending could reach 1-1.7% of GDP, higher than Budget financing for science and technology.¹⁶

Most important is the leadership of the CPV at all mass organisations.

- This political system is organised at all four level : central-provincial-district-ward or commune.

In this political system the role of the civil society has been not identified, even the use of the term “civil society” is not tolerated and considered as an instrument for ”peaceful evolution to overthrow the current political system”.

The Law on Association has been drafted since 20 years but has been never presented to the National Assembly.

¹⁶ <http://www.vusta.vn/vi/news/Tu-van-phan-bien-GDXH/Can-phan-biet-chi-ngan-sach-cho-cac-doan-the-va-cac-hoi-60121.html>

The Law on Demonstration has been never included into the agenda of the laws need to be prepared.¹⁷

The distinction of role and functions between the Communist Party and the State must be clarified and implemented in practice.

Vietnam faces rising inequality , according to Oxfam, the richest 10 percent of people had an income 1.74 times higher than the poorest 40 percent.¹⁸ There is no public control on revenue and assets of civil servants and state officials as well as their family members.¹⁹

The state in Vietnam faces huge challenges on over-staffing, low efficiency and high budget deficit.

The total staff need to be paid from the state budget reach 2.6 million (not included army and security staff) or 4.8% of the total population.²⁰ Premier Minister Nguyen Xuan Phuc him self expressed the evaluation that “ca.30% of the staff are useless”.(see ref.16). The Government promulgated resolution to reduce the staff by 10%, e.g. in 2018, 86.300 staff members have been reduced, among them 12.400 public officials.²¹

The state budget of Vietnam faces high deficit for decades. Public debt continued to increase. According to the Ministry of Finance, the share of current expenditures in 2018 has been reduced to 63.8% of total expenditures (in 2017 its was 64.1%).

According to Vu Quang Viet the real budget deficit is higher than the officially published data, e.g. for 2017 must be 5.5% GDP and not 4.1%.

According to Vu Quang Viet, Government's debt in 2016 reached USD billion 131 or 63.9% GDP. The debt of the SOEs in 2016 reached USD billion 324. The total outstanding debt of the

¹⁷ <https://dantri.com.vn/xa-hoi/luat-bieu-tinh-dat-ra-tu-lau-nhung-lai-chua-xay-dung-20180530141343814.htm>

¹⁸ https://www-cdn.oxfam.org/s3fs-public/file_attachments/bp-vietnam-inequality-120117-en.pdf

¹⁹ <http://tapchitaichinh.vn/tai-chinh-phap-luat/kiem-soat-tai-san-thu-nhap-trong-phong-chong-tham-nhung-300110.html>

²⁰ <https://vnexpress.net/goc-nhin/viet-nam-dong-cong-chuc-vien-chuc-nhat-dong-nam-a-3669338.html>

²¹ <http://dangcongsan.vn/thoi-su/ca-nuoc-giam-86-300-bien-che-501849.html>

Government and SOEs in 2016 reached USD billion 431 or 210% GDP.²²

The Government reduced budget spending by applying the concept of so-called “socialization” (xã hội hóa) public services by imposing “financial autonomy” to some public hospital, transferring costs to public hospitals and schools. For example, from 55 public hospitals in Ho Chi Minh-City, 9 have to cover all their current costs, 43 cover certain shares of their operation costs and only 3 of them will be covered by the state budget.²³ The outcome is clear, the patient has to pay the costs. This is a big burden for poor people without social insurance.

Wealthy people are paying on average USD billion 2 for health care services abroad, according to the Minister of Health. To another side, every year 300.000 foreigners are seeking health services in Vietnam and health tourism should be a development target for the Ministry of Health.²⁴

Public schools collect payments from the parents of the students at the beginning of the school year to cover various costs to run the schools. Parents are complaining about the high payments, covering around 15 various cost lines of security staff to computer etc.²⁵

In order to reduce the costs, the average number of students in a class of a public school could reach 60-65. The teacher could hardly control such high crowd of young pupils.

Wealthy Vietnamese increasingly sending their children to study abroad, nowadays, ca. 150.000 Vietnamese students are studying abroad, requesting a payment of USD billion 3/annum.

During the more than 30 years of Doi Moi (Renovation) process, Vietnam has implemented formally all elements of a “market system with socialist orientation”, allowing the private sector to emerge and grow to certain level in certain areas, but most of the private business remain small as a household, family business.

