TIỀN LÀ TIỀN LÀ PHẬT: [1]

INVESTIGATING THE PERSISTENCE OF CORRUPTION

IN VIETNAM

By

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[1] Money is as powerful as God and Buddha

ABSTRACT

This research aims to examine the persistence of corruption in the public sector in Vietnam and explain why anti-corruption measures have been unsuccessful. It seeks to capture people's lived experience of corruption in Vietnamese society and their perception of the failure of anti-corruption measures. It demonstrates what government officials and ordinary citizens think about corrupt practices and how they explain corrupt behaviour. The research also draws a clearer picture of Vietnam's anti-corruption system, the weaknesses of the Anti-Corruption Law (ACL) and its implementation, from insiders' perspectives. The research illuminates some factors identified in the literature that need to be better understood when dealing with corruption: historical, cultural, economic, administrative and political factors.

This project situated Vietnam's anti-corruption strategy within Jon Quah's analytical framework, which identifies elements he argues are needed for an effective anti-corruption strategy in any country. Those elements include a set of formal, legal, and institutional instruments, and the need for political will, especially from governmental leaders.

A qualitative approach is applied to examine corruption in the public sector in Vietnam. The main data was gathered by in-depth, semi-structured interviews and from official documents. Different groups of participants - specialists in the anti-corruption field including politicians, high-ranking government officials, journalists, academics, international organisations, and NGOs - were interviewed. Vietnamese citizens also were interviewed; all had experienced corruption in their daily life.

The findings suggest an institutional anti-corruption framework, while necessary, cannot adequately deal with the multi-factor causes of corruption in Vietnam. Moreover, "political will" is not only about providing Anti-Corruption Agencies with enough resources, nor about their institutional arrangements, but also about politicians being willing to support the institutions they have created and to reinforce their effectiveness by making hard political decisions. The essential elements of political will in fighting corruption involve not only the institutional framework (the top-down approach) but also society as a whole (the bottom-up approach).

The thesis concludes that corruption in the public sector in Vietnam is the product of a complex mix of state institutions, elite political behaviour, social, cultural, economic and management factors. These are at the root of the corruption problem in the country, but they

have not been seriously addressed. The current anti-corruption system needs to be reformed if it is to become more effective. Policy attention also needs to shift to the design of effective incentives for the populace to resist succumbing to bribe demands. This "citizen resistance" will, in fact, make governments more accountable for taking effective action against both grand and petty corruption.

ACKNOWLEDGEMENTS

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

APPENDIXES

LIST OF ACRONYMS

AC	Anti-corruption
ACA	Anti-Corruption Agency
ACL	Anti-Corruption Law
ADB	Asian Development Bank
CSCAC	Central Steering Committee on Anti-corruption
CECODES	Centre for Community Support Development Studies
CPV	Communist Party of Vietnam
CPI	Corruption Perceptions Index
GoV	Government of Vietnam
GDP	Gross Domestic Product
IACA	Independent Anti-corruption Agency
IMF	International Monetary Fund
NA	National Assembly of Vietnam
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
PCC	Party Central Committee
PERC	Political and Economic Risk Consultancy
PAPI	Provincial Governance and Public Administration and Performance Index
SPC	Supreme People's Court
SPP	Supreme People's Procuracy
TI	Transparency International
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
VND	Vietnamese Dong
VFF	Vietnamese Fatherland Front

Currency equivalents: (Exchange Rate Effective as of 1 September, 2016)

Currency Unit = Vietnamese Dong

USD $1.00 = 22,300 Dong

CHAPTER 1: INTRODUCTION

"Corruption = monopoly + discretion – accountability" (Klitgaard, 1988)

1.1. Motivation for study

The academic study of corruption has grown exponentially in the years since James D. Wolfensohn, President of the World Bank, spoke of corruption as cancer in 1996. Before that date, the World Bank considered the problem of corruption to be too political to be addressed (Polzer, 2001). Since then, there has been an explosion of debate among international organisations, governments, NGOs and academics about the negative impact of corruption on the economic and social development of countries, their legal systems, and democracy.

The World Bank declared that corruption is "the single greatest obstacle to economic and social development. It undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends" (World Bank, 2004). Similarly, Transparency International (TI) has identified corruption as one of the greatest challenges of the contemporary world: "It undermines good governance, fundamentally distorts public policy, leads to the misallocation of resources, harms the public sector and private sector development and particularly hurts the poor" (Transparency International, 1998). High levels of corruption not only reduce investment but undermine development in most countries already facing ineffective governance. In short, no nation is left undamaged by its consequences.

Although corruption is a global phenomenon, developing countries are particularly at risk (Olken & Pande, 2012). It is seen not only as an economic issue but one that is intertwined with politics. As someone who was born and raised in Vietnam, the researcher can vouch for the widespread view among Vietnamese people, the media and the academic community that corruption in Vietnam remains a serious problem, even though the Vietnamese government has put in place measures to address corruption (see also CECODES, 2008; Gainsborough, Dang, & Tran, 2009; Vietnamnews, 2016). In fact, the country's leaders are acutely aware of this problem. Significantly, Nguyen Phu Trong, the Secretary General of the Communist Party of Vietnam (CPV), has admitted that corruption is rampant in Vietnam and is a threat to the

continued survival and legitimacy of the CPV (Hoa, 2012). Although the Party is aware of it and has taken some actions to control it, corruption is still prevalent and does not seem to be declining. In fact, despite the government's efforts to grapple with this deep-rooted problem, corruption only seems to be becoming more endemic. The fact that corruption accounts for the loss of three to four percent of GDP per annum in Vietnam clearly underlines how fast it is eroding the country's economy (Quah, 2006b, p. 8).

Corruption in Vietnam takes many forms and occurs at all levels of society, and it appears that both the types and the amount of corruption have been on the rise in recent years (Doig, Dao, & Hoang, 2013). In general, petty corruption cases have not received the same level of attention as grand corruption, despite the fact of media coverage about the widespread practice of giving "gift envelopes" to authorities in schools, hospitals, the police, and elsewhere. According to one nationwide survey conducted in 2008, an ordinary person in Vietnam pays about VND 7.5 million (USD 366) as some form of bribe each year, seven times higher than the current minimum salary (CECODES, 2008). A Vietnamese Household Living Standard Survey (World Bank, 2010, p. 26) reported that 65% of respondents declared corruption to be a problem for their family. Moreover, 44% of citizens perceived corruption to be serious or extremely serious, while only one percent of the survey's respondents perceived corruption not to be a problem at all.

Particular cases of corruption at times have led to violence, for example in the several waves of rural fighting that have taken place since the late 1990s. One well-known incident was the Thai Binh case, which resulted in the destruction of some corrupt officials' houses (Painter, 2003). Other notable cases include that of the fish farmer Doan Van Vuon in Hai Phong city (Transparency International, 2013b), and that of the farmers in Van Giang, Hung Yen, where the villagers violently confronted local government officials who confiscated their land forcibly (Kimura, 2016).

However, as noted above, countries all over the world face issues with corruption and strive to reduce its negative impact. Just as in the other regions of the world, the fight against corruption in the Asia-Pacific has been driven internationally. Governments across the region have been committed to cooperating with one another to curb corruption, ever since they launched the Anti-Corruption Initiative for Asia-Pacific in 1999. That is managed by the joint leadership of the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development (OECD) (see ADB, 2013). The Anti-Corruption Action Plan for Asia and the Pacific was developed by members of the ADB/OECD Anti-Corruption Initiative,

and this has become the main instrument the participating countries have created to build sustainable legal and institutional frameworks to fight corruption.

All the Asia Pacific countries (except North Korea) have signed or ratified UNCAC: the United Nations Convention against Corruption (UNODC, 2016). This convention is a multilateral agreement negotiated by members of the United Nations. It requires participants to adopt specific measures aimed at preventing corruption, strengthening international law enforcement and providing adequate legal instruments (United Nations, 2004b). Vietnam endorsed the Anti-Corruption Action Plan for Asia and the Pacific in 2004 and ratified UNCAC in 2009. Recently, Vietnam has received considerable technical and financial support and assistance from the ADB, the OECD, and the UNDP and other donor organisations to help to curb corruption. The Vietnamese government for its part has introduced some reform programs, which were supposed to improve public sector performance. Most importantly, in 2005 it launched the Anti-corruption Law (ACL) (National Assembly of Vietnam, 2005).

However, in the past two decades, there has been only a marginal improvement in anti-corruption performance. In Transparency International's Corruption Perceptions Index (CPI), Vietnam was ranked 112th least corrupt of 165 countries and territories in 2015. For its perceived levels of public sector corruption, Vietnam received a score of 31 on a scale from 0 to 100, where 0 indicates "highly corrupt" and 100 represents "very clean" (Transparency International, 2015). Similarly, as evaluated by Political and Economic Risk Consultancy (PERC) during the 10-year period, perceptions of corruption have indicated little progress. Vietnam scored 7.91 in 2006, and 8.24 in 2015 (on a scale of 1-10, where 10 means the highest level of perceived corruption). Among 15 other Asian and Pacific countries, Vietnam stood in the last place in 2015 (Asian Intelligence, 2015). In the Provincial Governance and Public Administration and Performance Index (PAPI), among almost 14,000 randomly selected citizens, only about 37% perceived that their local government was serious about anti-corruption (CECODES, VFF-CRT, & UNDP, 2015). The official figures here seem to indicate improvement, but it is only slight at best. In general, corruption is still a big problem in Vietnam.

So, a central question needs to be asked: Why are the anti-corruption measures in Vietnam so ineffective?

In order to answer this question, it can be useful to look at what other jurisdictions, which have had success in fighting corruption, have done, and to see where Vietnam fits in.

Positively, it would help to understand the persistence of corruption and the success or failure of anti-corruption measures in Vietnam. Singapore and Hong Kong have been successful in adopting institutional control methods. Their success has been critically analysed by many researchers, especially Jon S T Quah in a highly influential study (see Quah, 2013b). Here Quah undertook comparative analysis with a detailed explanation of corruption and reforms in some Asian countries to examine the relative success and failure of anti-corruption approaches. The countries presented three broad patterns of anti-corruption institutions, as he defined them (Quah, 2011). Japan is a prime example of Pattern One: here anti-corruption laws are implemented without any anti-corruption agency (ACA). India, the Philippines, and Taiwan are examples of Pattern Two, where many ACAs implement anti-corruption laws. Pattern Three involves anti-corruption legislation and a single, robust, independent ACA. This third pattern is adopted by Singapore, Hong Kong, Thailand, South Korea, Indonesia, and Mongolia.

Through an analysis of the different anti-corruption measures and a comparison of the results of the three patterns in the countries he studied, Quah argues that corruption control following Pattern Three is more efficient than the other two.[2] However, alongside this, he highlights the importance of "political will:" to ensure that a comprehensive anti-corruption policy is implemented effectively, the country needs to show a strong political will. Indeed, he claims political will is the most crucial factor for curbing corruption, even if it cannot on its own eradicate corruption completely. Quah has identified five indicators of political will: (1) a comprehensive body of anti-corruption legislation; (2) well-resourced ACAs; (3) the impartial enforcement of anti-corruption laws; (4) that anti-corruption measures are not used as a weapon against its political opponents; (5) anti-corruption efforts must be sustained, and their impact must be monitored by the government (Quah, 2015).

Other researchers may have stronger insights into corruption in Vietnam than Quah, but they do not provide what Quah sees as a coherent theoretical and conceptual framework. His institutional framework of anti-corruption is the only one that has been used systematically to

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[2] An independent ACA must have "necessary independence, in agreement with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided" (United Nations, 2004a).

study corruption in Asian countries. However, Quah has not applied his analysis to Vietnam,[3] so a principal aim of this thesis is to fill this analytical gap.

This study will use new data to situate Vietnam within Quah's framework. It will suggest that his Pattern Three may have limitations in fighting corruption, and his framework can only partly explain the continuing prevalence of corruption in Vietnam since the country is an authoritarian one-party state with a unique political, social and cultural situation. This thesis, thus, offers a systematic attempt to investigate, understand and illuminate some of the factors which make corruption (both petty and grand) a major feature of Vietnamese life. These factors (including the country's history, culture, economic management, and public administration) must be understood to explain the continuing problem of corruption in Vietnam. The critical importance of civil society and the media in fighting corruption will also be underlined in this thesis.

1.2. Thesis aims and objectives

Although a substantial amount of research on corruption in Vietnam has been carried out, there are some significant gaps. To date, few researchers have worked on the political dimensions of anti-corruption strategies, particularly the independence of ACAs and the political will needed to combat corruption effectively. This research seeks explanations for corruption in Vietnam as a particular case. It focuses on these main issues with an attempt to unpack Quah's idea of "political will" to see how far political will from the top-down is practiced in Vietnam. Equally, few studies have been done on how a bottom-up perspective is significant in controlling corruption in Vietnam. Thus, this research is designed to fill this gap by examining the bottom-up trend of political will in fighting corruption.

The existing studies do not necessarily capture people's experience of corruption in Vietnam. Therefore, this research attempts to fill this gap, with an anticipation that the findings can provide a better understanding of why corruption is so endemic and persistent in the country.

The overall intention of this research is to fill the above gaps. In doing so, it aims to investigate experiences of corruption and perception of anti-corruption success and failure in

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[3]In a personal communication with this researcher, Quah explained that he did not examine Vietnam because of difficulties in obtaining sufficient research data and other relevant information needed for his study.

Vietnam. To accomplish the research goal, this thesis specifically attempts to answer a primary research question:

Why are the institutional anti-corruption measures in Vietnam largely ineffective?

Sub-questions:

1. To what extent do the institutional anti-corruption arrangements in Vietnam embody the requirements that researcher Jon Quah argues are necessary to combat corruption in other Asian countries?

2. How does Quah's framework contribute to an understanding of the persistence of corruption in Vietnam?

3. Are there some key drivers of corruption in Vietnam that are not adequately illuminated by Quah's approach, and if so, what are they?

Considering the research questions, this research attempts to:

(1) Explore on-the-ground experiences and perceptions of corruption to understand what people think about corruption, and how government officials and ordinary citizens explain why they involve themselves in such activities and how they explain corrupt behaviour.

(2) Investigate whether or not there is any issue in existing frameworks to offer an explanation of the persistent nature of corruption in Vietnam, with particular reference to the discussion and frameworks developed by Quah. In doing so, this research will examine whether the Vietnamese anti-corruption institutional framework is designed properly to allow ACAs to function well. It also will look at whether ACAs are given enough power to deal with corruption cases independently and impartially. It will consider whether ACAs are provided with adequate resources to address corruption cases in Vietnam. This thesis will also examine how ACAs cooperate with each other in the investigation and prosecution process.

(3) Identify legislative and administrative responses to corruption in Vietnam. It attempts to find the strengths and weaknesses of the Vietnamese legal system, especially the AC legislation and management structure concerning anti-corruption. The study will explore further what gaps exist between the legal framework and real practice. To do so, it will help to explain the result of the country's efforts in reducing corruption.

(4) Map out the historical and cultural background in Vietnam, to allow a better understanding of how the deep-rooted cultural factors in Vietnamese society fertilise corruption.

The research uses semi-structured open-ended interviews with a range of different people (including politicians, government officials, investigators, journalists, academics, experts in anti-corruption and even victims of corruption). It seeks to bring a sense of "real life" from inside the ACA system by reporting what officials who are working in these agencies say and feel about corruption and anti-corruption measures in Vietnam. It asks what obstacles they face while dealing with corruption and how they can overcome these barriers.

Moreover, the research findings are intended to show how ordinary Vietnamese people experience corruption to understand the interests, values, beliefs, and perceptions of each of the intended respondents. By doing so, the research can provide a general picture of what is happening in reality and why there is large scale corruption still taking place.

This research contributes to the existing studies of corruption in two fundamental ways. First, the study is also designed to provide a basis for developing some policy changes that are unique to the Vietnamese case, and which can lead to effective anti-corruption strategies. Furthermore, it is to be hoped that this research will also pave the way for future corruption research, not only on Vietnam but also in other one-party states.

1.3. Thesis outline

The research starts with a brief review of the wider context of Vietnam in chapter 2. A country's context is of paramount importance for implementing public policies: both for the prevailing tone and for guiding implementation. The country's context may or may not help stimulate a government's efforts to fight corruption. While it may comprise various determinants, the focus here is on the factors considered to be most influential in Vietnam's anti-corruption strategy: geography, history and culture, the political system, education, economic development, civil society, and the media. Moreover, some high profile corruption cases will be highlighted. As well, the organizational structure, functions, and duties of ACAs will also be introduced briefly in this chapter.

Chapter 3 discusses the existing literature on corruption: how it is defined, and why it occurs across different levels – institutional, organisational and individual. Also, the relationship between culture and corruption is analysed. In particular, Quah's institutional

approach to control corruption is considered. The literature reviews further focus on existing studies on corruption in Vietnam, regarding how they have been described and understood. Of particular interest is how anti-corruption strategies have been used to tackle this problem. Then it further examines wider factors affecting corruption in Vietnam and how it might be remedied. The discussion of literature helps identify the gaps which this thesis attempts to fill, including the issues of political will in fighting corruption. Furthermore, non-institutional factors which contribute to the persistence of corruption in Vietnam but not included in Quah's analysis are also investigated.

Chapter 4 gives an outline of the research theory, methods used in this thesis and the theoretical orientation underpinning the research. This section explains why the research has used qualitative research methods and identifies the limitations of the method. It includes information about research participants, instruments used to collect data, and the analysis process. It outlines some of the difficulties encountered in the field and the limitations of the methodology and the data set. Finally, it describes how the research findings are presented.

Chapter 5 provides results of the content analysis taken from the data. It is divided into several parts. Each section offers a pattern identified and described in detail to find the answer for sub-research questions one and two. Participants' narratives are used as a means of presenting how corruption operates and in what forms. The results indicate corruption is perceived "everywhere, in every walk of life like cancer" in Vietnam. The chapter provides evidence of how the anti-corruption institutions deal with corruption, what obstacles they face and why. This section presents many unresolved issues and loose-ends in the Vietnamese anti-corruption institutional framework, not only in the Anti-Corruption Law (ACL) but also in the wider law enforcement system. The ACL implementation and its outcomes are also examined. The evidence in this chapter leads to a conclusion that the institutional framework has some limitations in explaining the persistence of corruption in the public sector in Vietnam.

In an attempt to respond to sub-research question three, through participants' narratives, Chapter 6 investigates some non-institutional factors and conditions that are either strongly associated with corruption in Vietnam or which impede an effective anti-corruption strategy in the country. The research finds these factors (history, culture, economic management and public management) significantly contribute to the persistence of corruption in the public sector. The findings show corruption results from public institutions operating with a lack of transparency and accountability, questionable behaviour of bureaucrats and politicians, and other political, social, economic, managerial and cultural factors. Moreover, the evidence

indicates that the roles played by civil society and the news media in Vietnam in combatting corruption, while emergent, remain relatively weak.

A discussion of the results of the research is presented in chapter 7. This section explains what the research findings might mean, what value they offer, and how they relate to or contest previous literature and Quah's model. The evidence in this chapter leads to a conclusion that even though an institutional anti-corruption framework is in place, corruption remains a serious problem in Vietnam. The research suggests some level of political will in fighting corruption in Vietnam, but the anti-corruption implementation capacity is problematic and this, in turn, prevents ACAs from having their full effect. This chapter will also discuss the relevance or appropriateness of Quah's model in the case of Vietnam.

Finally, chapter 8 will present the conclusions to be drawn from this study, and the academic and political implications of the research. This section also highlights the limitations of the study and findings. Finally, and importantly, this chapter will provide some suggestions for future research about corruption in general and in Vietnam.