²² <https://www.thesaigontimes.vn/282501/Ngan-sach-nha-nuoc-dang-sau-cac-con-so.html>

²³ <http://dangcongsan.vn/khoa-giao/day-manh-tu-chu-va-xa-hoi-hoa-trong-nganh-y-te-427653.html>

²⁴ <https://tuoitre.vn/nguoi-benh-vn-chi-2-ti-usd-nam-di-nuoc-ngoai-kham-chua-benh-20190115180355785.htm>

²⁵ <https://giaoduc.net.vn/Goc-nhin/Quai-thai-cua-xa-hoi-hoa-giao-duc-la-lam-thu-post179658.qd>

The state sector should play as “ the leading role”in the economy and enjoy monopolistic positions in many fields of the economy:

Monopolies of State-Owned Enterprises

Industry	Market Share (1999,%)	Market Share (2003, %)
Electricity	94	92
Coal	97	98
Paper	50	70
Cigarettes	63	N/A
Cements	59	55
Steel	64	52
Chemical Fertilizers	N/A	90
Rubber	N/A	69
Petroleum Products	N/A	100
Basic Chemicals	N/A	99
Gasoline	N/A	100
Rail Transportation	N/A	100
Air Transportation	N/A	90
Commercial bank credit	70	65
Exports	30	25.3

The Government has to implement the political concept of the CPV on “market economy with socialist orientation” according to the principle “collective leadership combined with personal responsibility”. The CPV decides on all political issues, there is de-facto no clear “ personal responsibility”. Famous example was the collapse of the huge state-owned conglomerat Vinashin (Ship Building }, the National Assmebly requested “personal responsibility” from Premierminister Nguyen Tan Dung. But he claimed that “all decisions have been approved by collective resolutions”, and “ my position has been endorsed by the Party”, rejecting the call for resignation²⁶

The CPV exercises its leadership in all domains of the political system and there is no “devision of power” between legislative, administrative and judicial power”²⁷. Personal decisions on politicians and leading personels of the state are made by the CPV

²⁶ [BBC Vietnamese - Kinh tế - Thủ tướng Dũng 'không sai' về Vinashin](#)

²⁷ <https://anninhthudo.vn/chinh-tri-xa-hoi/tam-quyen-phan-lap-khong-phu-hop-voi-the-che-chinh-tri-o-nuoc-ta/515038.antd>

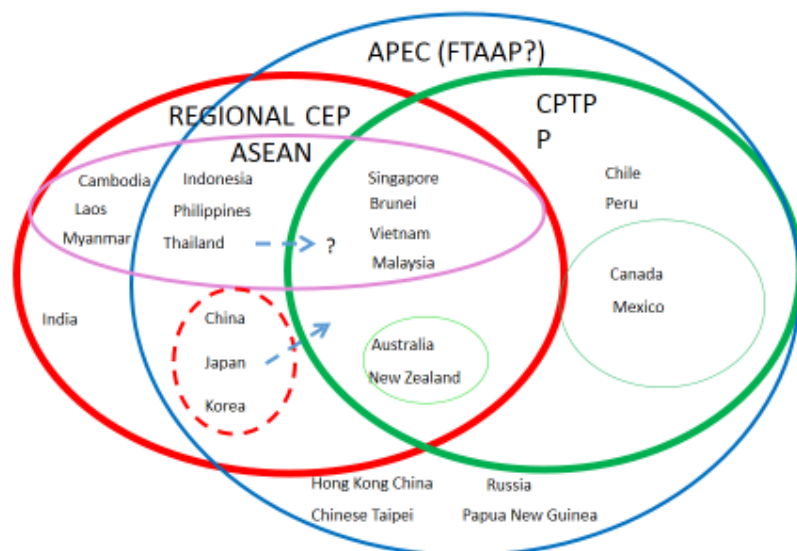
without transparency and openness. The CPV is controlling the press, the mass media and cyber activities.

The CPV is controlling the prosecution and the judges, the police. There is de-facto no counter balance of power of the CPV, the Commission of Control and Inspection of the CPV is reporting to the CPV-Committee at the same level and is not autonomous.

This political structure remains unchanged by the transition to “market economy with socialist orientation” as international integration, joining the WTO were important milestones on institutional reforms in Vietnam. In order to join the WTO, Vietnam had to amend several laws, e.g. moving the Law on State-owned enterprises to one Chapter of the Enterprise Law 1990, unify the Law on Promotion of Domestic Investment and the Law on Foreign Direct Investment to one Law on Investment etc.

Vietnam has joined the CPTPP (Comprehensive Progressive Trans Pacific Partnership) and preparing to sign the RCEP (Regional Comprehensive Economic Partnership) to the end of 2019.