CHAPTER 2: THE VIETNAMESE CONTEXT

A country's context is crucial for implementing public policies. The formal institutions of governance and the underlying culture and history create the environment which determines whether or not particular policies work. Having an understanding of this broader social, cultural and political context is essential to understanding Vietnam's ongoing problems with corruption and the strategies and measures put in place to address them.

This chapter outlines the key contextual factors that have had the most influence over Vietnam's anti-corruption strategy. These include Vietnam's geography, history, and culture; its political system; its administrative structure; its economy; and the role played by education. Moreover, how civil society and the media operate against this wider backdrop is briefly introduced. This chapter also provides a list of the various anti-corruption institutions, together with their tasks and functions. A brief justification for each aspect is provided, since it is important to understand the Vietnamese context, given that the research focuses on corruption and anti-corruption measures within this country.

2.1. Geography, history, and culture

Vietnam is a densely-populated developing country of approximately 93 million people in Southeast Asia. Demographically it is the 14th largest in the world (Worldometers, 2016). At present, Vietnam finds itself in a demographic golden age, with 25 percent of the population aged between 10 and 24 (Foreign & Commonwealth Office, 2015). The current fertility rate is at about 1.96 per woman. The population density in Vietnam is 305 per $km^{2,}$ with the urban population comprising 34.1% of the country's total population (Worldometers, 2016).

Vietnam has 54 ethnic groups. The largest, Kinh or Viet (ethnic Vietnamese), accounts for 86 percent of the population. The Tay is the second biggest group; others include Thai, Muong, Khmer (ethnic Cambodian), Hoa (ethnic Chinese), and the Hmong groups, which together represent 10 percent of the population. Other remaining ethnic groups make up four percent of the population (General Statistical Office, 2001). Every ethnic group has its language, although Vietnamese is the official language. There is a big gap between the living conditions of ethnic minority and majority groups. Ethnic minority groups in Vietnam are considered backward, superstitious, and conservative by academics and policy makers (H. A. Dang, 2010). The Vietnamese labour force is currently growing by about a million people every

year. The government is trying to create jobs to meet the challenge of this growing workforce, and this has resulted in a significant decline in poverty (CIA, 2015).

Vietnamese history has been interspersed with colonisation, wars, and internal conflicts. Especially noteworthy has been its long association with China, which is Vietnam's giant neighbour to the north. From the second century BC until the tenth century AD, well over 1,000 years, Vietnam was directly administered by China (Taylor, 2013). Accordingly, Vietnamese society and culture were predominantly influenced by the Chinese, often through the presence of Chinese colonial officials and traders. Indeed, Chinese influence has historically permeated all aspects of what is considered to be traditional Vietnamese culture, such as the secure attachments of Vietnamese to their families (Cima, 1987).

By the time of the Le Dynasty in the 15th century, Confucianism was adopted as the state ideology (Taylor, 2013). Here the Vietnamese state was structured around three pillars: Emperor, Confucian ideology, and bureaucracy (Gillespie (2002) cited in Wolters 1997:447-488; Smith 1973:16-21). The Emperor was seen as *Thiên tử* (the Son of Heaven) and represented an embodiment of moral virtue. The Mandarins were *Quân tử* (superior men). Confucian philosophy both legitimized and furnished the moral basis for the society and personal rule. This ideology emphasised that social integration could only occur through a hierarchical system, with the Emperor at the apex, the bureaucrats at a stage lower, and village leaders and family heads below them. The construction of a Confucian bureaucracy, family and the social order created an overlapping dualism. Hence it became difficult to distinguish between state and society, and between public and private, since state functions operated like an extended family. While the Vietnamese upper class was more receptive to Chinese culture and cultural leadership, the peasants resisted it. Village communes took great care to preserve their autonomy, best characterized by a proverb: *Phép vua thua lệ làng* (the Emperor's writ stops at the village gate).

Vietnam achieved independence from China in AD 938 (Taylor, 2013). Vietnam became a French colony in 1859 (Taylor, 2013). In 1940, Japan forced the French to allow Tokyo's troops to occupy French Indo-China even though the French administration remained in place. The Vietnamese sought independence in a prolonged nationalist struggle. In 1925, Ho Chi Minh formed the Revolutionary Youth League, which became the Communist Party of Vietnam (CPV) in 1930. In 1945, the CPV spearheaded the struggle against the Japanese and later took control of the north of Vietnam. On 2 September 1945, Vietnam was declared an independent sovereign nation (Huynh, 1986). In the same year, the French refused to relinquish

their control and returned in full force. However, in 1954 they were made to surrender by the CPV, which led to their complete withdrawal from the country (Roy, 2002).

The defeat of the French allowed Ho Chi Minh to negotiate a ceasefire from a position of strength at the Geneva Conference. The Geneva Accords of 1954 dissolved French Indochina, and separated Vietnam into two rival states. At the 17th parallel North, Ho Chi Minh, the first president of Vietnam, introduced a Communist regime. In the South, Emperor Bao Dai took control of the State of Vietnam. In 1955, Ngo Dinh Diem, the State of Vietnam's Prime Minister, overthrew Bao Dai and declared himself President of the Republic of Vietnam. From the 1950s, the United States became involved in support of the South of Vietnam against the North, and this support increased in the 1960s (Addington, 2000). However, in 1975 Communist forces captured the South of Vietnam, reunited the country, and placed it under Communist rule, under which it has remained (Duiker, 1981).

In sum, the present-day state structure in Vietnam remains a product of these historical processes, built from distinctly different systems where new influences came to overlay but not completely eradicate the old. Stratified socio-political systems in Vietnam have been created from an amalgam of Chinese, French colonial, socialist, contemporary East Asian, and Western influences (Gillespie, 2002). Certainly, Western influences in Vietnamese culture life have become stronger in the 20th century. Furthermore, since the liberalization of economic and political controls in the late 1980s, Vietnam has experienced increased exposure to capitalist world lifestyles, while also undergoing a renewal and resurgence of older traditional Vietnamese cultural practices. Although Vietnamese society has been increasingly influenced by Western values and culture as the country integrates globally, and it has experienced colonisation by several countries, the long history of being colonised by the Chinese strongly embedded Confucian culture in Vietnamese society and the state system. So, how does the culture influence Vietnamese behaviour? How does it lead to rampant corruption? These questions will be discussed in chapter 6.

2.2. Context of Vietnam and corruption

As regards the concept of corruption in Vietnam, there are various terms in Vietnamese for different aspects or manifestations of corruption. For example, the contemporary terms *tham nhũng* (corruption) incorporate the word *Tham*, meaning "greed," and *nhũng*, which means "harassment." Another term is *hối lộ*, which means "bribery." These ideas are always associated with officialdom.

In the Vietnamese language, *tham* can be described as an indicator of desire, an emotional state that unavoidably returns to irritate its victim no matter how often it is fed. That helps explain why corrupt behaviour is often closely linked to *ăn* (eat) in Vietnamese: corrupt officials who take bribes are said *ăn hối lộ* (to eat bribes) or to *ăn tiền* (to eat money). In this regard, corrupt officials are sometimes portrayed as starving ghosts haunting people's imaginations (Maclean, 2012).

In the past, there were also many expressions indicating a variety of corruption-related forms, drawn from different historical and social contexts. For instance, in ancient times the Vietnamese used the phrase *nén bạc đâm toạc tờ giấy* (the silver bullion pierces the paper document), which referred to a bribe paid to a bureaucrat for revoking a decree or an edict. Another proverb, *Mua quan bán tước* (paying to be a Mandarin and selling positions) has retained its popularity. Public perceptions of greedy and corrupt bureaucrats have even been captured in a proverb mothers sang to their children as a lullaby: *Con ơi nhớ lấy câu này, cướp đêm là giặc cướp ngày là quan* (Dear child, you must remember this sentence: we are robbed by bandits at night and by the Mandarins in the day time). The researcher can testify to the fact that this proverb is commonly repeated nowadays.

In general, there is a dynamic and long-standing relationship of distrust between the Vietnamese and their officials. As noted above, Confucian values were considered the basis for governing the country, even as the foundation for an ideal government. This practice drew from some of the central principles of Confucius, who championed a strong devotion to family and respect for elders. Thus, it has become an ethical obligation for someone to grant favours and privileges generously to relatives. One telling phrase, *một người làm quan cả họ được nhờ*, means that if someone becomes a bureaucrat, the whole clan of that person stands to benefit. It is fascinating to note that nowadays Vietnamese people still regard government officials like Mandarins.

On the other hand, by the end of French colonial rule in the 1950s, Vietnam had inherited some Western social and administrative institutions and procedures in the urban centres of the country. The French restructured administration but did not remove the temptations for local bureaucrats to abuse the power of their office (Lockhart & Duiker, 2006). Instead, the village community system that had once "moderated the behaviour of Mandarins in village offices," degenerated, giving rise to "unprecedented levels of corruption, nepotism and patron-clientism" (Gillespie, 2002, p. 174). What Vietnamese call "the American War" brought new opportunities to southern bureaucrats. Black-market acts, smuggling, and

profiteering became pervasive, while bribery was common for "exemption from the draft, the acquisition of lucrative export-import licenses, and many other purposes" (Lockhart & Duiker, 2006, p. 87).

Under the Democratic Republic of Vietnam in the North, corruption was a problem but was largely kept undisclosed by the Communist Party (Lockhart & Duiker, 2006). Notwithstanding, at all levels of the government, officials were able to manipulate their tremendous control over those under them. The problem of corruption was highlighted by Ho Chi Minh, the first President of Vietnam, during the anti-colonial struggle in 1952. Giving a speech at a Government Council reviewing the country's issues and plans for 1953, he said, "One shortcoming this year is weak leadership that has resulted in bureaucracy, embezzlement, and wastefulness." Moreover, he added, "In 1953 we must strictly and thoroughly carry out a policy of 'three-things-to-fight': corruption, wastefulness, and bureaucracy; cadres must take a lead in that fight. We must also improve our policy on cadres, with more attention being paid to training, promoting, and rewarding cadres, as well as recruiting new cadres with good qualifications and virtues" (Duong, 2009). The first death sentence for corruption was given in 1950 to a corrupt offender, Tran Du Chau, head of the Military Supplies Department under the Ministry of National Defence (The Voice of Vietnam, 2014).

However, after the reunification of Northern and Southern Vietnam in 1975, circumstances began to change gradually. That was seen more in the South, when the Northern regime flooded in, taking control of the government. More people fled Vietnam as *thuyền nhân* or "boat-people," which created new opportunities for public officials to get gold and money from those desperate to leave (Lockhart & Duiker, 2006). Between 1975 and 1986, the so-called subsidy period, gift-giving and bribing were commonly referred to as *lo lót* (lining one's nest), a sense of taking care of somebody else's nest to create favourable conditions for oneself.

In such a centrally-planned economy, there was no free market; anything sold outside the state-owned system was deemed illegal. Accordingly, informal traders had to be careful not to get caught by state authorities. If they were found, government officials could take what they wanted from these businesses or ask them for bribes. Thus, most Vietnamese, including business people and traders, apparently "survived decades of central planning and official suppression by co-opting, corrupting and evading state regulators" (Gillespie, 2009, p. 248; MacLean, 2008). In 1977, the government issued Decree 228 on fighting corruption, but that regulation had no impact, and people mocked it (D. Tran, 2014, p. 36):

Hai hai tám chẳng dám đánh ai

Có đánh thì đánh từ vai trở xuống

(Decree 228 does not dare to fight anyone. If it

dares it only fights from shoulder downward – this

just means the Decree is ineffectual).

During the 1970s, 24 vice-ministers were suspended from positions, as were nine senior army officers; about 4,000 officials at the department level and a remarkable 90 percent of public servants at the commune level were found to be corrupt (D. Tran, 2014, p. 36). There was a proverb at the time:

Xã viên làm việc bằng hai

Để cho chủ nhiệm mua đài mua xe

Xã viên làm việc bằng ba

Để cho chủ nhiệm xây nhà xây sân

(D. Tran, 2014, p. 36)

(Members of a co-operative work twice as hard for

the head in order to buy radio and vehicles. Members

of a cooperative work three times harder for the head

to build houses and yard).

Since 1986, the country introduced significant market reforms, called *Đổi Mới,* an open door policy, and the country has been transformed into an increasingly industrialised one. Expanding social relationships and networking - based on mutual responsibility and benefit, and cultivated by the exchange of favours and gifts - has played a crucial role in facilitating access to otherwise scarce goods. According to Abrami (2002, p. 2), after *Đổi Mới* this type of networking encouraged corruption further. That not only became "regular solutions to problems of exchange left unsolved by the rule of law and administrative reforms," but also often evolved into a system of government best defined as neo-patrimonial. In this way, public officials have the opportunity to position themselves as suppliers who exploit opportunities to misuse public resources and extract rents for their benefits, some share of which is channelled upward in exchange for patronage from higher ranks of the government system (Endres, 2014).

In principle, the *Đổi Mới* should have inhibited the ability of public officials to subjectively "make law" (*làm luật*) by themselves. Unfortunately, the misuse of public power for private gain continues to be extensive, facilitating a most inclusive rendering of misconduct identified as corruption under Vietnamese law. During the first decade of *Đổi Mới* (1986-1996), it was evident to most commentators that new and old forms of corruption were quickly becoming endemic (Maclean, 2012). Some blamed the acts of public officials who chased promotion and power (*chạy chức chạy quyền*); others attributed it to bureaucrats' lack of public morality, surrendering to temptation and illicitly misappropriating funds and property for themselves and their families (Dinh & Nguyen, 2007). Corruption came to be now considered as *quốc nạn*, a national calamity.

The open door policy brought with it some new terms to describe the changes of social value that had begun to occur quite dramatically. People began to appreciate practical individual needs such as *Nhà mặt phố bố làm to* (One who has big houses, or son of a high ranking government official) being considered an ideal person to marry. Other terms coming out of this period of *Đổi Mới* were *Tiền là Tiên là Phật* (Money is as powerful as God and Buddha) and *cái gì không thể mua được bằng tiền có thể mua được bằng rất nhiều tiền* (Everything can be bought at the right price). The expression *bôi trơn* (to grease the palm) is a spoken synonym for paying a bribe to government officials to get administration procedures handled more quickly.

As this short summary shows, corruption is not a new or recent phenomenon in Vietnam; it has been deeply embedded in the fabric of public life throughout Vietnamese history to the present day. Thus, it needs to be seriously addressed if Vietnam wants to rid itself of corruption. This issue will be further considered later in this research.

2.3. Recent corruption cases

Over the last ten years of implementation of ACL (according to Phan Van Sau, Inspector General of the GI) only ten government officials have been disciplined for corruption (Do & Pham, 2016). From 2006 to 2015, 2,500 corruption cases were prosecuted, with 5,447 offenders; about one million asset declarations were submitted, but only 17 of 4,800 verified asset declarations were found to have failed; only 10 percent of losses from corruption have been recovered (Do & Pham, 2016).

Some well-known and high profile cases highlight the prevalence of corruption. For example, in 2008 a massive scandal engulfed a Japanese firm and Vietnamese government officials. A huge sum of $2.6 million was illegally paid to some high-ranking Vietnamese officials as a quid pro quo for obtaining consulting contracts on the East-West Highway Project (Davidsen, Nguyen, Hoang, Vasavakul, & Garrido, 2009). Another example was the massive scale of kickbacks paid to the Project Management Unit 18 (PMU18) that involved 200 officials who had misused ODA funds for bribing, gambling and buying luxury vehicles and prostitutes (Davidsen *et al.*, 2009). The 'Godfather" Nam Cam scandal involved a large number of people from many organisations who were accused of bribery and power abuse (Dalton & Ong, 2001, p. 432). The Do Son land scandal case in Haiphong is one of the more notorious and large-scale corruption cases. The investigating agencies found local officials had misused tens of thousands of square meters of resettlement land, transferred to their families and high-ranking officials (VIR, 2006). The Vietnam National Shipbuilding Industry Group (Vinashin) graft scandal led to enormous, inefficient investment and corruption, which resulted in a colossal loss of almost VND 900 billion (AmCham Vietnam, 2012). Another state-owned giant, Vietnam National Shipping Lines (Vinalines), had financial irregularities, which triggered huge losses of almost USD 81 million during the 2009-2010 period. Former leaders of Vinalines received death sentences for the USD 19 million corruption case (Tuoitrenews, 2013).

In January 2016, seven of the eight large corruption cases were brought to the court to gain public trust (Government of Vietnam, 2015). Some observers believed the anti-corruption eradication would put an end to an internal power struggle between the Prime Minister Nguyen Tan Dung, who is leading the "rent-seekers" group, and Secretary General of the Communist Party Nguyen Phu Trong who was leading the crackdown. [4] As Carl Thayer stated, "Dismantling corruption is aimed at the Prime Minister because he's responsible, and it is his cronies and friends who have benefited from it." (Brown, 2014).

2.4. The political system

Under the 1992 Constitution of Vietnam, *Article 4* states, "The Communist Party of Vietnam, the vanguard of the Vietnamese working class and loyal representative of the interests of the working class, the working people, and the whole nation, who adhere to Marxism-Leninism

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[4] Mr Dung was forced out of power in 2016 (Reuters/AFP, 2016).

and Ho Chi Minh's thought, are the force assuming leadership of the State and society. All organisations of the Party shall operate within the framework of the Constitution and the law."

Accordingly, people in Vietnam have no rights to elect their country leaders. Here in figure 1 can be seen the Party apparatus, from central to local, and alongside the administrative system, based on the Party's regulations (CPV, 2016).

Figure 1: Structure of Communist Party of Vietnam (CPV)
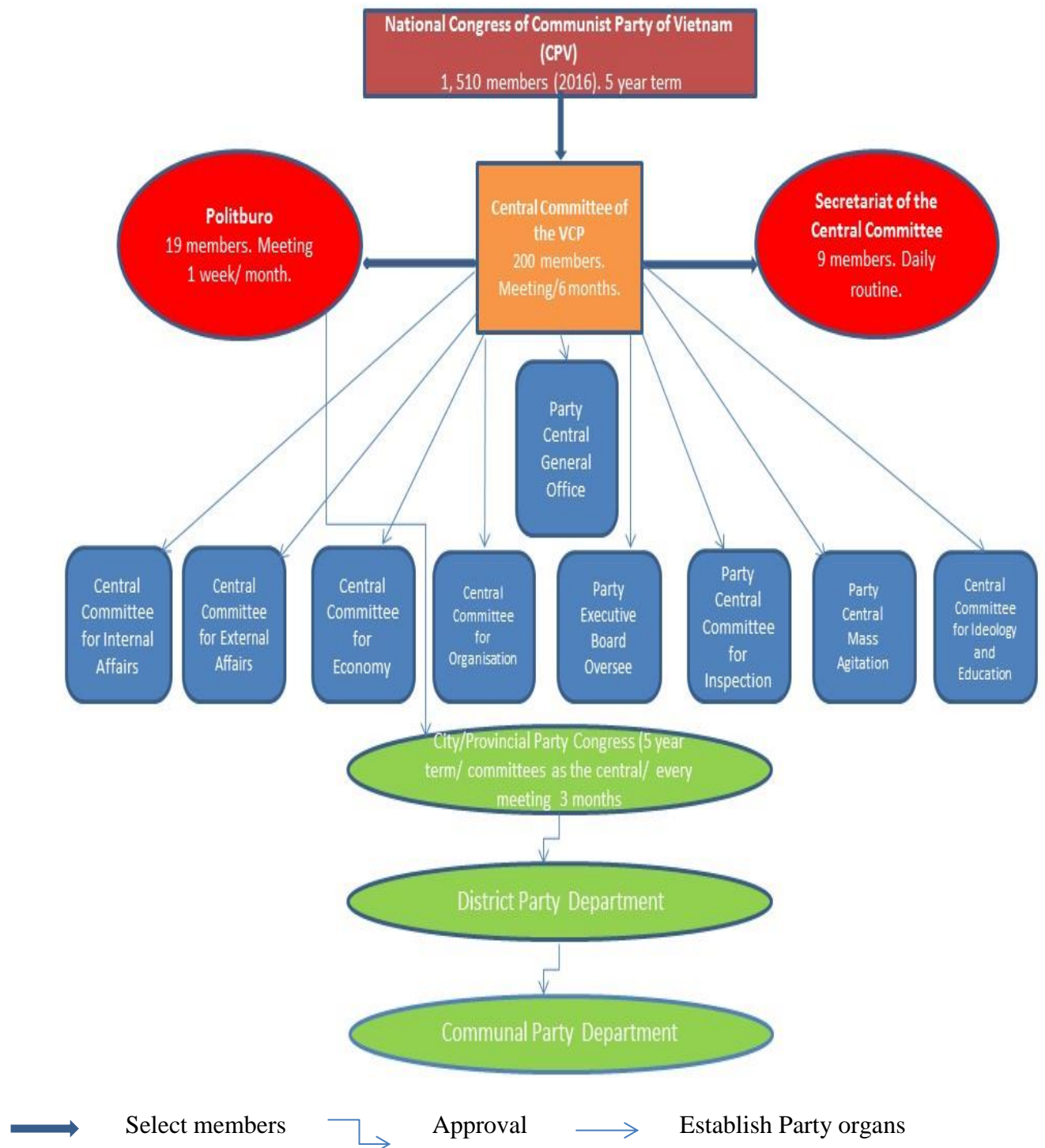
As shown above, in figure 1, the National Congress is held every five years. It comprises 1,510 delegates. The National Congress elects the Party Central Committee (PCC), of 200 members. The PCC then elects the Politburo, composed of 16 members, and the Secretariat of the Central Committee (CPV, 2016).

Although elections take place, they do not meet democratic principles since political leaders are not selected through elections satisfying minimum standards of fair, open and independent procedures. That is clearly indicated in the way the party and country leaders are chosen. The National Congress is held in secret, with only the closing session being broadcast live on the state television (Holmes, 2016).

The most influential figures are chosen from among the Politburo members. These include the Secretary General, who is the most powerful person in the country; the Prime Minister, who is the second most powerful person; the State President; and the Chairman of the National Assembly (NA). Interestingly, the Prime Minister, the President, the Chairman of the NA and cabinet members are elected by the NA. That nevertheless is a rubber-stamp procedure, because there is always only one nominee for each position—the candidate already having been chosen by the Congress (Holmes, 2016).

Under the state-dominated legal system, CPV rule continues to be as powerful as the law. This political-legal relationship is described as "the Party leads, and the State manages" (National Assembly of Vietnam, 2001). Party leadership is entirely positioned within not only the Party system itself, but also extends to the government, the military, and the legislative and judicial systems.

This Party machine creates policy and leads the state. Although legal and political bodies and their functions are partly separated, this does not necessarily mean that Party power is separated or limited. The Party's leadership is demonstrated through its regulations, decrees and its complete hold over senior governmental and legal agencies. As a result, the law remains politically driven. This construction enables law and the courts to serve as puppets in the hands of the political leadership (Nicholson & Nguyen, 2005).

Based on the Vietnam Constitution, related laws and CPV regulations, the researcher has devised figure 2 to summarise the State-Party structure of Vietnam.

Figure 2: The Party-State structure of Vietnam

	National Congress of Communist Party of Vietnam (CPV)		
Politburo	Central Committee of the CPV	Secretariat of the Central Committee	

Party Central General Office

Central Committees of the CPV

National Assembly/ Standing Committee of NA

President

Prime Minister **Government**

Chief Justice **Supreme People's Procuracy**

Prosecutor General **Supreme People's Court**

Provincial Party

Provincial People's Committee

Provincial People's Council

Provincial People's Procuracy

Provincial People's Court

District Party

District People's Committee

District Council

District People's Procuracy

District People's Court

Communal Party

Communal People's Committee

Communal People's Council

→ Established relationship

→ Leadership relation

Theoretically, as Gillespie (2006) has observed, there is little difference between the structures and the formation of the state of Vietnam and Western government institutions. However, in the case of Vietnam, it is necessary to differentiate between theory and reality to see how power is practised in making decisions in this system. The collective party leadership strongly influences the NA, the President of the state as well as the Government (Nguyen, 2010). As a result, the relationships between these institutions are not necessarily always straightforward.

The CPV is the most influential actor in the system. The NA has significant influence on government, but it is not considered an independent institution and its potential has not been fully recognised or used (Nguyen, 2010). On the other hand, the influence of the State President on the government is weak. Figure 3 below depicts the relationship between the CPV and other key institutions of the state organs in Vietnam. Later in this thesis, the dominant role of the CPV is shown to be highly significant.

Figure 3: Relationship between the CPV and key institutions of state organs

Adapted from Nguyen, 2010, p.4.
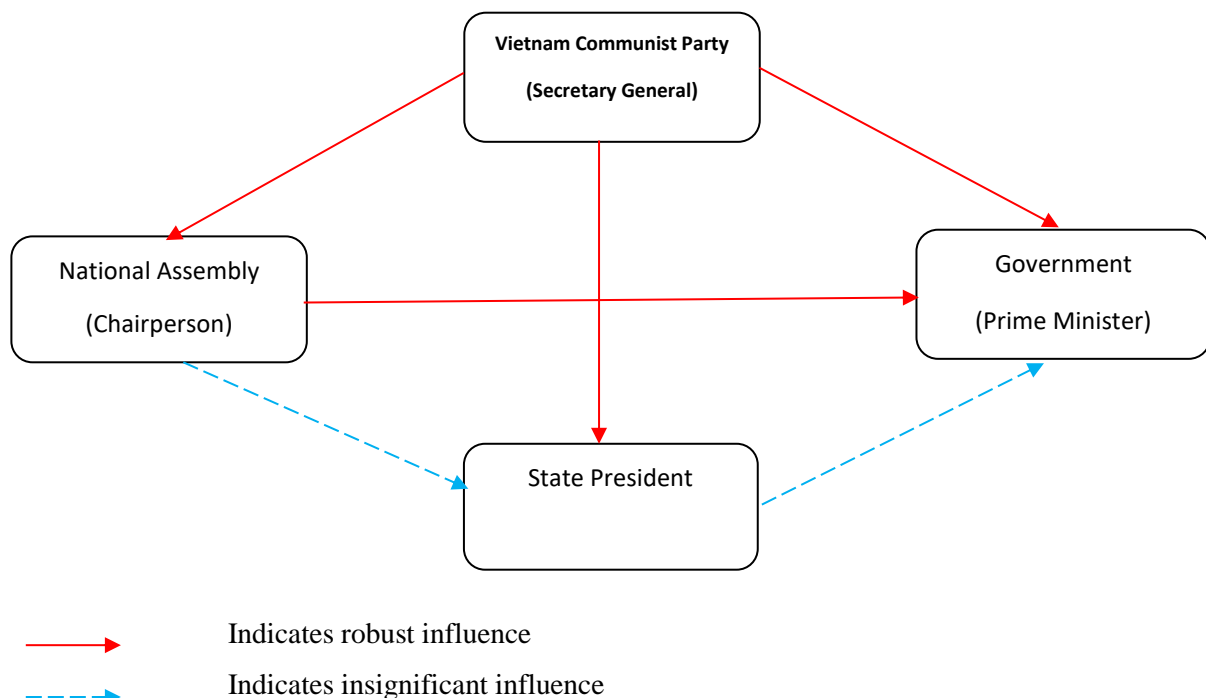
It is clear there is no separation of powers in Vietnam, while the three top branches - the legislature, the executive, and the judiciary - are united in a unitary political structure. In general, the CPV articulates the country's strategic policies (Gainsborough, 2007). The

government's administrative organs implement national strategies, with the NA being the only body with the right to legislate in Vietnam.

The NA is a publicly elected institution of 500 deputies. However, the whole selection process is still tightly controlled by the CPV. The Vietnamese Fatherland Front (VFF), a mass organisation of the CPV, approves candidates and shapes election outcomes by controlling the number of candidates who can stand in multi-member electorates. For example, in the 2016 elections, of 496 members (or 95.8 percent) of the NA, only 21 were not CPV members, while two had nominated themselves for selection (Tuoitre, 2016).

The CPV has tried to adopt some core elements of capitalism, but the regime maintains most of its authoritarian nature. As a result, "rent-seekers[5]" have increasingly become the leading force in Vietnamese politics. These forces have found fertile ground in Vietnam since the government holds all the land, controls the media, and is accountable only to itself. That is a variant of a trend seen in many authoritarian regimes, where patronage and protection operate to enable "rent-seeking" behaviour by public officials and private individuals and companies. Rent-seeking is kept at bay when the state is "imbued with strong patriotic sentiments or when the state is dependent on a liberal world outside for survival" (Vuving, 2013, p. 326). Those conditions have variously occurred in Japan, Taiwan, South Korea, Singapore, and China, helping these countries to reach high growth rates for some decades. Conversely, rent-seeking has captured the authoritative heights of the Vietnamese state and its economy (Segon & Booth, 2010; Vuving, 2013). The reasons are complex, and these rent-seeking practices and their associated cultural factors are discussed further in this research.

The Communist political system also creates patronage and protection within the governance system. A delicate issue that needs to be highlighted here is that of the *con ông cháu cha* or *Thái tử đỏ* (the children of Vietnam's powerful). In Vietnam, there is a deep-rooted tradition of government officials trading their influence and favouring their families. This problem of nepotism has become more severe when it comes to the privatisation of giant state-owned enterprises. That created opportunities for politicians and public officials to appoint family members or even themselves as executives. Some examples include the cases of To

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[5] Rent-seeking: Some political scientists object to the application of this term drawn from economics as a way of describing the exercise of power in certain institutional settings ('monopoly rent'); when used by public choice writers, it seems to imply intentionality and self-consciousness. In this research "rent-seeking" is used cautiously and only in a limited meaning: "the use of a company, organization or individual's resources to obtain economic gain from others without reciprocating any benefits to society through wealth creation." http://www.investopedia.com/terms/r/rentseeking.asp.

Linh Huong and Nguyen Thanh Phuong. To Linh Huong was reported to be 24, daughter of To Huy Rua, a member of the Party's Politburo. Ms. Huong was appointed to be the head of Vinaconex, one of the biggest state-owned construction companies in Vietnam. Nguyen Thanh Phuong is the daughter of Prime Minister Nguyen Tan Dung. Ms. Phuong runs Viet Capital Asset Management, an investment fund and Viet Capital Securities, a brokerage firm, both private companies. One observer commented, "her rapid advance and the many doors that opened for her and her two brothers are indicative of how the Vietnamese political elite ensures that their progeny are well placed educationally, politically and economically"(Fuller, 2012). An extensive number of the children of the powerful who have been appointed to hold high positions in the state system creates criticism about the nepotism and cronyism of Vietnam's powerful politicians.

In summary, having an understanding of the Vietnamese political system and the relationship between the CPV and the key institutions of state organs is critical for this research. From this, it is easy to understand why power has been abused as much and how hard it is for anti-corruption agencies to rein in corruption. Fundamentally, it is because the CPV is the only legal party in Vietnam and the "force assuming leadership of the State and society," and more importantly, there is no separation of powers and no adequate checks and balances in the system. The following section will discuss this matter in more detail.

2.5. The judicial system

Unlike common law jurisdictions, Vietnam is a civil law state where, in the legal framework, case law, and precedent are not important. Courts do not observe case law precedents as a source of law, nor are they required to. There is a refusal to accept and implement the notion of case law rulings as a source of justice.

Also problematic is the fact that in Vietnam judges are appointed by the CPV. Many of them are not qualified, and their positions and rulings are regularly evaluated by the State. Consequently, there is no separation of powers between the judiciary and the state as there is under Western democratic legal systems. In 2014, Vietnam amended the law of the Organisation of the People's Court, which saw a commitment to operate an "independent court system" (Nhandan news, 2014). This latest reform created a tribunal system increasingly controlled by the People's Supreme Court, and with a substantial role regarding influence for the NA and the Ministry of Justice. This Court's operation remains controlled by the CPV, despite the on-going and adverse impacts of its making judicial appointments and dismissing

judges. This has prevented the court system from being free of political influence (Nicholson & Nguyen, 2005).

Moreover, it is important to note a risk of corruption in the Vietnamese judiciary. All levels and types of court are liable to corruption since they lack transparency in a weak legal system with external influence (Business Anti-corruption Portal, 2015). As a result, most Vietnamese believe the judiciary is corrupt, so it comes as little surprise that the Vietnamese often do not trust their courts (Transparency International, 2013a; Nicholson & Nguyen, 2005).

Thus, while the judiciary should be expected to be one of the key actors in controlling corruption, it is unable to do this. As the old saying goes: "When water chokes you, what do you take to wash it down?" The issues of the Vietnamese jurisdiction will be revisited and discussed further in this research.

2.6. Anti-corruption legislation

In an effort to stem corruption, many laws, regulations and national anti-corruption strategies have been introduced. In particular, the adoption of the Anti-corruption Law in 2005, last revised in 2012, can be seen as a significant milestone since it criminalises several kinds of corruption: the abuse of office, money laundering, and passive and active bribery. It also provides whistle blower protection and sets out rules on asset declaration for government officials and politicians, which is mandatory at all levels (National Assembly of Vietnam, 2012).

The drawing up of the "National Anti-Corruption Strategy Towards 2020" in 2009 was also significant. This strategy, which recognises the role of transparency and openness in controlling corruption with an action plan, has been widely commended by international donors such as the World Bank and the ADB (NORAD, 2011). This Strategy provides five measures toward sector-specific approaches, including (1) enhancing transparency of the agencies and authorities; (2) improving economic management capacity; (3) establishing an fair and competitive business environment; (4) enhancing the supervision, inspection, investigation and prosecutions of corrupt cases; (5) increasing the awareness of the role of society in curbing corruption (GoV, 2009).

Furthermore, in 2009 the government took an important step in increasing the awareness of society about corruption by issuing Decree No.137/2009/QD-TTg, thus allowing anti-corruption laws to be included in the curriculum of all Vietnam's educational institutions.

Further, the government developed international cooperation in preventing and fighting corruption. As a result, in June 2009 the Vietnamese government ratified the United Nations Convention against Corruption (UNCAC).

Recently, in its Fourth Plenum of the VCP Central Committee in December 2011, the VCP made greater efforts to intensify its role in combating corruption and strengthening anti-corruption measures. Here the VCP adopted a party-building resolution starting a campaign of criticism and self-criticism of Party members to prevent them from getting involved in corruption. The Plenum also urged the development of the legal system as it related to anti-corruption, such as the Law on Public Procurement, the revised Law on Thrift Practices and Anti-Wastefulness, which were eventually passed in 2013. Beyond these measures, in general, the key sources of anti-corruption law are:

- Law on Prevention and Combat of Corruption No. 55/2005/QH11 dated 29 November 2005, as amended by Law No. 01/2007/QH12 dated 4 August 2007 and Law No. 27/2012/QH13 dated 23 November 2012 (Anti-Corruption Law). The ACL is the primary anti-corruption statute which prescribes the various forms of corruption.
- Decree No. 59/2013/ND-CP of the Government, dated 17 June 2013, detailing Articles of the Anti-Corruption Law.
- Decision No. 64/2007/QD-TTg of the Prime Minister, dated 10 May 2007, on the Promulgation of the Regulations on Giving and Receiving Gifts and Returning Gifts Applicable to Agencies, Organisations, and Units Using State Budget and Cadres, Civil Servants and Public Officials (Decision 64).
- Penal Code No.15/1999/QH10, as amended by Law No 37/2009/QH12) deals with separate corruption offenses and sets out specific penalties for each one.
- Other sources: several relevant Ministerial Decrees and circulars.

2.7. Anti-corruption agencies

In Vietnam, all state agencies, organisations, departments and socio-political institutions have the mandate to prevent corruption, at least to a degree. However, above all these, the CPV is in charge of steering anti-corruption work. The advisory agency responsible for guiding the AC work of the CPV is the Central Steering Committee on Anti-corruption (CSCAC), which is headed by the Secretary of the CPV. The standing body at the central level is the Central Committee for Internal Affairs (CCIA) (Communist Party of Vietnam, 2013).

The CSCAC is responsible for monitoring, directing, coordinating and urging anti-corruption implementation throughout the country, especially in significant and complicated cases. At a local level, provincial Party Committees are responsible for leading and steering AC implementation in their respective localities. They also are in charge of coordinating with the CSCAC to deal with severe corruption cases in the province.

State organs with specialised AC agencies and AC functions are described in the following section.

2.7.1. The legislature

The NA is responsible for enacting laws on AC such as Law on AC, Law on Thrift Practice and Anti-wastefulness, Penal Code, Criminal Procedure Law, Law on Complaints, Law on Denunciations, Law on Inspection and other relevant laws.

Besides this, the NA and its constituent bodies (the NA's Standing Committee, other committees, and Nationality Council, along with the People's Council at provincial, district and communal levels) are in charge of overseeing the AC effort. The NA and People's Council are elected bodies to ensure the independence of this supervision. However, as noted earlier, the NA membership is dictated by the CPV, so this supervision is not straightforward.

2.7.2. The executive

The Government is responsible for issuing anti-corruption bylaws, developing anti-corruption plans and strategies as well as organising and directing anti-corruption work. All the heads of the ministry-level and chairpersons of the local governments are in charge of AC implementation in their localities of management. The Government Inspectorate (GI) is responsible for exercising functions of state management on AC. They are in charge of providing advice for the improvement of the AC legal framework; synthesising and assessing AC efforts; organising, directing and guiding the inspection work of the anti-corruption laws (ACLs); developing and managing the AC database; issuing propaganda and raising awareness on AC measures. The Inspector General of the GI is advised by the Anti-corruption Bureau (Government of Vietnam, 2006). The inspection "mission" of the GI seeks to answer four basic questions:

a) Is there a violation of the law?

b) Who is the violator?

c) What is the degree of severity of the violation?

d) What form of discipline and what kind of penalty should be applied?

The GI does not have any powers to prosecute, but may use administrative power for disciplinary action. Where criminality seems to be obvious, the case must be handed over to the police for further investigation and then to the People's Procuracy for prosecution.

The Ministry of Public Security (MPS) is responsible for directing and investigating corruption cases. Recently, MPS established an Investigation Police Department for Economic and Corruption-related Crimes. The unit was formed by merging the Investigation Police Department on Crimes Related to Economic Management Order and Positions (known as C46), and the Investigation Police Department on Corruption-related Crimes (known as C48) (Vietnamplus, 2015). That unit has a duty to direct and guide the corruption investigation Police throughout the country to carry out prevention, detection, and investigation of corruption cases.

2.7.3. The judiciary

The Supreme People's Procuracy (SPP) is responsible for organising and directing the prosecution of AC cases. Its duties include oversight of investigation activities and adjudication and implementation of convictions concerning corrupt offences. Under SPP is the Department for Prosecution and Supervision over Investigation of Corruption Cases, also known as C1, which is responsible for assisting the Chief Procurator. All corruption criminal investigations and trials come under the supervision of the C1.

The SPP is organized as an independent hierarchy at the state, provincial, and district levels. It is responsible for supervising all criminal investigations and conducting criminal prosecutions. It has a role similar to the Prosecutor's Office or Attorney General's Office in Western countries. Its function is to ensure that legality is applied at all stages of the judicial process - the SPP also supervises the legality of court proceedings. Police investigators must work in close collaboration with the SPP during an investigation and the prosecutor engaged in a case has rights of interrogation. Only the SPP can bring a case to court. All corruption criminal investigations and trials come under the supervision of the SPP's Department of Prosecution and Supervision over Investigation of Corruption Cases. The Supreme People's Court (SPC) Criminal Court Division and provincial courts handle the adjudication of

corruption crimes under the overall supervision of the SPP (Supreme People's Procuracy, 2013).

2.7.4. The State Audit of Vietnam

The State Audit of Vietnam (SAV) is a specialized body established by the NA. The SAV is the supreme audit agency that is in charge of verifying the accuracy and legality of the state budget and assets at all levels of the government, to prevent, detect and coordinate actions to deal with corrupt behaviours. If corrupt acts are identified, the SAV must hand over the case files to investigating agencies, procuracies or other related agencies for handling.

2.7.5. Working relationships between Anti-Corruption Agencies

The whole system of anti-corruption agencies is complicated since there are many organisations involved. To help understand it better, the researcher has formulated figure 4 below to summarise working relationships between ACAs in Vietnam in combating corruption, based on the Party's regulations and related laws.

Figure 4: Anti-corruption institutional structure in Vietnam

Guide and the flows of commands

CPV directs and the flows of commands

Oversight relationship

Flows of reports

Co-ordinate relationship
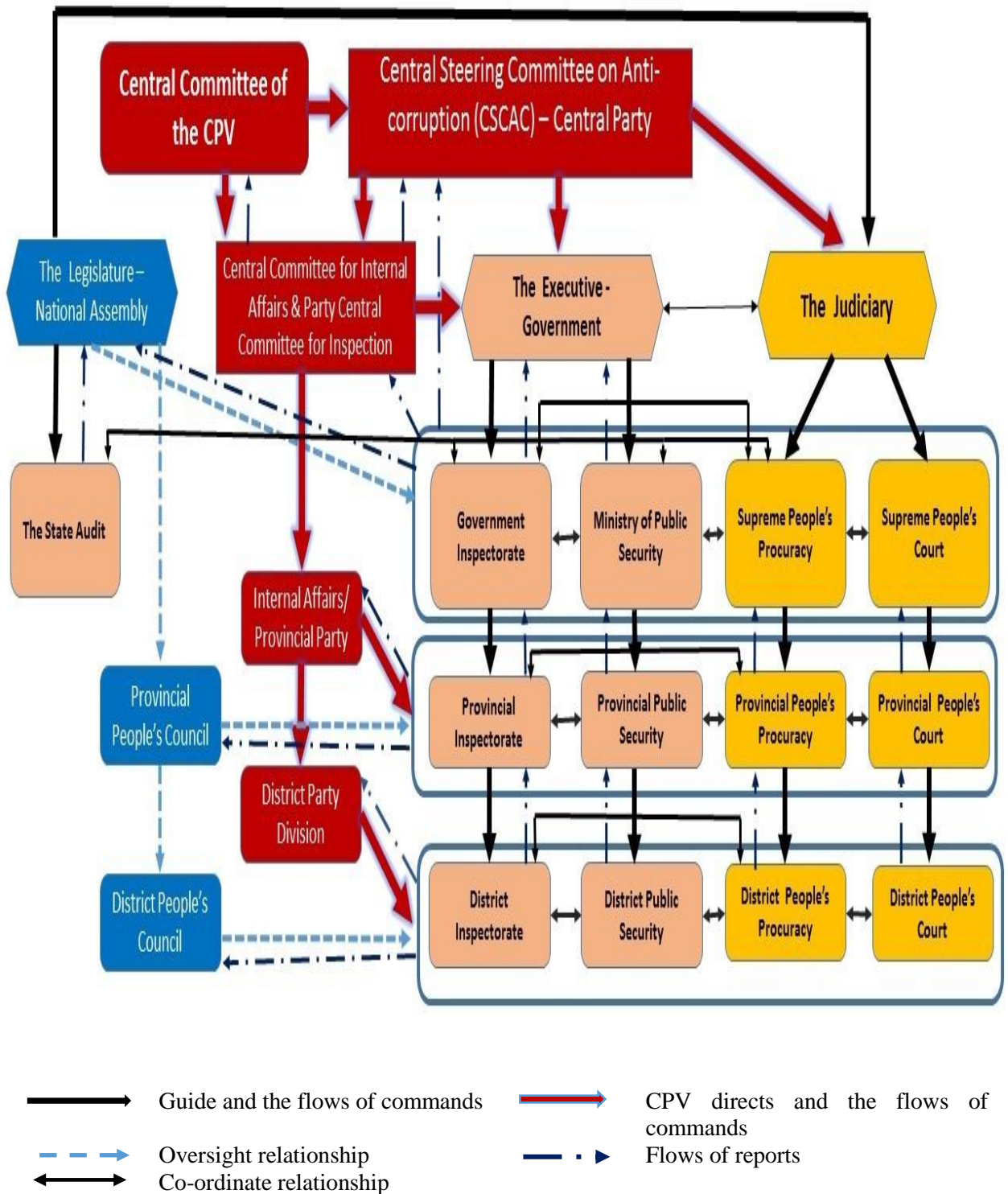
The ACAs are guided, directed, overseen, and implemented by many different institutions. It is worth highlighting the dominant influence of the Party over the whole system of ACAs at the national, provincial and district levels. In Vietnam's one-party state, the CPV blurs the efficient and effective functioning of the ACAs because they must serve three masters: the CPV, the Assembly, and the CSCAC through the Executive. The CPV can potentially control or at least influence all the organs of executive government.

Interestingly, nowhere in the AC legislation is there mention of the role of the Communist Party of Vietnam or its organs in controlling corruption. However, the Party Inspectorate under the command of the Party's Central Committee plays a significant role in the investigation and punishment of Party members accused of corruption. Regarding the way the Party regulates the conduct of its members who are found to be corrupt, internal CPV disciplinary measures (including expulsion) may be invoked (see also Painter *et al.,* 2012).

The Party Inspectorate may conduct its investigations into corruption where information and complaints are received directly, but the Inspectorate does not carry out criminal investigations. In the case of criminal investigations into corruption involving senior party members, the police investigation agency will inform the Party Inspectorate so that it can conduct its investigation. The Central Committee will make decisions on the appropriate disciplinary measures (for example, temporary dismissal from the party pending the conclusion of the criminal proceedings). The Party Inspectorate might also, in rare cases, conduct its investigations of investigators, prosecutors or judges. After coming to its conclusions about such a case, it forwards the information to MPS and especially to SPP, where an Investigation Department deals with offences within the law enforcement and judicial process, potentially leading to administrative or criminal sanctions taken against an individual.

The research in Chapter 5, will examine how the ACAs perform their tasks, where the decisions on investigation and prosecution are taken, and how the ACAs cooperate with each other in practice in order to understand the success or failure of ACL implementation. In the following sections, some other important factors will now be introduced to provide a background of the Vietnamese administration system, economic development, education system, the civil society and the media, as they relate to the endemic issue of corruption.

2.8. The administrative structure

The administrative system includes the People's Committee and the People's Council at four levels. Beneath the central government, there are 64 provinces, 690 districts and 11,055 communes (BTI, 2014b). Alongside the administrative system is a party system. The dual party-state system exists across the country in the form of a multi-layered governmental and administrative structure. Fritzen argues that executive supremacy fragmentation is the *de facto* consequence of weak authority relations between features within the executive and between the executive and non-executive bodies elsewhere (Fritzen, 2006).

Commentators have identified some further problems of the multi-layered governmental and administrative structure which include:

- the weak legislative and oversight functions of the People's Councils (Fforde, 2003; Vasavakul, 2002);
- a "dual subordination" system where local government executives report both horizontally to relevant sectors at the local People's Council level, and vertically to a ministry at the central level (apparent in figure 4): "This has the effect of muddying accountability relationships, making technical executives more likely to remain unsupervised and successful in seeking rents" (Fritzen, 2006, p. 6);
- issues of interdepartmental cooperation that create significant difficulties in the Vietnamese transition state (Wescott, 2003). The combined impact of these burdens has been a rise of executive fragmentation, even at central level "coordinating" officials trying to control the bureaucracy (Fritzen, 2006, p. 6).

Moreover, the central government has delegated a certain degree of decision-making power to lower levels. Therefore, the provinces play a crucial role in undertaking these responsibilities. However, sub-government autonomy is not acknowledged in the Constitution. The government treats local governments' experimentation or innovation on policy as "fence-breaking" actions, thus making them extra-legal (Gainsborough, 2010b). Indeed in some cases, practitioners were punished by the central government, notwithstanding the fact that the policy innovations were considered successful. Da Nang city is the best example of such effective innovation (Vo, 2012).

As a socialist republic, equality and justice in Vietnam are called into question since the CPV governs the country to a significant degree through forms of political and social

exclusion. Although the CPV is standing right at the centre in facing the various socio-political challenges facing the nation, including corruption, its actual ability to govern is often limited (Fforde, 2010). Indeed, the use of state power for dealing coherently and deliberately in developing the country itself becomes problematic (Wischermann, 2010). This further confirms what Davies (2015) described:

Vietnam has great potential, however, the reality now is that it has ended up with the worst of two systems: the authoritarian socialist state and the unfettered ideology of neoliberalism; the two combining to strip Vietnam's people of their money and their rights while a tiny elite fills its pockets and hides behind the rhetoric of the revolution. That, finally, is the biggest lie of all.

Ultimately, there is a very high level of corruption in Vietnam's administration system and a pervasive element of nepotism in state employment. Bribery is common in the public sector. These are consequences of the administrative processes being ill-defined and often overlapping. They also can be accredited to a lack of transparency, to the low pay provided to public servants and insufficient instruments provided for accountability. Further compounding this is that fact of a lack of willingness to fight corruption not only by local governments but also by the citizens (CECODES *et al*., 2015).

2.9. Economic development

The *Đổi Mới* that has been happening since 1986 encouraged foreign investment and dramatically developed the Vietnamese economic environment. The country has been regarded as one of the fastest-growing economies in the world, with the average growth of 8% GDP annually from 1990-1997 and 6.5% from 1998-2003. From 2004-2007, the GDP grew by more than 7%, but this decreased to 5.7% in 2008, slowed to 5.4 % in 2009, recovered to 6.4% in 2010, and then went down again to 6.2% in 2011. Recently, the global downturn has hurt the economy badly; as a result, GDP grew at 5.2% in 2012, 5.4% in 2013 and 5.4% in 2014 (Global Finance, 2015). That was one of the slowest growth rates since 1999.

Since *Đổi Mới,* foreign trade and foreign direct investment (FDI) have developed dramatically, to total approximately $13 billion in 2012; this accounts for 69.9% of the total registered capital in Vietnam. During the 2001-2008 period, FDI increased 16.6% annually, although new registered FDI more recently began decreasing due to the global economic crisis (BTI, 2014a). The Vietnamese government has confirmed its commitment to economic

innovation. In January 2007 the country joined the World Trade Organization (WTO), which helped the more competitive export-driven industries. Linked to this, in 2016, Vietnam became an official partner in the Trans-Pacific Partnership Trade Agreement (TPP).

It must be said the quality of life for many Vietnamese has improved since the country introduced its economic reforms. Per capita income has risen from USD 220 in 1994 to $2,073 in 2014 (Global Finance, 2015). The official unemployment rate remained flat at 2.0% in 2013 (World Bank, 2015), although that does not reflect employment trends in the informal sector, which is over 70% of the total labour force (Global Security, 2015). Agriculture's share of economic output is about 18%, industry's about 38%, and services 44% in 2014 (World Bank, 2015).

The government retains control over key economic sectors through large state-owned enterprises. While the country has plans to privatize some key economic sectors, the privatization process has been carried out slowly. State-owned enterprises still account for about 40% of GDP in Vietnam (Global Security, 2015). In February 2011, the government changed policies as it was aiming to achieve higher rates of economic growth. To strengthen the economy and reduce inflation, tighter monetary and fiscal controls were introduced. By early 2012, Vietnam had launched a "three pillar" economic reform program designed to reorganise public investment, the banking sector, and state-owned enterprises. However, reform implementation has either been postponed or seriously influenced by the parochial interests of often hidden rent-seeking systems (Vuving, 2013). It is widely understood that a spectrum of rent-seeking activities lies behind every major measure the state conducts in the name of stabilization and reform.

Vietnamese rent-seekers reached a peak of domination in 2007, coinciding with the former Prime Minister Nguyen Tan Dung, a leading rent-seeker, establishing his predominance in the collective leadership. From this position, he was able to appoint the government's members and the heads of state-owned corporations. Given a free hand to do so, he became stronger than the Secretary General of CPV, the supreme leader in this one-party Communist country. The rent-seekers' supremacy soon threw Vietnam off balance. By early 2008, even before the global financial crisis had started, the country fell into a period of economic instability and slowdown that would last for years. Between 2008 and 2011, Vietnam devalued its currency (Dong) by 20% (CIA, 2015). Later in 2012, it experienced further recession which has persisted to this day.

The Vietnamese economy thus faces many challenges; partly because of an undercapitalized banking sector, and partly because of non-performing loans weighing heavily on banks and businesses. Moreover, wealth disparities between urban and rural populations are widening; as a result, the Communist Party leadership fears that too much economic liberalization will undermine the regime's power (Global Security, 2015).

2.10. Education

In 2015, Vietnam's literacy rate was above 94% for both youths and adults. However, educational achievement is less impressive. Although five years of primary school education is considered compulsory, only 97% of children were enrolled at the primary level in 2009, and about 89% of those children completed the fifth grade (ChildFund International, 2015). However, Vietnamese children face many challenges as families often cannot afford tuition fees, school facility charges, and uniforms. In rural areas, education expenses are a significant burden for many households, so many children drop out of school, which in turn leads to illiteracy and poverty.

As for higher education, according to a Harvard report related to Vietnam specifically (Vallely & Wilkinson, 2008), the connection between university programs and the needs of the labour market is weak. Here the higher education sector is deficient in producing the educated workforce and job-ready skills the economy and society demand. Vallely and Wilkinson found that only about 50% of university graduates find jobs in their areas of specialization. Twenty-five percent of undergraduate curricula is taken up by political indoctrination, and this helps explain why Vietnamese students are ill-prepared for professional life (Vallely & Wilkinson, 2008). In general, there is no quality control of educational programs and institutions. The level of qualifications is thus considered deficient and inadequate to meet the real needs of the country's development (McCornac, 2012; Vallely & Wilkinson, 2008).

Another problem the Vietnamese higher education sector faces is its lack of autonomy. Although the government has granted some autonomy to public universities since 2002, all academic institutions remain controlled by central government authorities, which determine how many courses each university can offer, how many lecturers are paid, and how these institutions are run. Consequently, there is little real incentive or scope for universities and academic institutions to make innovations.

As in other sectors, corruption is rampant in the education system, to the extent that degrees and titles can be bought. University personnel structures are often not based on merit and academic criteria and are opaque. Promotion is based on seniority, personal connections, family and political background (Vallely & Wilkinson, 2008).

A.P.J. Abdul Kalam, the 11th President of India, once said: "If a country is to be corruption free and become a nation of beautiful minds, I strongly feel three key societal members can make a difference. They are the father, the mother and the teacher." However, in Vietnam students and their parents practice and support corruption through practices such as buying and selling marks, cheating in exams and bribing for admittance. So, what can be done to control corruption and change this corrupt environment?

2.11. Civil society

Traditionally, civil society has remained weak in Vietnam. Previously it could be found in the well-established social, organizational unit of the village. However, nowadays Vietnamese understand that civil society organizations are primarily state co-opted service providers, not civic associations or advocacy organizations (Wischermann, 2010).

Several laws and regulations have opened up some space for civil society activity in anti-corruption, such as Decree 47, which details and guides the implementation of the Anti-corruption Law of 2005 and promulgates the roles and participation of the society and media. The role of civil society organizations (CSOs) has also been increasing (Freedom House, 2011). There are some initiatives with a focus on improving transparency, accountability, and anti-corruption, such as Towards Transparency, the Centre of Live and Learn for Environment and Community. Networks orientated around promoting greater transparency and anti-corruption are emerging. Their primary objective is to raise awareness among citizens, especially youth, about their role in developing a more transparent society. There are also some activists who have taken up the causes, such as Ms. Le Hien Duc, a retired teacher who was a TI 2007 Integrity Award Winner for revealing many corruption cases and Mr. Nguyen Viet Khoa, a teacher who publicly revealed corruption cases in the education sector (T. H. Nguyen, 2013). The latter's innovative and courageous activities have had a major impact in the education sector. However, like most anti-corruption activists in Vietnam, these people face significant personal risks (T. H. Nguyen, 2013).

In fact, it is not an easy task to establish a civil society organisation in Vietnam, particularly when it involves "sensitive issues" such as anti-corruption (ADB, 2011). Public advocacy by CSOs is also limited since the government has continued to suppress those engaged in opposition activity. These observations indicate that deteriorating public governance standards may contribute to higher levels of corruption (Martini, 2012).

To conclude, the Vietnamese government continues to strive to control civil society. As a result, civil society organizations are unable to perform as a sort of ombudsman, which creates many challenges for civil society to participate in fighting corruption. This issue will be investigated further later in this research.

2.12. The media

The role of an independent media is crucial in not only encouraging good governance but also in reducing corruption. It promotes public awareness about corruption, its causes, costs and probable remedies, and investigates as well as reports on incidences of corruption (Stapenhurst, n/d). As James D. Wolfensohn, said at the World Press Freedom Committee in Washington, D.C. on November 8, 1999:

> A free Press is not a luxury. A free Press is at the absolute core of equitable development because if you cannot enfranchise poor people, if they do not have a right to expression, if there is no searchlight on corruption and inequitable practices, you cannot build the public consensus needed to bring about change.

However, under the 1999 Media Law, all media in Vietnam must function as "the mouthpiece of Party organisations" (*Article 1*, Chapter 1). Regarding media and Internet freedoms, according to the three largest censorship watchdog groups, Vietnam ranks almost at the bottom of their international rankings, just ahead of China, Iran, and North Korea. For example in 2015, Freedom House rated Vietnamese media as "not free," with a freedom rating of 6.0 (1 is the best, 7 is the worst) (Freedom House, 2015). Reporters without Borders ranked Vietnam 175th out of 180 countries in the 2015 World Press Freedom Index (Reporters Without Borders, 2015). In the Attacks on the Press Report 2015, the Committee to Protect Journalists ranked Vietnam as the sixth-worst country for journalists and bloggers (Committee to Protect Journalists, 2015). The Committee to Protect Journalists also reported the content of newspapers, radio and TV are tightly controlled by the Central Propaganda Department in Vietnam. Recently, in September 2013, Vietnam extended state censorship to internet users by

a new decree known as Decree 72 (Government of Vietnam, 2013). The law bans Vietnamese internet users using blogs and social websites from sharing news, articles and limits them to sharing only personal information.

The fact remains that almost all print media outlets are under the control of state organizations (Freedom House, 2011). The entire media in Vietnam consists of 600 newspapers and 100 radio and TV stations, all controlled by the government (BTI, 2012, p. 8). The government also controls extensive websites through the Internet firewall; predictably, its ability to do so has been limited.

Due to its lack of comprehensive legal coverage, the media does not widely report cases of alleged corruption. A study on "The media's coverage of corruption in Vietnam 2006-2011" (Transparency International, Toward Transparency, UNDP, & UKaid, 2011) found about fifty-one percent covered corruption cases which had been officially released. The vast majority of stories were very short and often based on information provided by the police directly with little follow-up. In other words, while corruption cases might be reported, they are not closely examined or followed up by the media because central party control is so tight. The media did not succeed in pursuing about half of the cases reported after they went to trial, while more than twenty percent of stories covered cases that were not subject to prosecution; see figure 5 below.

Figure 5: Number of corruption-related stories covering court and non-court cases, all newspapers (October 2006-September 2011)

(Transparency International *et al.,* 2011, p. 3)
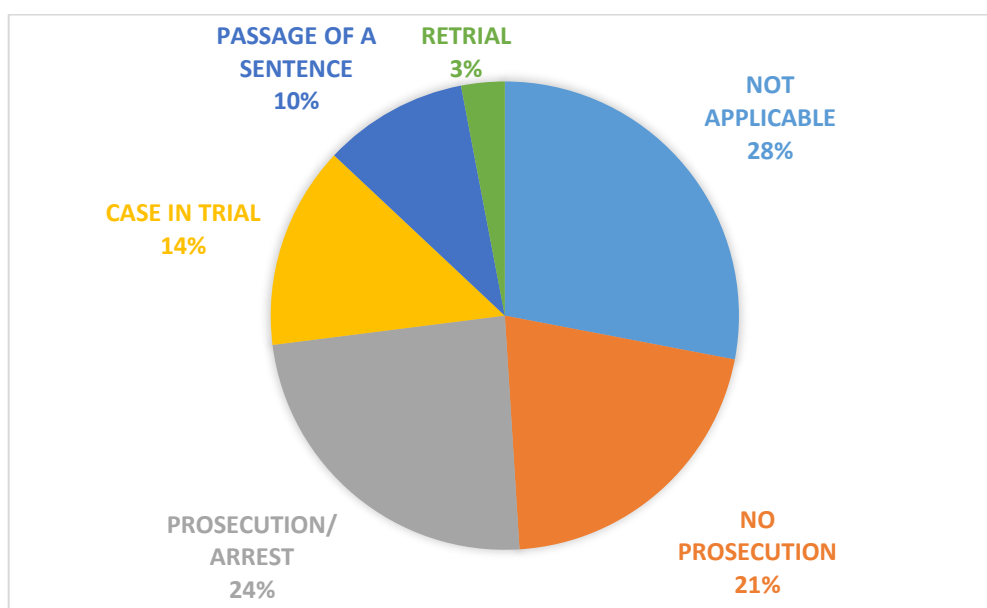
Indeed, the Party considers corruption to be a sensitive issue affecting political reforms, human rights, religious freedoms, or criticism of the government and Party leaders (Maira, 2012, p. 9). As a result, dozens of activists, journalists, and bloggers who report on sensitive issues have faced harassment through street-level attacks, surveillance, arbitrary arrests, and severe prison sentences for anti-state activities (BBC, 2013; Committee to Protect Journalists, 2015). Some reporters and bloggers have been detained because of their news items on corruption (Martha, 2008; Martini, 2012). Considering the media is one of the key factors that could contribute to reducing corruption in Vietnam, this factor will be investigated further in chapter 6.

2.13. Conclusion

This chapter has set out some background and context in relationship to corruption. Having an overview of these crucial elements helps to provide a big picture of the environment in which the anti-corruption measures must be implemented. They also partly explain why corruption is so rampant in Vietnam and why the anti-corruption institutional framework has failed to meet the designed outcomes.

Considering most factors in this section are significantly relevant to the research, some aspects will be investigated further in the following chapters. The Vietnamese political system and the power of the CPV in controlling the state as well as the anti-corruption measures are critical. Those factors will be examined carefully to find out whether the CPV has the real political will and ability to control corruption.

Organisational structure, functions, and duties of ACAs also need to be studied deeper, especially when it comes to ACL implementation. This research will examine whether ACAs are granted a significant level of independence from political control so that they can carry on their work effectively and whether the anti-corruption measures are the only necessary remedies to curb corruption. How do ACAs deal with corruption cases in practice? Moreover, the research will look at whether the rule of law is firmly established.

As mentioned earlier in this chapter, there is a high risk of corruption throughout the political system, the executive and the judiciary. The state institutions, including ACAs, are widely regarded as corrupt. This research will examine how corruption works in practice within the system to have a better understanding of the persistence of corruption and the success or failure of corruption measures in Vietnam.

Alongside this, other non-institutional factors are also considered relevant to this research, and they will be examined more deeply in the following sections. The research will emphasise how history traces culture, what cultural phenomena can be manipulated by corruption and how it works in the real life of Vietnamese society.

CHAPTER 3: THE NATURE AND CAUSES OF CORRUPTION - A LITERATURE REVIEW

The primary purposes of this study are to provide a better understanding of the persistence of corruption in Vietnam and explain why anti-corruption measures have been unsuccessful with reference to Quah's anti-corruption framework. Therefore, the review of the literature is limited to the scope of this study.

This literature review chapter aims to understand corruption and its causes, and to identify gaps in the literature on corruption in general and in Vietnam in particular. Quah's institutional framework helps to map the Vietnamese anti-corruption framework and identify limitations that this research needs to remedy.

The chapter is divided into three parts. The first will examine relevant literature to understand how corruption is defined, and why corruption occurs. The second introduces Quah's policy context and anti-corruption framework. It also critically analyses the success and failure of Quah's Pattern Three in different countries. The remainder of the chapter is devoted to a consideration of the literature on corruption in Vietnam, how corruption has been defined and understood in existing literature. It further illustrates factors that associate closely with corruption. Moreover, this section examines existing research on how corruption has been controlled, and more importantly, the matter of political independence within ACAs.

3.1. Understanding corruption

3.1.1. Defining corruption

Despite much research on corruption, its definition remains contested. Some might argue comprehensive definitions are impossible since corruption is often culturally determined, differing from one society to another. However, this research's definition of corruption is *the misuse or the abuse of public office for private gain* (World Bank, 1997, UNDP, 1999) since it is relevant for this study.

Generally, corruption can come in many forms including misappropriation and nepotism, encouraging private and public actors to bribe, extort, peddle influence, encourage fraud, kickbacks, theft, graft, speed money, pilferage, embezzlement, falsification of records, influence-peddling, and campaign contributions (Klitgaard, 1998).

Corruption involves both political and government officials and can be grand or petty, unorganized or organized[6] (USAID, 1999). Elliott (1997) argues that corruption has a broad span, from tiny bribes of low-level officials (petty corruption) to massive bribes affecting major policy decisions (grand corruption). While there are many different definitions of grand corruption (e.g. Transparency International, 2012b, Pope, 2000, Amundsen, 1999, Elliot, 1997) there are some common themes. These include "high level of government and politicians, [a] large sum of money, distort policy, misuse of public power, pecuniary profit, etc." The widely used definition by Transparency International is "grand corruption consists of acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good." (Transparency International, 2016)

Political corruption, on the other hand, is "an influence of policies, institutions, and rules of procedure in the allocation of resources and financing by political decision makers, who misuse their authority to maintain their power, status and wealth" (Transparency International, 2016).

Petty or bureaucratic corruption occurs in public administration at the implementation end of politics. "Petty corruption refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services" (Quah, 2011, p. 11). It often happens in hospitals, schools, police departments and other public service providers. Petty or "survival" corruption is exercised by low paid, junior civil servants demanding bribes from citizens to accelerate their applications or grant other favours.

Corruption also occurs in the private sector, within non-governmental organisations, and between individuals during their personal dealings, without any government body or public servant taking part. There is also corruption through bribes, fraud, or mafia-style methods within and among private firms. Corruption in the private sector is not systematically discussed in this dissertation.

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[6] Organized criminal: structured group, three or more people, one or more serious crimes, in order to obtain financial or other material benefit (UNODC, n/d)

3.1.2. Why does corruption occur?

3.1.2.1. Systemic causes

Researchers have sought answers to important questions such as why it is that corruption is so rampant in many countries in the world. Goel and Nelson (2010) use cross-country data from about 100 countries to study the historical aspects, geographic influences and political impacts on corruption. They suggest that history informs cultural norms that shape corrupt activities. Due to historical patterns, for example, taking bribes may be socially acceptable in one country but be a criminal action in another. Moreover, both bribe-givers and bribe-takers can gradually improve "effective" measures giving scope to participate in corrupt practices (Goel & Nelson, 2010).

Some other authors argue that permanent features of nations' cultural or institutional traditions affect the level of perceived corruption more remarkably than present country policies. La Porta *et al*. (1999) argue that the proportion of Protestants in the populace is a strong predictor of lower corruption. On the other hand, Treisman (2000) has found that not only Protestantism's positive influence on economic development and stable democracy but also additional pathways lead to lower corruption: for example, his evidence showed that former British colonies have a remarkably low level of corruption. He argues this is not due to superior openness or democracy, or because of Protestant or Anglican religious traditions, but the common law legal system which provides superior protections against corruption, and the greater administration of justice in these countries (Treisman, 2000).

Institutions shape behaviour and, for that reason, some political structures are more prone to corruption than others (Kunicova & Rose-Ackerman, 2005): that competition for executive power through elections and accountability of the executive will limit corruption. In fact, the least corrupt countries (with few exceptions) are all democracies,[7] while the most corrupt are autocracies.

According to the Corruption Perceptions Index 2014 of Transparency International, of 174 countries and territories, most of the 60 least corrupt countries are democracies. The exceptions are tiny city-states including some non-democracies: Singapore, Hong Kong,

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[7] The measure of "degree" of democracy based on Polity IV including five components: competitiveness of participation, regulation of participation, competitiveness of executive recruitment, openness of executive recruitment, and constraints on executive (Coppedge *et al.*, 2011).

Oman, United Arab Emirates and Bahrain. In contrast, about 60% of the 60 most corrupt societies are autocracies, such as Russia, Venezuela, Iran, Belarus, Sudan, and Myanmar. Indeed, all the 30 most corrupt nations are dictatorships or authoritarian regimes (Transparency International, 2014).

The reason could be that democracies derive their legality and general support through the rule of law. That has developed into many forms of government accountability such as government accountability to the people through elections and checks and balances within government. Besides, the existence of a free press and civil society indicate societal accountability in a democracy system (Kolstad & Wiig, 2015). Important factors, such as the rule of law, the news media, and civil society are examined later in the thesis. Some authors, on the other hand, claim that electoral competition might generate other incentives for corruption. Moreover, fundraising campaigns can lead to exploitation of power to benefit the private interests of a party, not the individual (Birch, 2009; Diamond & Plattner, 1993). However, Treisman (2000) argues that abuses will be detected and challenged if there is freedom of the press and greater civic engagement to expose abuses and closer monitoring.

Autocracies, on the other hand, depend for their support on a small group of politicians and elites, the military, the police and the bureaucracy (United States Institute of Peace, 2010). Hence, "autocratic elites may systematically manipulate access to corruption rents as a means to provide bureaucratic incentive agents" (Hollyer & Wantchekon, 2012, p. 3). Johnston (2005) argues that an absence of electoral opposition and legal accountability do not necessary mean a lack of challenges but the top leaders can create an enormous difference. Some perceive threats to their rule; some may encourage corruption or tolerate it. Not unpredictably, these autocracies have experienced a high level of corruption (Johnston 2005).

Some scholars suggest both the size and scope of government is relevant when it comes to exerting influence on corruption. However, some views seem to contradict others. For example, Scott (1985) argues that larger governments may support corruption by creating more red tape or rule density: the more rules in place, the more likely it is that they give bureaucrats the discretion to supply (or forbid) some activity of value. Publicizing policies and regulations encourage citizens to find inappropriate ways to break rules. Goel and Nelson (2010) support this idea. Gordley (1995) on the other hand, suggests that larger governments might better control corrupt government activity through enhanced governance. One of his findings was that a larger public system need not contribute to corruption since it may be better organized to strengthen law enforcement and implement the checks and balances that deter corrupt

practices. Zelizer (1994) argues the extent of state decentralization may also affect corrupt practices: greater decentralization might entail more red tape and so create more significant opportunities for involvement in corruption. The view of Scott (1985), Goel and Nelson (2010) seems to be most persuasive since the red tape leads to higher levels of corruption in Vietnam (Gregory, 2016).

Goldsmith (1995) identifies significant changes made to political and economic structures as increasing corruption. He highlighted this as a major issue in former communist nations where economies are in transition, and where there is a lack of experience in managing co-existence between public and private sectors, as in the former Soviet Union. However, this is not necessarily a transition into competitive private ownership. In some cases, (such as telecommunications) privatisation was simply transforming a formerly public service into a private monopoly (although this is less true in the last twenty years, as ownership of the copper wire network became less important with the growth in mobile networks). Secondly, that does not explain why privatisation increases corruption risk. The privatization process can increase corruption risks since public assets are transferred to competitive private ownerships. The usual argument is that the process of the sale of state assets provides opportunities for insiders to take their cut directly at the point of sale.

Corruption is bound to reduce where the monopoly and discretionary power (or opportunity) for public employees declines; where the system is transparent, raising the chance of being caught; and where higher wages or better-working conditions (or incentives) lessen the likelihood of officials becoming corrupt. Klitgaard (1988) find that constant monitoring might also reduce the level of corruption.

"Purchasing" protection from the State appears to be a crucial condition for organized crime to fester. With the help of criminals, government officials are "protected" and vice versa. Here they control political decisions and government structures as well as legitimate businesses. Widespread corruption offers chances for organized crime that are willingly exploited by gangs. Consequently, criminal groups can obtain dominant positions using corruption in the public sector to do so (Buscaglia & van Dijk, 2003, p. 22). However the relevant causal linkages entailed are contestable: that is, whether organized crime is a cause of corruption or corruption a cause of organized crime. It seems the relationship between corruption and organized crime is not straightforward.

3.1.2.2. Causes of corruption at organisational levels

In a study on the relationship between power and corruption, Stapenhurst and Kpundeh (1999, p. 6), argue that corruption occurs in public life where the "public and private sector meet." Especially when there is a direct responsibility for the delivery of a wanted service or application of particular laws or levies.

Rose-Ackerman (1997), on the other hand, examines economic opportunities for corruption and concludes that bribes are paid for two reasons: to acquire benefits and avoid costs. The government buys and sells services and goods, grants rights (for example to import or to exploit a natural resource) or administers penalties (such as traffic fines), dispenses subsidies, controls privatization of state-owned organizations (SOEs) as well as delivering concessions. These activities generate incentives for corruption, as public officials often have valuable information and firms may be willing to pay for it. Furthermore, while privatization can reduce corruption by improving economic performance, the selling of government assets to private owners can lead to corruption. A firm may pay bribes to acquire low prices or to be favoured in selection procedures (Rose-Ackerman, 1997).

Related to payment for avoiding costs, government officials may postpone enforcement of regulations, taxes and the imposition of laws. Where the law is unclear, individuals or firms may offer bribes to get desired interpretations of laws or gain flexible judgments. Over taxation, people may collude with revenue officials to pay lower amounts; the remaining balance shared between taxpayers and collectors. Customs officers are likely to be involved in corruption since they have the power to control value-access that is useful for companies (Rose-Ackerman, 1997).

The government is also a purchaser or a contractor. It contributes to the environment in which a firm willing to pay to distort bidding processes emerges as the only qualified seller. The government often offers goods or services below market prices to a firm ready to pay bribes to gain the business. Such payoffs are frequent in China where raw materials are sold through state-subsidized prices (Hao, 1995).

Blackburn, Bose, and Haque (2003) share the view that the main condition for any form of corruption is a principal delegating power to an organisation. That power can then be abused to capture economic rents large enough to inspire motive.

Illegal businesses are vulnerable to demanded payments. Law enforcement agencies such as the police, or prosecutors and judges, can require payoffs to overlook violations or limit punishments. For instance, drug dealers and gamblers pay government officials for not raiding their premises or restricting entry (Rose-Ackerman, 1978, p. 163). Since time is precious, companies and people everywhere are willing to pay to avoid delay. Sometimes services are only accessible to the corrupt. More seriously, when corruption is widespread, as in many developing countries, there is lively competition for jobs and positions in the public sector which, in turn, creates more incentives for corruption (Wade, 1982).

3.1.2.3. Causes of corruption at individual levels

Those who take the criminological approach are interested in individual corrupt officials and apply criminological theory to study them (Huisman & Walle, 2010). In their research on ten corruption cases in the Netherlands, De Graaf and Huberts (2008) consider that psychological make-up is essential. Klitgaard (1988, p. 46) argues that "corruption is a crime of calculation, not passion." His argument raises the question as to when conditions are sufficiently conducive for an official to become corrupt: most probably, it would seem, when the potential benefits of being corrupt are high, the probability of being caught is small, and when individual salaries are low. Klitgaard's widely cited formula will be used later in analysing Vietnamese corruption: *Corruption = monopoly + discretion – accountability*

Other scholars focus on the relationship between public service motivation and corruption (Rubin & Whitford, 2008). They believe that not only institutional, environmental and specific organizational factors affect corruption, but also public motivation. Hence causes of corruption, stemming from civil service dissatisfaction (as over compensation or organization fairness grievances), can be curbed among those public servants with greater levels of public service motivation (Rubin & Whitford, 2008). Salary scales and work satisfaction are further seen as affecting levels of corruption among public officials (Evans & Rauch, 2000; Mauro, 1995). Palmier (1985, p. 271) argues, "if the official is not to be tempted into corruption and disaffection, clearly there is an obligation on the government to provide or at least allow such benefits as will ensure his loyalty."

Similarly, Mauro (1997, p. 5) asserts that "when civil service pay is too low, civil servants may be obliged to use their position to collect bribes as a way of making ends meet, particularly when the expected cost of being caught is low." Further, Quah has argued, politicians and civil servants are more likely to engage in corruption when their salary is too

low. Where the salary does not cover daily needs, it is unrealistic to expect an individual to remain honest. Hence a key reform ingredient is to pay public employees adequately. As well, it is essential to minimize opportunities for corruption by reducing unnecessary regulations, excessive red tape, and cumbersome administrative procedures (Quah, 2011).

3.1.2.4. Relationship between culture and corruption

Beyond the three levels discussed above, it is also necessary to explore the relationship between cultural factors and corruption, and how cultural influences are simultaneously individual and collective. It is important to note the notion of "cultural" influences invoked in this literature is more an abstract, sociological notion (norms and values) rather than the more organic, anthropological notion employed later in the current research analysis.

Numerous scholars identify the culture and corruption interconnection (Barr & Serra, 2010; Getz, 2001; Tanzi, 1998; Treisman, 2000). Their studies see culture embracing tangible elements such as known trust, practised religiosity, and evident institutional structures, and occasionally less particular features such as values, norms, and ethics.

Since cultural practices manifest themselves in informal institutions and social norms, it is hard to disentangle the effects of each on practised behaviour. Husted (1999) identifies four dimensions of culture seen as connected to corruption: *power distance, uncertainty avoidance, individualism/collectivism, and masculinity/femininity*. Cultures with high power distance have subtle, unbridgeable separations between socio-economic classes. In other words, the degree to which authority is unfairly distributed among members of society is settled. Accordingly, people are more likely to engage in corruption because of their paternalistic attitudes. Upper-level public officials believe they are entitled to get personal gain from their positions. At the same time, civil servants at the lower levels may try to increase their position through extortion.

Husted's culture dimensions have been developed further by other scholars. Hollyer (2011) contends the greater the uncertainty avoidance within a culture, the more widespread is corruption. An uncertainty-avoidance culture sees people preferring stability and rejecting risk, change or unconventionality. Here, people look for constancy with what is familiar. Thus they seek to maintain robust institutions with well-established rules, policies, and processes. That can encourage them to pay or offer bribes, and induce officials to require or accept them. Those

not familiar with these corrupt relationships may consider them rampant, but are unwilling to refrain out of fear of losing a competitive advantage (see also Tran, 2008).

Individualism as a cultural value where individual interest outweighs social good is another factor in the prevalence of corruption. Collectivist cultures, by contrast, emphasise group goals. Some researchers suggest that individualism relates to principles and standards (Serra, 2008). Others see it as related to higher ethical standards (Ting & Shiru, 2012). This cultural characteristic appears most evident in whether a public employee decides to request or receive bribes. In a collectivist culture, an individual's loyalty to a social group would prevail over his or her responsibility to perform as a rational official (Pope, 2000; Transparency International, 2012a). Moreover, in collectivist cultures, one may find a linkage of family members or friends that maintain long-lasting relationships and ease and justify irregular or abnormal transactions. Consequently, bureaucrats may be motivated to accept bribes in return for favourable treatment of a member within their social group. In sum, a country with a collectivist culture has more scope for corruption activities to occur.

Some scholars including Caille (2000), Emile Benveniste (1997), Scott (1985), Rose-Ackerman (1999), and Zelizer (1994), have sought to study gifts and bribes. They have found that, in many cultures, business people often give gifts to influence the performance of government officials within powerful agencies. Scholars have found that a key feature of the gift is its capacity to establish social and personal coalitions throughout reciprocal obligations. By contrast, bribery is seen as dishonest behaviour, conduct that violates trust vested in politicians, bureaucrats at all levels, and business people. Such people abuse the benefits of powerful positions for personal gain and to enrich their position in society (Benveniste, 1997; Caille, 2000; Mauss, 1966).

In gift-giving societies, sharing bribes both up and down consolidates a hierarchical system. Accordingly, gifts made at the top will be shared with lower levels; those gathered at the bottom shared with those higher. Loyalty to family, friends and work fellows reinforce loyalty to the state (Rose-Ackerman, 1999).

For anti-corruption, and when identifying bribes or gifts, there is a need to incorporate cultural factors and any supporting ethical data in ways that make sense and render it practical. While the concept of gifts and bribes is a cultural issue, culture itself is dynamic, and may change regularly. To advocate anti-corruption measures, it is necessary to heed culture databases and shed some light on the more murky areas of the gift-giving culture and bribery.

According to Steidlmeier (1999), three major features of the cultural framework include artefacts, social knowledge, and cultural logic. While artefacts define things seen or heard that illuminates the "who-what-where-when" part of the story, social knowledge answers the question why and how people act the way they do. Cultural logic, on the other hand, provides a universal view about the basis of social behaviour and understanding (Steidlmeier, 1999). These need to be accounted for when considering daily practice. It is also necessary to clearly delineate acceptable behaviour patterns and to appreciate why people behave in certain ways. If "corrupt" behaviour is identified and seen as acceptable tipping or gift-giving in a country, it should be legalized and reported. Identifying acceptable behaviour may change when people are educated about the cost of tolerating bribes given to politician and officials. These points are discussed further later in the thesis.

To sum up, this literature section has concentrated largely on explaining what causes corruption, through particular references. Some important aspects could be useful for this research to explain the persistence of corruption in Vietnam and the drivers of corruption in the country.

Historical, political systems and the relationship between power and corruption play a critical role in corruption influence - for example, Goel and Nelson (2010) and Treisman, (2000) - thus they will be revisited. However, due to the scope of the study, the size and extent of government, and the extent of state decentralization will not be emphasized. The research will also focus on economic opportunities and incentives for corruption. Nevertheless, the relationship between corruption and organized crime will not be studied since that relationship is unlikely to be a common phenomenon in Vietnam. It is necessary for this research to illustrate the relationship between public service motivation and corruption. Criminological theory to explain why individuals become involved in corruption, however, will not be included. Last but not the least, cultural influence will be analysed further in the Vietnamese context.

3.2. Controlling corruption

There has been a recent rise of scholars interested in studying corruption and anti-corruption. Substantial work has been done in developing numerous types of anti-corruption measures and anti-corruption agencies such as (Graycar & Sidebottom, 2012; Huberts & Six, 2012; Johnston, 2005; Lasthuizen, Huberts, & Heres, 2011; Quah, 2013a, 2014).

Considerable knowledge has been accrued about possible approaches to controlling corruption. However, there is a lack of mutual agreement on useful methods, and what distinguishes effectiveness from failure (Jain, 2001). There is no single, commonly accepted method for investigating and analysing corruption.

Some countries are more efficient than others in minimizing corruption, although they may share similar features or inhabit the same region. Hence while the Asian culture has been responsible for, or used to justify, bribe-taking, nepotism and other kinds of corruption, Hong Kong, and Singapore have managed to fight corruption.

Either way, corruption remains a serious problem in many Asian countries. According to the Transparency International Corruption Perceptions Index (CPI) 2014, only seven of the 27 Asian countries assessed scored a passing grade of 50 or more out of 100 (Transparency International, 2014). To combat corruption, Asian governments established numerous instruments from the early 1950s, but results vary widely among those countries.

3.3. Jon Quah's anti-corruption framework

Quah carried out a comparative analysis to explain corruption and the success and failure of anti-corruption measures in some Asian countries. His model is a very useful starting place to explain corruption and anti-corruption in Vietnam. Using new data to map Vietnam with Quah's framework to find where it stands in his three anti-corruption approaches, this section will discuss the strengths and weaknesses of the model in depth. That will help to identify other elements missing in the framework and how it applies to Vietnam.

3.3.1. Policy context

Quah argues the policy context and level of governance generally shape the nature and function of a national integrity structure of a country (Quah, 2007, p. 5). To demonstrate the relationship between corruption and governance, Quah introduced examples confirming that corruption is a serious consequence of poor management in many countries. The close link between the Governance Score and the CPI score shows the well-governed country where anti-corruption instruments are impartially implemented is less likely to suffer from corruption. By contrast, if the governance of the country is poor, it is more likely to be damaged by extensive corruption. The seven failed states of Myanmar, Somalia, Afghanistan, Zimbabwe, the Democratic Republic of Congo, Iraq, and Sudan are seen as good examples of a correlation between poor governance and flourishing corruption (Table 1). However, the criteria by which

the World Governance Indicator (WGI) and the CPI are made are still arguable (see Gregory, 2013).

Table 1: Corruption Indicators of Seven Failed States, 2009-2010

(Quah, 2011, p. 441)

Country	Control of Corruption 2009 Percentile Rank	Corruption Perceptions Index 2010 Score	Doing Business Survey 2010 Rank ($N = 183$)
Myanmar	0.0	1.4	NA
Somalia	0.5	1.1	NA
Afghanistan	1.4	1.4	160th
Zimbabwe	1.9	2.4	159th
Democratic Republic of Congo	2.9	2.0	182nd
Iraq	4.8	1.5	153rd
Sudan	6.2	1.6	154th

Together with political will, policy context plays a major role in the success or failure of anti-corruption measures, which helps explain why Pattern Three has been successful in Singapore and Hong Kong but failed in some other Asian countries. Quah contended the application of a single ACA has not automatically led to remarkable results in reducing corruption. The policy context, its variety of aspects impacting on the nature of public policy, its design and implementation including geographical, demographic, historical, economic, and political factors are also relevant as identified (Quah, 2011, p. 30) below:

- *The size of the country*: It is easier for a small country or city-state (like Singapore and Hong Kong) to implement anti-corruption schemes than a large country or archipelago (India, the Philippines, and Indonesia).
- *GDP per capital*: It is easier for a wealthy country to enforce anti-corruption measures than a poor one not receiving adequate external financial and technical support.
- *Nature and size of the population*: A country with a large, heterogeneous population will have greater difficulty in applying anti-corruption policies than a country with a small, relatively homogenous population.
- *Nature of the political system*: Is the country's political system democratic or authoritarian? What role does the military play in politics? Are the elections freely held at regular intervals? Are the top politicians accountable for their public functions? Is corruption a way of life or a fact of life? (Quah, 2006a, p. 2).

The above aspects are indicated in Table 2 below.

Table 2: Policy context of 10 Asian Countries

Country	Land Area (sq. km)	Population (million) 2009	Population Density (per sq. km)	GDP per Capita 2009/ USD	2010 CPI score	Political system
Hong Kong	1,075	7.0	6,511.6	29,826	8.4	SAR of China
India	3,287,263	1,198.0	364.4	1,031	3.3	Federal Parliamentary
Indonesia	1,904,443	230.0	120.7	2,329	2.8	Presidential democracy
Japan	377,727	127.2	336.7	39,731	7.8	Constitutional Monarchy
Mongolia	1,565,000	2.7	1.7	1,560	2.7	Presidential democracy
Philippines	300,000	92.0	306.6	1,746	2.4	Presidential democracy
Singapore	710	4.9	7,022	37,293	9.3	Parliamentary democracy
South Korea	99,274	48.3	486.5	17,074	5.4	Presidential democracy
Taiwan	36,197	23.1	638.4	16,392	5.8	Presidential democracy
Thailand	513,115	67.8	132.1	3,940	3.5	Constitutional Monarchy

As shown in Table 2, policy contexts in Singapore and Hong Kong are more favourable for implementing anti-corruption measures since both are city-states with small populations. By contrast, countries like India, the Philippines, Mongolia, Thailand, South Korea, Indonesia, Taiwan, and Japan have less advantageous policy contexts due to their larger populations, size, and lower GDP per capita - all leading to less successful anti-corruption measures.

Quah identified some major factors that cause corruption: 1) low salaries; (2) opportunities for corruption; (3) perceptions of corruption as a low-risk, high reward activity; and (4) cultural factors. This is in line with other literature, he seems to share the views of Evans and Rauch (2000), and Mauro (1995), that low salaries affect levels of corruption. Quah's arguments on opportunities for corruption resemble Klitgaard's formula.

Quah saw administrative discretion giving rise to large-scale corruption since the role of bureaucrats is pivotal over administrative decisions. One could argue that officials in countries are topping the list of the CPI - such as New Zealand, Denmark, Finland, and Singapore - also enjoy discretionary power, and corruption is not widespread (Gregory & Zirker, 2013). Here one could refer to the impact of public service values, including ethical,

democratic and professional values (Gilman & Lewis, 1996, p. 518), and differences between the public service ethics or values of Western and Eastern bureaucracies.

Corrupt offences should be punished because they break the law. However, in Asian societies, practices of detecting and punishing corrupt people differ from country to country. Quah suggests that in some Asian countries, such as the Philippines, Indonesia, and Mongolia, corruption flourishes because the public experience it as "low risk, high reward" activity (Quah, 2011, p. 14). In other words, corrupt people are unlikely to be identified and penalized. By contrast, in countries like Hong Kong and Singapore, corruption is perceived as a "high risk, low reward" those involved in corrupt practices are likely to be detected and punished severely.

Regarding cultural factors, Quah has identified a variety of cases where culture may contribute to corruption. For example, in Japan, a culture of the gift-giving and social tradition of *amakudari*, (reemployment of top government officials in private and public cooperation and their association to political life after they retire) offers a structural mix between money and politics. In India, societal tolerance of corruption is widespread. In Taiwan, the tradition of gift-giving and *guanxi* is prevalent. In Thailand, a culture of gift-giving and patron-client linkages are all common. In the Philippines, there is the widespread and accepted usage of intermediaries when dealing with authorities and obligations of appreciation for favours rendered. In South Korea, gift-giving is significant among other reasons for corruption. In totality, these countries demonstrate that corruption is very much a consequence of a culture that establishes networks, speech money, nepotism, and gratitude to authority (Quah, 2011).

These factors are critical. The various contributors to corruption identified by Quah may help to answer some of the fundamental questions posed as the focus for this research.

3.3.2. Jon Quah's institutional approach to control corruption

According to Quah, political will is the most crucial factor in minimizing, though not eradicating, corruption. To ensure that a comprehensive anti-corruption policy is implemented effectively, the country needs to show such political will. These ideas are discussed in this section. Quah identifies five elements for effective anti-corruption as follows:

- Strong political will
- An impartial, incorruptible and independent ACA
- Punishment of corrupt officers
- Reduced opportunities for corruption in government departments

-   Adequate salaries for politicians and civil servants

To analyse the patterns of corruption control in ten countries, Quah used a common framework to simplify his comparative analysis. He selected the studied countries for several reasons. First, these countries fall into three key patterns of corruption measurements. Second, a large number of relevant published research articles and books on corruption issues are available in English. Last, he is familiar with these countries, having studied corruption in them.

Quah used five indicators which broadly relate the effectiveness of the ten Asian countries in minimizing corruption. They are Corruption Perceptions Index (CPI) Rank and Score; Political Economic Risk Consultancy (PERC) Rank and Score; Control of Corruption; Doing Business Rank; and Public Trust of Politicians Rank and Score. According to these indicators, Singapore stands consistently at the top, followed, in order, by Hong Kong, Japan, Taiwan, South Korea Thailand, Mongolia and the Philippines (Quah, 2011, p. 447).

Quah has explained why Pattern Three of corruption control is more effective than the others. Unlike Patterns One and Two, the ACA in Pattern Three is a dedicated agency that deals exclusively with curbing corruption, and is not distracted by other duties. The achievement of curtailing corruption in Hong Kong and Singapore demonstrates that Pattern Three is the most effective. Nevertheless, Mongolia, Indonesia, Thailand and Indonesia show that merely adopting the third pattern will not guarantee any success in curbing corruption unless there are also strong political will and favourable policy settings (Quah, 2011, p. 439). Hence, a single ACA is necessary but not sufficient. In fact, many other top ranked countries do not have one.

Quah's research indicates that Pattern Two in India, the Philippines, and Taiwan is unsuccessful in minimizing corruption, as ACA powers and resources are limited. Moreover, multiple ACAs in these countries lack coordination and are unable to implement anti-corruption laws impartially. Pattern One can also be seen as "an impossible dream" since Japan's anti-corruption laws are executed by the police, the public prosecutors, and the so-called "rotten triangle" of politicians, bureaucrats, and business people, all of whom maintain forms of structural corruption (Quah, 2011, p. 64).

Quah sees the political will of governments as the single most critical determinant in successfully curbing corruption (Quah, 2010a, p. 2). Quah (2011) explains this as "the

demonstrated credible intent of political actors (elected or appointed leaders, civil society watchdogs, stakeholder groups) to attack perceived causes or effects of corruption at a systemic level." He cited Kpundeh (1998) to argue it is "a critical starting point for sustainable and effective programmes," because, "without it, government's statements to reform civil service, strengthen transparency and accountability and reinvent the relationship between government and private industry remain mere rhetoric" (Quah, 2013, p.453). Hence, governments must demonstrate commitment by enforcing anti-corruption laws fairly, and providing a single Independent Anti-corruption Agency (IACA) with sufficient personnel and finances to allow efficient task implementation (as in Hong Kong and Singapore). Countries that are less effective in controlling corruption are those that lack political will from their governments. That is reflected in lower staff-population proportions, insufficient expenditure on ACAs, and the selective application of the anti-corruption framework (for instance India, Taiwan, Indonesia and the Philippines).

Quah has emphasized the importance of independent implementation of a comprehensive anti-corruption legal framework by a single IACA. He shows how the ACA was separated from the police in Hong Kong and Singapore. ACAs can be defined as unique institutions, established for the specific purpose of reducing corruption by preventing, investigating, and prosecuting corrupt officials as well as educating people about the adverse impacts of corruption. Quah concludes that a single ACA is superior to other, less-specialized units because it is formed to cope exclusively with corruption. The advantages of a single ACA are listed in Table 3 below.

Table 3: The benefits of a single ACA

(Quah, 2013a, p. 22)

1	reduction of administrative costs
2	elimination of duplication of power and workload
3	high level of specialization and proficiency
4	high level of autonomy
5	separation from agencies and units under investigation
6	substantial public credibility and profile
7	provision of security protection
8	political, legal and public accountability
9	transparency in assessment of its processes
10	immediate action to fight corruption

A single IACA has task-specific resources available while "officials are not subjected to the competing priorities of law general law enforcement, audit and similar agencies" (Quah, 2013a, p. 22).

Quah suggests the most efficient way to minimize corruption is to prosecute and punish those found guilty of corrupt offenses. He has argued that lack of punishment sends the wrong signal to honest civil servants and citizens, makes a joke of anti-corruption laws and encourages others to engage in corruption where the likelihood of being caught and punished is low.

Quah emphasises that if governments want to curb corruption, they need to demonstrate their willingness to do so. They must provide ACAs with adequate personnel and budgets to perform their functions, including *Per Capita Expenditure* (the annual budget ACAs receive from the government, divided by the total population in that year), and *Staff-population ratio*, which is the proportion of the population to the number of ACA staff in the same year (Quah, 2009, p. 182). However, it could be argued that a high per capita expenditure and a high staff-population ratio do not necessarily reflect the quality and professional competence of personnel. One could argue that a small, highly skilled agency with real powers of investigation and prosecution is likely to be more effective than a large one without these capabilities.

In light of Johnston's principles of independence and credibility, Quah evaluated an ACA's level of independence based on the following indicators:

- *Location:* Where the ACA is located in the government structure.
- *Appointment of a director:* Who appoints the director and to whom does he report?
- *Independence from police:* Is the ACA part of the police or is it an independent agency?
- *Investigation of high-ranking government officials and politicians:* If government leaders and politicians are investigated, when are they charged with corruption?
- *Taking action against "big fish:"* Has the ACA dealt with corruptly exposed individuals? How many "big fish" have been charged, prosecuted and sentenced? [8]
- *Weapon against opposition:* Has the ACA been abused by governments to discredit political opponents? (Quah, 2009, p. 185).

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[8] According to Quah, "Big fish" means rich or famous people (Quah, 2014). The main point is that they have the power to evade investigation.

Quah mentions certain conditions required for a low-corruption state: in particular, a formal system for minimising corruption risk, and for detecting and successfully prosecuting corruption cases independently of political authority, and free from its manipulation.

Like any agency, whatever its organisational status, the credibility of anti-corruption agencies is crucial. Quah emphasises the ACAs need to guarantee their credibility among citizens by fulfilling the following indicators:

- *To consider all complaints*: Does the public believe every complaint is taken seriously by the ACA, no matter how big or small the case? What percentage of claims is investigated?
- *Public view on the ACA's proficiency*: Does the public perceive the ACA as impartial in its performance, not overreaching its powers? Does the public believe the ACA keeps corruption reports confidential?
- *To enforce the anti-corruption laws*: Does the ACA implement anti-corruption laws neutrally? Does it deal with both grand and petty corruption? Are the wealthy and powerful also subject to investigation and prosecution for corruption offences?
- *Public impressions of the ACA*: Does the public consider the ACA incorruptible? How are complaints relating to ACA officials dealt with? (Quah, 2010b, p. 23).

Quah's evidence confirms that Hong Kong has gained the confidence of the people by investigating all complaints of corruption and protecting whistle blowers. For example, whistle blowers are guaranteed anonymity. They also have no criminal liability and no civil liability, such as paying monetary compensation resulting from breaking a contract; or other kinds of restrictions, such as confidentiality obligations. The Corrupt Practices Investigation Bureau (CPIB) in Singapore has shown zero tolerance for corrupt actions. That is reflected in its dealing with all corruption cases, notwithstanding the amount of money involved (Quah, 2010b, p. 23).

Quah concludes that although they have different policy contexts, other Asian countries could apply features of Singapore and Hong Kong's anti-corruption measures that suit their particular circumstances. Government leaders, public servants, and citizens can join to support and implement essential reforms. Corruption can be minimized by eradicating it through the implementation of a zero-tolerance policy (Quah, 2011, p. 469).

In general, Quah's findings offer a useful perspective when studying corruption control measures, especially in Asian countries. It focuses largely on anti-corruption measures taken in ten countries and then examines whether they work. Furthermore, it provides explanations of final results of corruption curbing strategies in each country. All ten case studies are sharp and worthy of academic consideration. Quah's model is not necessarily the only effective agency model, and a single independent ACA may not seem appropriate for all countries. However, as Johnston highlighted ''permanent, independent agencies addressing corruption as a deep-rooted problem, making society a partner in reform, and developing careful strategies for prevention may be a promising way to confront serious corruption'' (Johnston, 1999, p. 225).

Quah's study is considered a substantial, comprehensive and insightful evaluation of common corruption activity found in Asia. However, much of this work is essentially descriptive rather than analytical, leaving some commentators with different views about its total value. For example, S. H. Lo cited in Caiden (2011) argues the achievements of Hong Kong and Singapore are debatable, given their relatively small size. Generally, local governments follow instructions from central governments over the control of corruption. Quah has not considered whether large countries, such as Indonesia or India, are influenced by the dynamics of central-local government relationships. The local governments may misrepresent such central directives and implement anti-corruption policy wrongly.

Furthermore, and relating to Hong Kong, Quah has not investigated whether amnesties granted to corrupt offenders would be feasible for other countries fighting corruption (Caiden, 2011). Allowing an amnesty for corrupt offenders before their time has been served and postponing the imposition of severe penalties, is problematic. In one respect it may establish a turning point that creates a clear break with the past. In countries where corruption has been a way of life, offering an amnesty might be a practical option for combating corruption effectively.

Other researchers share Quah's point that, without a strong political will, anti-corruption measures are likely to fail (Brinkerhoff, 2000; Stapenhurst & Kpundeh, 1999; UNDP, 1999). However, what is political will and is he correct or not? Here Quah's work appears nebulous in that he does not suggest ways of detecting its presence other than by the existence an effective anti-corruption strategy (although he does imply some needed and associated conditions such as an effective media and strong civil society).

Moreover, Quah fails to consider political will from a "bottom-up," grassroots perspective of fighting corruption, being largely concerned with top-down applications of political will. Hence for Quah, the founding motivations to curb corruption come from the top levels of a political system of a country. Although he mentions the rule of law or the principle that powerful people are bound by the same system of regulation as ordinary citizens, he has not discussed the characteristics and determinants of a "rule of law" state, and how a country would acquire them.

Quah rejects the argument that even if an ACA campaign is to a large extent politically-motivated, it might still be effective in reducing corruption. For example, he comments that Chinese ACA strategy would not be effective. He argues the effort seemed to be targeted more at eradicating political opponents and enemies than serving as an ethical purge of political malfeasance (see Quah, 2014).

Furthermore, among the 15 Asian countries which adopt an independent ACA, only Hong Kong, and Singapore have managed to address corruption. Quah's explanation is that the other 13 Asian countries lack the political will and have unfavourable policy contexts. That is why they have failed in curbing corruption (Quah, 2013a). So, what are the circumstances that are so unique to both Singapore and Hong Kong which made the CPIB and the ICAC so effective? The idea is to establish a new and different agency which is not corrupt and has enough power to fight corruption. Significantly, the CPIB and the ICAC support centralised information and intelligence on corruption. The two cases include powerful central agencies which are independent from police. Their target is to defeat corruption without any bias. They take up all the complaints, investigate all the cases and plan preventive measures.

Not only do the CPIB and the ICAC have absolute power but also they get adequate support from the government's strong articulation of anti-corruption policies. More importantly, the two city-states inherited the legacy of meritocracy from the British colonial period. The two cases are widely regarded as huge successes internationally and that helped them establish squeaky-clean public management systems, where formerly there was corruption. Elements of their success frequently cited include that senior officials, and powerful business people (big fish) have been investigated, prosecuted and convicted (Quah, 2011).

According to deLeon and deLeon (2002), top-down players may implement policies that citizens do not understand. They argue that a bottom-up approach is more likely to reflect community interests, while a top-down approach imposes policies focused on particular

interest groups. Bottom-up implementation is more realistic, practical, and democratic (deLeon & deLeon, 2002). Matland (1995), on the other hand, tried to synthesize the two approaches and highlight those conditions where each is most relevant. The top-down approach uses central bureaucratic actors to operate policy implementation from a top level. These actors are expected to present "prescriptive advice" (Matland, 1995, p. 147). This approach could limit change, minimize actors, and enlist sympathetic organizations to implement policy. By contrast, a bottom-up approach can locate and designate a level of policy effectiveness in direct relation to a policy goal.

Overall, academics express different views about whether top-down, bottom-up, or a combination of each will lead to effective policy implementation. Considering this a crucial factor when it comes to anti-corruption, it is important for this research to investigate how political will operates and how it affects anti-corruption implementation in Vietnam. That will be discussed later in chapters 5 and 7.

3.4. Corruption in Vietnam

3.4.1. How is corruption understood in Vietnam?

Studying corruption in Vietnam is far from an easy task; not only because of its sensitivity but also because gaining access to the inner workings and behaviour of organs within the Communist Party is tough. Thus the internal workings of this single-party state are considered a black box, difficult to penetrate or interpret, even when looking closely at how these institutions actually operate (Khan, 2009; Malesky, Abrami, and Zheng, 2011).

Recently there has been some remarkable research on corruption in Vietnam that provided stories of corruption in different areas and from different perspectives. The scholars used survey-based, quantitative and/or qualitative methods, including surveys on corruption perceptions conducted by the Committee on Internal Affairs of CPV in 2005; Corruption from the Perspective of Citizens, Firms, and Public Officials; Diagnostic Surveys of the World Bank (2012) and Modern Institutions (World Bank, 2010); studies by the UNDP, Global Corruption Barometer, Views and Experiences from Vietnamese Citizens (Toward Transparency, 2013), and research by the academic/research community.

When it comes to the definition of corruption, there are many different views, both academic and in Vietnamese society. Vietnam's public administration reforms have officially

adopted a "public duty" definition of bureaucratic corruption. This criminalises official behaviour intentionally diverging from official functions and accepted norms and conducted for private gain (Shihata, 1997; UNDP, 1994). Legal definitions of corruption codify this formulation and include misconduct in the use of official authority.

Research in Vietnam concludes there are only a few commonly agreed standards of corruption, except at extreme levels. Elite and common opinions accept some official misconduct (Gillespie, 2001). Thus, in "socialist orientated market economies" bureaucratic corruption is disregarded by business people and people who think *tỏ lòng biết ơn* (evoking gratefulness) is unavoidable and a necessary aspect of doing private business (Duc, 1999). From citizens' perspectives, corruption is accepted as a necessary evil, as a kind of customary rule and reality needed to maintain harmony of the Vietnamese community, and be helpful to their shared interests (Sato, 2009a).

Corruption in Vietnam can be classified in the same ways as elsewhere. For Osbourne (1996) corruption can be classified into three groups: bureaucratic (government officials take bribes), political (politicians take bribes), and grand corruption which reveals an abuse of state power by political elites for substantial and private monetary benefit. The nature and scope of corruption in Vietnam have been classified in many ways, ranging from administrative, judicial, and political, both petty and grand corruption, and also public and private sectors corruption. Like many other developing countries, corruption in Vietnam occurs across all social levels and functional sectors (Gainsborough, Dang, & Tran, 2009).

In Vietnam, this manifests itself in many forms from street-level harassment by traffic police officers; among many other public officials in most government offices; among ordinary people in their daily lives through 'under-the-table' payments for health, medical care, schools and other services; by required bribes from business units in legislating, licensing and permission procedures; in the "purchase of office" in every field of public employment; over privatizing of government assets; in the abuse of authority by decisions in the bureaucracy when claiming or enforcing economic and other rights; and, not least, through theft of public assets, including land, sometimes on a huge scale (Davidsen *et al*., 2011; Davidsen *et al*., 2009; Martini, 2012; Nawaz, 2008; H. V. Nguyen, 2009; Sato, 2009b; Segon & Booth, 2010). Even more seriously, connections between organized crime, the police, and government officials were exposed in the late 1990s, remarkably through the Nam Cam scandal in Ho Chi Minh City (Abrami, 2003).

Regarding overt political corruption, Vuving (2013) indicates that, since *Đổi Mới*, Vietnam has faced both a rise in and a crisis of rent-seeking. The marriage of the Communist system with the capitalist economy has resulted in a new kind of state. As Khan (2009) identifies in the policy context, corruption can be described as unlawful rent-seeking where an individual is involved in illegal activities and accordingly tries to influence public policy. Vuving (2013) claims the Communist regime's efforts to survive by implementing some features of capitalism, yet retaining most of its authoritarianism, has allowed rent-seekers to become increasingly dominant forces in Vietnam's political system, thus surreptitiously changing the nature of the state. In Vietnam all land belongs to the state, the media is controlled, and the state is accountable only to itself which allows ample rent-seeking scope to find fertile ground. Without any checks, or the patriotism and the pressure needed to fulfil a liberal order, rent-seeking has prevailed over the most powerful figures in the economy and politics of Vietnam (Vuving, 2013).

It is often commented that corruption occurs because there are too many opportunities for discretionary behaviour among public officials; or a poor ethical outlook results in corruption, especially during the *Đổi Mới* process. Alternative views on corruption in Vietnam are it is a result of inadequate reform, low pay in the public sector, 'asking-giving' mechanism, a result of poor law enforcement, and so on. However, Gainsborough *et al*. (2009) argue that while those individual elements are relevant, they do not help to understand the problem of corruption in Vietnam. Instead, they say corruption is a systemic issue in the country and refer to three tendencies within the institutional structure: (1) considering public office as a tool for private enrichment; (2) giving attention to servicing personal patronage links rather than serving some notion of the public good; (3) lacking clarity and transparency in respect of regulations as an instrument of the rule (Gainsborough *et al*., 2009).

Gainsborough and colleagues further explain that the tendency to view public office as a tool for personal gain might appear reasonable when officials have purchased their seats in public office. When civil servants have to pay for their position, they expect to get their investment back rather than doing something out of the goodness of their heart. Further, instead of working for the public good, there is a tendency to pay attention to servicing one's patronage network. In the Vietnamese state system, it is regarded as the culturally right thing to do to look after those in one's immediate link or patronage network otherwise one would be seen as behaving badly. That contributes to the continued high occurrence of nepotism in appointments in the system. Moreover, the laws and regulations are often unclear and overlapping because

there is an inherent logic of the system that implies they are tools of practicing power with the purpose of creating opportunities for private gain (Gainsborough *et al.*, 2009).

If one holds public office, one has access to the patronage system and can be protected by it. As Gainsborough (2007) observes, the access ranges from the ability to make decisions about spending public money to the power to issue licences or other sorts of permissions, to do inspections or to impose fines. Consequently, people come to a public official expecting favours or services or simply to influence the officer for what they want. Generally, office holders in certain positions have a reputation that offers a degree of protection. In these circumstances, "It is no wonder that public office in Vietnam comes with a price tag since it is well understood that buying a seat is an investment that can be recouped" (Gainsborough, 2007, p. 13).

The above interpretations show how corruption is categorised in Vietnam. However, are they consistent with the meanings maintained by the Vietnamese themselves? Do they correspond with what research findings have told us? That will be explored further in Chapter 5.

3.4.2. Explaining corruption

3.4.2.1. Economy and corruption

A number of studies reflect researchers' interest in the economics of corruption than other aspects of corruption in Vietnam (Bai, Jayachandran, Malesky, & Olken, 2013; de Jong, Tu, & van Ees, 2015; Endres, 2014; John & Tarp, 2012; Malesky, Gueorguiev, & Jensen, 2015; VCCI, DEPOCEN, & T&C Consulting, 2014).

To modify existing models of corruption, Maitland (2002) draws on New Institutional Economics to identify a clear role for the institutional framework that shapes the activities of a civil servant. Maitland applies the model to Vietnam, underlining the conditions that stimulate corrupt behaviour. Maitland posited two types of corruption: type I, "greasing the wheel" bribes to facilitate or gain an authority or permit; type II, "theft by stealth," where bribes are made "to achieve the transfer of full or partial rights from the initial owner without their consent" (Maitland, 2002, p. 68). Corruption is revealed as a distortion of property rights as a consequence of rent-seeking or lobbying behaviours (Maitland, 2002). Maitland's research also exposes the possible influence of weak incentives. However, because it targeted only

multinational firms, largely relying on journalists to provide evidence, it provides only a part of the whole picture of corruption in Vietnam.

Some researchers see a strong negative connection between corruption and economic growth. Record (2005) in his cross-country research makes particular reference to Vietnam. His evidence includes connections drawn between corruption, growth rates, and GDP per capita. Interestingly he found a relationship between higher income and lower corruption, not the reverse as some might suppose in Vietnam. Bai *et al*. (2013) share the same view. Their empirical analysis, using survey data collected from more than 13,000 Vietnamese firms, 2006-2010, shows that faster-developing firms experienced a quicker reduction in bribe payments. At a national level, corruption can subside on its own when economic growth is steady. Hence at the national level economic growth can lower corruption (Bai *et al*., 2013).

This finding seems to be in conflict with that of Gainsborough *et al*. (2009), asserting that the connection between corruption and economic growth is complicated, multi-varied, and showing no discernible pattern of a clear connection. The argument here is that, despite the existence of high degrees of corruption, there is evidence to support the conclusion that, during the Đổi Mới period, the Vietnamese economy grew relatively fast regardless of corruption.

At the level of firms, corruption exerts its influence in numerous ways, and with different levels of severity. For example, a company's effectiveness is compromised by large informal payments (Bai *et al*., 2013; VCCI *et al*., 2014). Of particular interest is a finding that firms indulge in bribery because they fear losing competitiveness against other businesses who, they believe, bribe to get results (VCCI *et al*., 2014). Although firms may think corruption offers them immediate, 'transactional' benefits, in fact, it harms their longer term strategic competency. Once involved in corruption, a firm destroys its cultural integrity, limits its growth, hinders innovation, and importantly, puts its reputation at risk. Unfortunately, almost all these longer term, destructive impacts of corruption go unseen and are seldom acknowledged as such by firms.

Other scholars tend to focus more on bribery behaviours within foreign direct investment (FDI) activity. They do so to demonstrate a relationship between FDI and corruption when attempting to determine how artificial constraints on foreign investment generate incentives for entrance bribes (Gueorguiev & Malesky, 2012; Malesky *et al*., 2015). Using samples representative of provincial level and national business populations, Gueorguiev and Malesky (2012) provide strong evidence of corruption during registration and procurement procedures.

They further found that the percentage of foreign enterprises paying registration bribes is slightly less than for local firms.

Malesky *et al.* (2015), considers the relationship between corruption and FDI at the higher levels of government policy. They argue that the consequence of economic openness to possible bribery is conditional on policies that may hamper investment. FDI firms use bribes to join protected industries by exploring rents and by varying bribes across different areas according to expected profitability. A strong point here is the suggestion that when FDI firms develop a within-country firm-level policy, this step is capable of removing socio-cultural factors and institutional differences as possible sources of corruption.

Some scholars are interested in bribe payment behaviour and business ethics issues related to corruption among firms in Vietnam (De Jong *et al.*, 2015; Endres, 2014; John & Tarp, 2012; Segon, Booth, & Pearce, 2010). De Jong *et al.* (2015) seek to examine the influence of personal relationships on bribery activity. It is of interest that they found firms in relationships with local government officials more likely to be involved in bribe payments, than their counterparts in relationships with central government officials. These results endorse the claimed importance of public-private interactions within a transition economy such as Vietnam.

John and Tarp (2012) find cases of bribery among small and medium enterprises (SMEs) closely associated with firm-level differences in amount and ability to pay. The scale of bribes is higher for firms gaining favourable tax benefits and state contracts. A significant finding of their research was that an observed reduction in bribes, between 2005 and 2007, was mainly driven by substantial behavioural changes. Their evidence suggests such behavioural changes are likely associated with policy initiatives increasing law enforcement, and an improved media focus exposing undertakings against corruption.

Segon *et al.* (2010) surveyed 110 managers from a range of public and private companies in Vietnam. Their results show relationships between some cultural aspects such as power distance, uncertainty avoidance, and the pervasiveness of bribery and corruption in Vietnam. Moreover, these researchers conclude that most bribery and corruption cases are associated with an acceleration of services and related processes.

Unethical practices are likely pervasive in many organizations. Endres (2014) provides a deeper, differential insight into this statement by showing how small-scale traders at the Vietnam-China border negotiate and build relationships with corrupt officials. They decide

which "law" is "made" in return for bribes. His research finds that local traders bribe officials to generate better profit opportunities but, in turn, that corruption pushes them into a *de facto* illegitimacy where they remain. In a conversation with Endres, a trader said: "Negotiating a bribe [*Làm luật*] with customs officials and evading [import] tariffs are essential: otherwise, we couldn't make enough for a living" (Endres, 2014, p. 612). Endres finds that *Làm luật* is common sense when negotiating a bribe arrangement "not preceded by a situation unregulated by law," and "it blurs the distinction between the already existing legal framework and the transgressive fact by establishing an unlawful, corrupt exception from the law in the name of law" (Endres, 2014, p. 613).

Endres contends there are many ways to understand particular details of borderland trading, including the wider social, ethical, and political processes within which they are entrenched. However, systemic corruption in Vietnam's socialist-oriented market economy needs understanding from a different perspective. By using the concept of family obligation, local public servants might be seen as expressing their compassion and applying the law with intention and sentiment, flexible and selective ways. Furthermore, a robust moral measurement of small dealers' bribery arrangements lies in casting it as one of give-and-take responsibilities, and where the bribe is understood as a token of gratitude in exchange for reduced tariffs on imports (Endres, 2014). Although cultural aspects are not fully covered because of the limited scope of Endres's study, it is valuable given the literature gap in the cultural aspects of corruption in Vietnam.

This research will not investigate the connection between corruption and economic growth. However, a discussion of the existing literature on the economics of corruption offers some insights into how corrupt practices flourish in the Vietnamese business environment. That will shape the subsequent analysis on the persistence of corruption and how to deal with corruption in the economic sector.

3.4.2.2. Resource extraction and service delivery – sector corruption

Given an assumption that some aspects of corruption are best understood as functioning at the sector level, some sector-specific studies were undertaken. Service delivery areas such as health, education, or land management have recently attracted attention, particularly when a "value chain" examination indicates points within the public sector service delivery and decision-making process vulnerable to corruption.

McCornac (2012) examines factors influencing corruption throughout the current higher education system in Vietnam. Here he used a conceptual model suitable for that particular field. It was suggested that, if the Vietnamese educational system is to achieve an international standard, then it is necessary to change both the thinking and the culture, especially among "gatekeeper" units controlling resources and opportunities in the higher education system, and by their positions. McCornac contends the attitudes and perceptions of faculty members and administrators toward corrupt practices has to be changed. While the research cited addresses these problems, it was relatively limited in the data provided, and more is needed for a better understanding of corruption in this sector.

Regarding Vietnam's health sector, a study, built on findings and discussion at the Sixth Anti-Corruption Dialogue, between the Vietnamese government and international donors, examines recent forms and risks of corruption. Stakeholders identified problems including informal payments, procurement fraud, and health insurance corruption. They recommended corruption-reduction interventions in areas such as administrative oversight, civil society participation, transparency initiatives, and health reforms designed to change incentives (Vian, Brinkerhoff, Feeley, Salomon, & Vien, 2012). Another researcher, Nguyen (2009), in an empirical study finds the role of social interaction significant in spreading petty corruption in this field. Generally, studies here focus largely on petty corruption; this provides a proper understanding of corrupt practice occurring in Vietnam's health sector.

Corruption in land management is one of the biggest, most frustrating problems in Vietnam. It has not had enough attention from scholars apart from one remarkable example. Davidsen *et al.* (2011) use a mixed method approach to identify why corruption occurs, in what forms, and what can be done about land management reform in Vietnam. The authors identified the main risk factors occurring in certificates, land user's rights, house occupancy processes, and land ownership certification. Further risk factors were evident in flow of land acquisition and land allocation processes. According to the authors, risk factors and forms of corruption in land management have been generated by general weaknesses of systemic integrity. Accordingly, corruption is likely to take place when an official or a government unit has a monopoly, too much discretion over how a decision is made, or lack of transparency or accountability for any particular decision. The research's authors cite Klitgaard's formula (1988) described in 3.1.2 above and added "transparency."

This formula provides several clues as to why corruption occurs in the land management area, also shedding light on the options available for decreasing such risks. Having identified

the risk factors involved, these researchers recommend that integrity in land management be strengthened in Vietnam.

Regarding the public management sector, numerous scholars highlight associated weaknesses in the civil service as a significant cause of corruption (Acuña-Alfaro, 2009; T. Nguyen, Teicher, & Smith, 2010; Painter, 2003; Poon, Nguyen, & Do, 2009; Wescott, 2003). Officials having too many opportunities for discretionary behaviour or corruption is a consequence of low ethical standards, including claims that, during the *Đổi Mới* period, ethical standards deteriorated (Acuña-Alfaro, 2009; Poon *et al*., 2009). Gainsborough *et al*. (2009, pp. 378-379) agree, arguing that "both the incidence of corruption and sums involved have increased." They further maintain that "corruption in Vietnam is a systemic problem." Other explanations for corruption include low salaries, the "asking-giving" mechanism as a legacy of state subsidies, insufficient reform, and poor implementation of laws and regulations (Gillespie, 2009; Hausman, 2010; Wischermann, 2010).

Studying sector corruption is important; it provides a better understanding of where "grand corruption" and "petty corruption" occur (including allocations and contracts for big government infrastructure programs), where rent is exploited, and critical points allowing corruption in public service delivery. Although scholarly work on sectoral corruption in Vietnam is relatively limited and in need of much more investigation, existing literature reinforces the argument that there are too many opportunities for discretionary behaviour among public officials. That can also help this research explain the persistence of corruption in Vietnam.

3.4.2.3. The rule of law – control and prosecution of corruption

Its discourses raise challenging issues about relationships between public actors and private interests and improvement of relevant frameworks through which related system agencies like the courts and the police operate, and their scope for reform. The literature here goes from structure and process analyses to embrace studies of individual organisations or actors and, legislative changes or court operation.

At an institutional level, it is important to understand the political and legal cultures of anti-corruption so as to see the overall systemic picture better and explain relevant outcomes. Before enactment of the ACA Law 2005, Gillespie (2002) found that constitutional restructurings in Vietnam had not altered the dual party-state. Indeed, it profoundly entrenched

existing authority systems, and those political-legal and cultural approaches treating the state as a dedicated mechanism of Party order. Its doctrine and particularistic leadership demand that government officials follow the Party line. The political-legal culture has also helped legitimise party standing vital for consolidating such doctrinal principles (Gillespie, 2002). Concepts of merit-based recruitment and promotion, originating from Western countries, sit uneasily with a nomenclature system that builds and rewards Party loyalty. Gillespie (2002) further finds that an element which goes unremarked in the Vietnamese dialogue is that ACL processes are more than just measures designed to recognise certain ends but are, in themselves, cultural artefacts.

Fritzen (2006) attempts a different triangle by proposing an institutionalist approach to the judgment of anti-corruption reforms. The Vietnam AC measures are unlikely to prove successful, given the institutional characteristics of Vietnamese authoritarianism and the three branches of power—the executive, legislature, and judiciary—remaining under CPV control. This institutional framing prevents the efficient functioning of independent checks and balances: civil society and the media are strictly monitored.

The major challenge for Vietnam, therefore, is to implement its AC measures throughout the country's institutions. Fritzen argues the political will, or proclaimed commitment of the country's leadership to curb its systemically high corruption level, is little more than lip-service. This assessment seems congruent with Gainsborough's (2003) finding when studying some big corruption cases in Vietnam, in which no politician at central-level is ever publicly implicated. Like Gillespie (2002), Gainsborough (2003) also finds that significant corruption cases reveal how the political centre disciplines lower levels of the Party and the state. Hence Vietnam's anti-corruption system itself sees the Party's supreme levels protecting senior, but not middle and junior ranking members, from prosecution. From this, it is fair to claim that, in Vietnam, political will is rhetorical only, and that "the rule by law" is practised rather than "the rule of law."

Painter (2014) finds that design principles in the overall system, such as requirements for supposed "political independence," are misleading and interrupt the task of a reinforcement of anti-corruption measurements in Vietnam. Painter takes some of the anti-corruption independent ACAs in Asian countries—such as the IACAs in Singapore, Hong Kong, and Indonesia—as examples when evaluating the political independence of the ACAs in Vietnam. His evidence shows that their ACAs are independent mainly in the sense that they have strong authority, rather than being apolitical. He further claims the Singapore CPIB "owes its success to being at the heart of political power, not to distance itself from it" (Painter, 2014, p. 278).

Moreover, Painter emphasises, "In practice, political support and protection are needed just as much as independence, to provide the necessary resources and the required autonomy to conduct effective investigations and prosecutions" (Painter, 2014, p. 281).

Painter argues that to adopt the "myths of political independence" for ACAs, which recommend conventional western designs for an anti-corruption policy in Vietnam (or China), may hamper rather than support an AC strategy (Painter, 2014). This assessment is similar to Gainsborough *et al*. (2009) who find that good governance rhetoric and orthodox formulas have been expounded in Vietnam, but not entirely adopted or implemented. In fact, outsiders have interpreted this as "window-dressing," a low level of commitment reinforced by rising levels of corruption. Gainsborough *et al*. (2009) and Painter (2014) point out that it is not only an implementation failure but also a design one.

In the Vietnamese political system, the notion of an "independent" actor within the state system, separating the leadership and supervision of the CPV, remains a contradiction. Accordingly, Painter maintains there is no point in calling for an independent ACA, since such calls "have fallen on deaf ears" (Painter, 2014). He claims that, rather than establishing an independent ACA if the country wants to fight corruption effectively, a substantial reform of the legal and institutional framework within government is necessary to improve the capacity of its law enforcement agencies.

Gregory (2015) seeks to explore the relationship between political independence and operational impartiality to see whether any link exists to the efficiency of ACAs. He argues that, in practice, "political independence for ACAs carries prescriptive force only in its relationship with other key values, especially operational impartiality, organisational capacity, public accountability, trust, and system legitimacy" (Gregory, 2015, p. 126). He further emphasises it is necessary to understand the difference between *de jure* and *de facto* independence of the ACAs, as well as the link between political independence and operational impartiality. Gregory argues it is impossible to attain operational neutrality without political independence. Conceivably, it is possible for a government body to have a sufficient level of both *de jure* and *de facto* political independence, but this does not necessarily guarantee its impartial operation. Taking Vietnam as an example, Gregory notes that this is a non-western country, where high levels of corruption occur. Therefore, an approach different from western orthodoxy is needed to curb corruption. Gregory concludes that the fundamental notion of "good governance" in the western orthodoxy may never be fully institutionalised in non-western countries where corruption is endemic (Gregory, 2015, p. 140). The existence of

extreme, high-level corruption is the biggest obstacle to such institutionalisation. However, Gregory does concede that where there is genuine political independence and operational impartiality, and the rule of law governs the country, not just governs by law, then it is possible to fight corruption. So, the argument here is that political independence and impartiality of the ACAs are necessary but not sufficient, and the same can be said of the rule of law and an independent judiciary. However, if these cannot be achieved in Vietnam, largely because of the nature of the political system itself, then how can effective anti-corruption work be achieved? Are there other ways? These questions will be revisited in chapters 5 and 7).

Regarding "good governance" and "political independence," Nicholson (2002) attempts to examine these concepts at a sector level. Similar to the already cited authors in this section, he finds the aim of "good governance" in Vietnam mostly fails through incompetence, especially in the operation of the courts. Here judges are not independent, and pre-trial advocacy often occurs at any level of the courts. Similarly, Sato (2009a, p. 227) finds that "the independence of the court and judges is not ensured." Enforcement of judgments remains a serious issue. Reconciliation by a judge is quite common practice, while public prosecutors interfere in civil disputes despite their limited powers (Sato, 2009a).

By contrast, Gainsborough *et al*. (2009) attempted to ascertain whether adequate public administration reform (PAR) might reduce corruption? Alternatively, would it be the other way around that sufficient PAR depends first on progress in dealing with corruption? These authors investigated whether a tight connection exists between PAR and the anti-corruption strategy. Certainly, both have a discernible centre, focusing on the reinforcement of administrative processes. Therefore, substantive improvement in one field seems to result in a similar development in the other. Moreover, these observers found a strong relationship between the quality of public services and political justice, suggesting the government can do more to exploit this linkage.

In understating the systemic nature of corruption in Vietnam, Gainsborough *et al*. (2009) further argue that no single measure that can be applied to fight corruption and improve the public administration system. However, they do suggest the government should focus on transparency at all levels. This suggestion is also emphasised by Sato (2009a) in research cited earlier. Gainsborough *et al*. (2009) argue that strengthening enforcement, contributions by civil society and the media, are all needed to ensure greater systemic accountability.

There also is a need to publish the prosecution body's outcomes, judicial proceedings, and rulings. As systemic issues, corruption and the weaknesses of public administration require systemic solutions (Gainsborough *et al*., 2009). This assessment is similar to that of Davidsen *et al*. (2009), discussed later.

Other studies that focus on legal frameworks identify the anti-corruption problem in Vietnam through a comparative analysis of international and local anti-corruption experience and implementation (Doig *et al*., 2013; Painter, Dao, Hoang, & Nguyen, 2012). In the light of international experiences, these researchers identified lessons Vietnam could use when reforming its AC legal framework. Doig *et al*. (2013) find that current Vietnamese legislation does not cover areas of corruption such as bribe-giving, bribing a foreign public official, and corruption in the private sector. Moreover, they find a lack of coherence in the ACL and Penal Code. These authors suggest it is necessary to have a platform offering a more cohesive legal framework with the ACL. They further recommends it is essential to conduct structural reform at some economic development levels, to help enhance the overall legitimacy of Vietnam (Doig *et al*., 2013). The research is useful for studying corruption in Vietnam; it provides a comprehensive analysis of the Penal Code and the ACL against international best practice.

Painter *et al.* (2012) also use international practices in anti-corruption to draw lessons from Vietnam PAR and AC experiences. However, these authors focus more on sanctioning and enforcement mechanisms. They suggest the ACL deals largely with prevention and administration issues. Generally, it is claimed, ACL scope and purpose are limited, not addressing crucial matters that should be confronted when attempting to solve problems of anti-corruption enforcement and sanctioning. Moreover, they suggest, the legal framework for AC investigation and prosecution is unlikely to guarantee the independence observed in the international cases (including Australia, Singapore, Hong Kong, Indonesia, and South Africa). Painter *et al.* (2012) recommend some short-term policy initiatives for Vietnam including an enhanced ACL, stronger regulations on sanctions and enforcement, and institutional arrangements emphasising independence and accountability. This research is a significant contribution to the study of corruption in Vietnam, as it provides a thorough comparative analysis on the AC legal system and ACL enforcement and sanctions.

Unlike the two immediately cited studies, Davidsen *et al*. (2009) researches ACL implementation, looking at some of its principal provisions of ACL to determine how they have been interpreted in practice at a sector level particularly in construction. These authors find ACL policy implementation lacking coherence at a sector-specific system level, and where it

is meant to track inputs, outputs, and outcomes. Due to poor policy design, ACL asset declaration provisions are facing substantial implementation challenges. While some improvement has occurred in the transparency of procurement, legal frameworks, and general transparency rules, they have been enforced only partly. Moreover, ACL statutory provisions for the media framework covering corruption have ambiguities. The authors suggested that corruption at a sector level can only be reduced by a stronger set of structural, economic and governance reforms.

Some commentators argued the failure to meet the target is attributed not only to poor implementation but also to the design failure of anti-corruption measures (Davidsen *et al*., 2009; Painter, 2014). However, the bigger problem is that remedies following the orthodox anti-corruption pattern are not accepted because they conflict with the standard principles and rules of the Communist Party. Vietnamese political leaders consistently maintain that Vietnamese historical conditions and society are "unique" or "special." That is used as an excuse to reject key elements of presented external templates. That means, currently at least, neither international donors and advisors nor local reformers have designed comprehensive alternative approaches and principles that effectively foster anti-corruption in Vietnam (Painter, 2014).

3.5. Conclusion

The existing literature helps us to understand how corruption is understood elsewhere in general and in Vietnam in particular. Furthermore, they also provide explanations of where corruption occurs in different ways, and across different levels - institutional, organisational and individual. The literature review partly helps to answer the research question.

Quah's model is a very useful starting place to help explain corruption and anti-corruption in Vietnam. Analysing Quah's institutional design contributes to answering the question of where Vietnam sits in his model. The country seems to fit Pattern Two of his approaches to anti-corruption measures, but with some aspects of Pattern Three. One of the quadrants of Quah's framework, political will, is a critical factor in fighting corruption; yet to date relatively few studies have focused on it. Therefore, by empirical study, this research attempts to bridge that gap by emphasising the issues of political will in fighting corruption in Vietnam. The research attempts to unpack Quah's political will to see how it works in reality. Moreover, political will will be examined not only from his top-down perspective but also from a bottom-up approach.

Existing studies on corruption in Vietnam have considered the AC legal framework to identify its problems. Some others focus on how ACL has been implemented, including its prevention and prosecution procedures. All approaches have been studied such as sufficient PAR, better sanction and enforcement mechanisms, prevention and administration issues to reduce corruption. This thesis reports on an investigation into the institutional structure of anti-corruption to obtain a sense of how the anti-corruption agencies function in reality. The intention is to create a fuller understanding of what continues to support corruption in the public sector.

The previous literature indicated that despite anti-corruption measures having been applied in Vietnam, there has been little improvement or progress in alleviating corruption on the ground. Hence the question: Is the Vietnamese approach adequate? Do the Pattern Two measures seem inadequate? Could the problem lie in implementation or elsewhere? This research will, therefore, draw on on-the-ground evidence in an attempt to answer those questions.

The existing literature provides a foundation for the scholarship of the study of the extent of corruption and the social factors which lead to it. However, there are still gaps in our understanding. Most of the researchers on corruption in Vietnam, as discussed earlier, have used a single perspective approach. That can only provide an incomplete picture of corruption and the failure of anti-corruption measures. This research will therefore use a cross-disciplinary approach to gain a complete picture of the drivers of corruption, and explain why anti-corruption measures have been unsuccessful. The research will not only study the Vietnamese anti-corruption institutional framework but also focus on non-institutional factors which have a close connection with corruption but were not included in Quah's analysis. Awareness is required of the culture and society such as gift-giving and Confucian values. Besides, the public administration system and the economy (socialist market-oriented, asking-giving mechanism) will be examined. The political regime of Vietnam as a Marxist-Leninist one-party state where governance comprises a dual system of Party and state also will be explored.

Last but not least, the corruption studies in Vietnam have covered many critical issues, but they have not covered the people's lived experience and their perception of corruption from ground level. This research, therefore, attempts to fill this gap. To do so, the study will gather information on the significance of Vietnam's anti-corruption measures especially about why there is large scale corruption, what obstacles ACAs are facing while dealing with corruption from a wide range of people. Moreover, individual experiences and perspectives on corruption

will be collected to understand the nature of corruption and anti-corruption, which the existing literature and documents could not provide. Positively, information that will be collected will provide answers to the research question: Why are the institutional anti-corruption measures in Vietnam largely ineffective?

The following chapter will discuss research methodology. The methodology section will answer two main questions: How is the data collected and how is it analysed?

CHAPTER 4: METHODOLOGY

4.1. Research philosophy

As the literature review has shown, corruption is a deeply contested concept rather than an objective fact. Even academic approaches towards studying corruption are subjective as much as they correspond to specific disciplinary approaches, requiring different research questions to be asked. The underpinning ontological position of this research reflects this and starts from a position that knowledge of corruption is constructivist (see Creswell, 2009). In keeping with the constructivist position, the epistemological foundation for this study is predominantly interpretivist (see Mertens, 2005). The research embodies these positions as it both identifies and analyses people's subjective experiences of corruption activity; it also explores their own feelings and perceptions around those experiences. Although the earlier sections have drawn on secondary empirical data, this is not enough to move to a positivist position. Much of the data has been looked at in a critical manner, and the supposedly more objective measures (for example, CPI) have been shown to be flawed in just how objective they actually are. They arguably rest on their own normative positions that do not make them truly positivist to begin with (Gregory, 2013).

In the light of ontological and epistemological foundations, the main methods chosen for the primary research are qualitative.

4.2. Qualitative research

As the literature review showed, most assessments of Vietnam's corruption problems rely on secondary data. Comparatively little primary data is available. Qualitative research is the most appropriate way to generate emergent data (Gill, Stewart, Treasure, & Chadwick, 2008) that will add depth and richness to the secondary material already available. Qualitative research also fits into the interpretivist research philosophy that has been identified above "Semi-structured interviewing is most closely associated with interpretivism, interactionist, constructivist, feminist, psychoanalytic, and oral or life history traditions in the social sciences. It reflects an ontological position that is concerned with people's knowledge, understandings, interpretations, experiences, and interactions" (Mason, 2004, p.3).

As corruption is a complex and very sensitive topic, which requires a coherent understanding of statements, perceptions, and actions, that may be vague as well as differing

considerably from trying "to make sense of, or interpret phenomena in terms of the meanings people bring to them" (Denzin & Lincoln, 2005, p. 25). The interview method, therefore, is most appropriate for revealing sensitive topics when participants possibly do not want to talk in a group environment (Gill et al., 2008).

Kvale (1996) describes qualitative research interviews as "a construction site of knowledge." Qualitative research has strengths when requiring answers to "why," and "how" questions as well as helping to describe, explain and explore certain aspects related to corruption and anti-corruption strategies in Vietnam. It was decided that semi-structured interviews would be the most suitable method of data collection, as this has some advantages over other methods such as participant observation.

Interviews are well suited to the exploration of the opinions and perceptions, attitudes, motives, beliefs, and values of participations (Gorden, 1975; Richardson, Dohrenwend, & Klein, 1965; Smith, 1975). They enable the researcher to ask follow-up questions, and allow for nuance, probing for more information and clarification of answers which are particularly useful while discussing a sensitive and complex issue like corruption (Gorden, 1975). The interview method usually ensures that participants are unable to get assistance from others while expressing an answer (Bailey, 1987).

Other methods are less suitable for this research. Surveys, for example, are generally understood to mean the collection of data in standardised forms from a representative sample of a population. Data may be collected from respondents either by giving them forms to complete or by interviewers asking questions and completing the form themselves. This latter method would present difficulties when asking specific rather than general questions that most of the participants in the survey can understand. The survey does not allow for the richness of personal experience to be captured.

As a result, using in-depth interviews allow researchers to do a comprehensive examination of the study (Gall, Gall, & Borg, 2003; Seidman, 2006). Kidder (1981) also observes that many potential respondents do not have the confidence to write their responses. More importantly, perhaps, contact with the researcher can encourage participants to participate as they may be unwilling or unable to fill out a questionnaire (