Next Steps of International Integration in Asia-Pacific



Vietnam has signed FTAs (Free Trade Agreement) with 15 economies in the framework of 6 regional ASEAN agreements: AFTA (ASEAN Free Trade Agreement), ACFTA (ASEAN-China FTA), AKFTA (ASEAN-Korea FTA), AJFTA (ASEAN-Japan FTA), AANZFTA (ASEAN-Australia-New Zealand FTA).

Vietnam and the EU has signed the EVFTA (EU-Vietnam FTA) on December the 1 2015, both sides have officially published the whole text of the EVFTA on December the 1 2016 and need to be passed by Parlements from 27 EU-members as well as from Vietnam.

By signing the CPTPP and EVFTA Vietnam has made bold, unprecedented commitments on labor rights, SOEs, Government procurement, transparency and openness and by that way change legal framework on these for Vietnam sensitive issues.

Vietnam's economy is mainly complementing to the member economies of CPTPP and EVFTA and less competing with them. Viet Nam can expect to benefit immediately in trade, with the majority of members eliminating tariffs on textiles and footwear upon entry.

The CPTPP, together with the EU-Vietnam Free Trade Agreement (EVFTA), includes specific requirements on the freedom of association, the rights for collective bargaining and work conditions to ensure that the free flow of trade will contribute to sustainable development and enable workers and businesses to enjoy their fair share of economic gains, according to the International Labour Organisation (ILO).

In years after the CPTPP comes into effect, it is expected workers will be allowed to establish or join organisations of their own choosing, which can choose whether they will be part of the Vietnam General Confederation of Labour (VGCL) or remain autonomous.

Vietnam has to amend the Labour Law to make it fall in line with some contents of the CPTPP and make its commitments about labour more concrete. On April the 28 2019 the MOLISA (Ministry of Labour - Invalids and Social Affairs) published the second draft of the Labor Law, allowing collective bargaining and free trade union organisation at the enterprise level.²⁸

It is expected to take three to five years for Vietnam to amend the law and its related regulations, and to improve awareness among the public, workers and enterprises.

Việt Nam is reviewing the legal framework for the ratification of the ILO Convention 98 on the Right to Organise and Collective Bargaining.

²⁸ <http://duthaovanban.molisa.gov.vn/detail.aspx?tab=2&vid=650>

The ratification will be expected to be submitted to the National Assembly for approval in 2019.

Further commitments include government procurement, competition, SOEs and monopolies, intellectual property rights, transparency and anti-corruption, customs regulations. The implementation of these commitments The Government has adopted an Action Plan to implement the CPTPP commitments.

Regardless several progresses, the public administration system in Vietnam remain less transparent and open, accountability is not yet clearly defined.

This system has severe consequences for the efficiency of the state investment and corruption. Regardless some progress on business environment:

The Doing Business in Vietnam 2019 Report of the World Bank highlights the main indicators of the regulations in Vietnam in international context:

Topics	DB 2019 Rank	DB 2019 Score	DB 2018 Score
Overall		69	68.36
Starting a Business		104	84.82
Dealing with Construction Permits		21	79.05
Getting Electricity		27	87.94
Registering Property		60	71.09
Getting Credit		32	75.00
Protecting Minority Investors		89	55.00

Topics	DB 2019 Rank	DB 2019 Score	DB 2018 Score
Paying Taxes		131	62.87
Trading across Borders		100	70.83
Enforcing Contracts		62	62.07
Resolving Insolvency		133	34.93

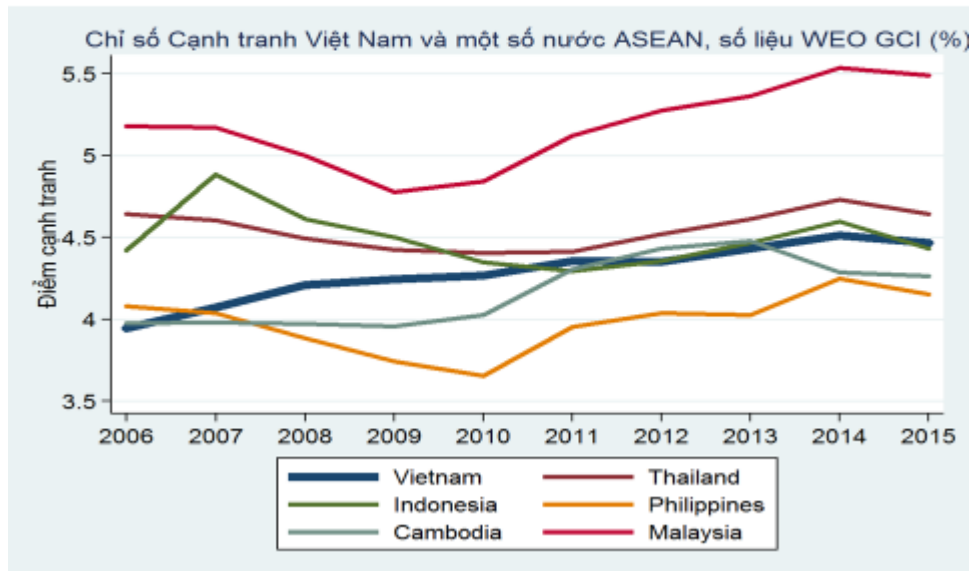
Several criterias related to state's institutions have low rankings.

The GCI (Global Competitiveness Index) 2018 published by the World Economic Forum, Vietnam ranks at 77th position among 140 economies, but the criteria institutions ranks at 94th position, very much lower than the overall ranking of the economy.

Performance Overview Key ◇ Previous edition ▲ Lower middle income group average □ East Asia and Pacific average
2018



GCI (Global Competitiveness Index of Regional Economies)



Vietnam's Government aimed to improve its ranking to the level of ASEAN-4.²⁹

The General Secretary of the CPV and President of the Vietnam's State personally has led an unprecedented anti-corruption campaign in the country history. In the past two years 2017-2018, 35000 members of the CPV have faced penalties and punishments, among them 10 current or former members of the Central Committee and one member of the Polit Bureau of the Central Committee. This campaign find strong support from the people.

Regardless such efforts, Vietnam's ranking on Corruption Perception Index remain low:

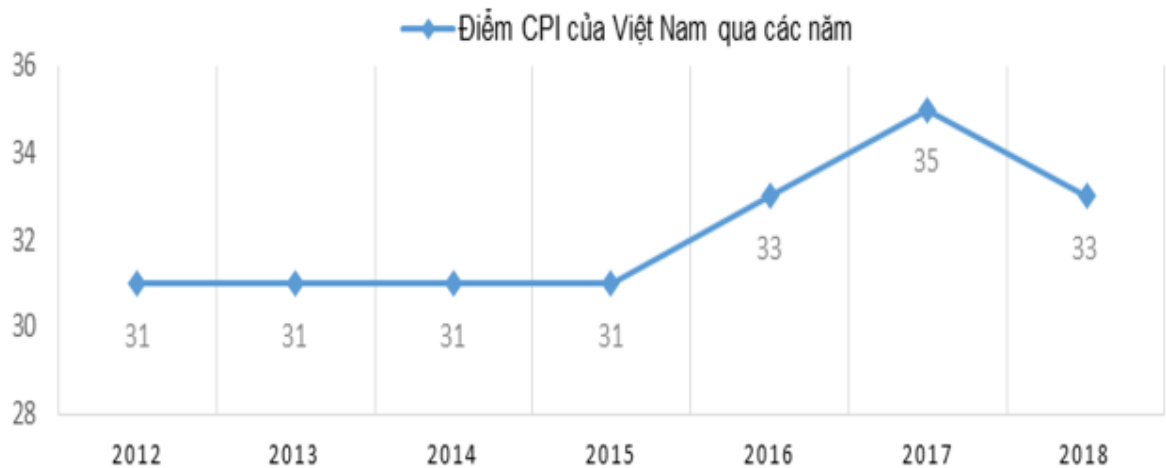
²⁹ <https://baodautu.vn/muon-vao-top-trung-binh-asean-4-viet-nam-phai-tang-39-bac-ve-moi-truong-kinh-doanh-d56772.html>

Ranking of CPI of Vietnam from 176 economies in 2007-2016



The score of Vietnam's CPI showed that according to Transparency International (TI) Vietnam made very limited progress:

Corruption Perception Index (CPI) of Vietnam 2018 compared to 2017: lost 2 points, declined 10 ranks, at 117/176 economies



Seemingly, Vietnam has to reform its institutions to allow efficient control of power.

Vietnam has made efforts to develop the digital economy. Among 96 million Vietnamese there are 64 millions Internet users and 57% of the population have Internet accounts, 85,1% of businesses are connected with Internet. 98% of administrative agencies are connected to the Internet. To develop an e.Government Vietnam has to connect the data of various agencies at all four level of the state administrations.

As an highly open economy in terms of international trade (total export and import share 210% GDP), Vietnam needs to catch-up on digital economy to join the value-chain and international cooperation.

Various Evaluations on Digital Economy (AT Kearney)

	UN ICT Index (2013)	Digital economy rank (EIU, 2011)	Digital Evolution Index* (Tufts University, 2013)
ASEAN			
Singapore	16	8	I – Stand out
Brunei	65		
Malaysia	71	35	II – Break out
Thailand	81	49	II – Break out
Vietnam	101	62	II – Break out
Philippines	103	54	II – Break out
Indonesia	105	65	IV – Watch out
Cambodia	127		
Laos	124		
Myanmar	150		
Select peers			
United States	14	3	I – Stand out
China	86	56	II – Break out
India	129	58	II – Break out
Group averages			
EU	18	23	
GCC	38	42	
NAFTA	44	18	
MERCOSUR	78	48	

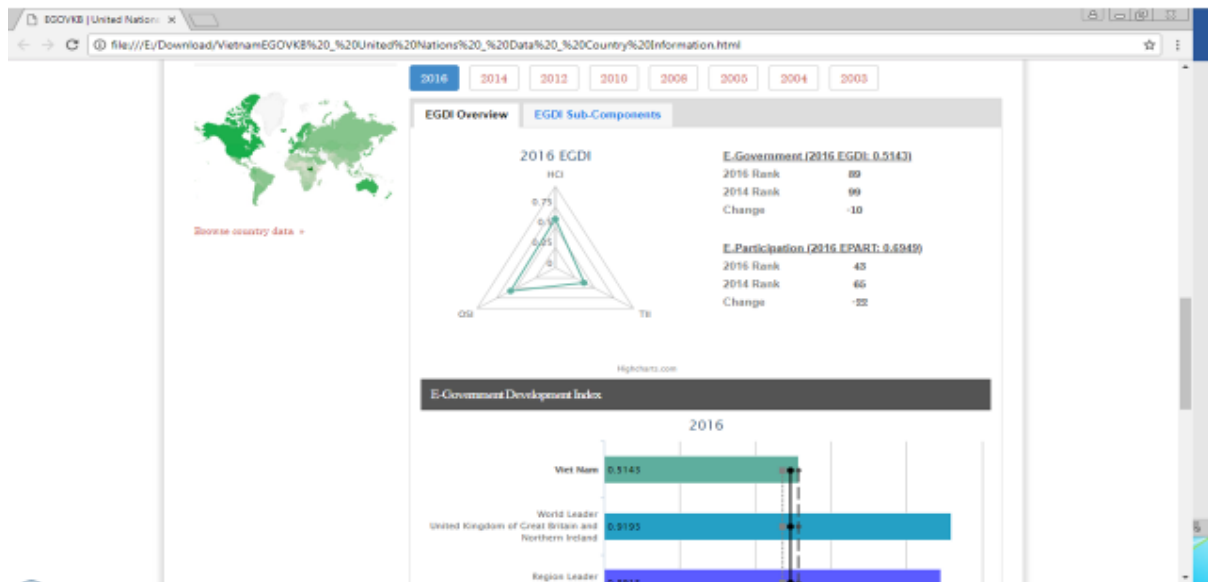
According to the the Digital Evolution Index published from the Tufts Unversity, Vietnam’s position is as following:

Ranking in Digital Evolution Index (DEI) 2017, Vietnam at 48/60 economies, score 2.19/5 (Tufts University)

Country	Rank	Score	Country	Rank	Score
USA	30	3.81	Zimbabwe	60	2.01
Australia	5	3.58	Botswana	41	2.41
Canada	12	3.55	Thailand	42	2.39
Netherlands	11	3.55	South Africa	43	2.38
New Zealand	14	3.54	Colombia	44	2.37
Japan	6	3.53	Indonesia	45	2.35
Sweden	35	3.41	Brazil	46	2.31
Germany	17	3.39	Hong Kong	47	2.23
Belgium	38	3.32	Vietnam	48	2.19
Austria	32	3.29	Dominican Republic	49	2.15
France	29	3.25	Peru	50	2.12
Estonia	21	3.24	Philippines	51	2.09
UAE	23	3.22	Kenya	52	1.97
Israel	25	3.18	India	53	1.95
Portugal	24	3.07	Egypt	54	1.74
Spain	26	2.94	Nigeria	55	1.72
Mexico	36	2.91	Ghana	56	1.69
Costa Rica	27	2.90	Algeria	57	1.64
Latvia	28	2.89	Cameroon	58	1.61
Slovenia	29	2.89	Bahrain	59	1.54
China	39	2.81	Bangladesh	60	1.51

According to the UNPAN (United Nations Public Administration Network) the ranking of the E.Government is:

E.Government in Vietnam ranks at 89/193 economies, UNPAN (2016)



There is no doubt that the evolution of the Vietnam's state will continue to ensure a sustainable development in this country.

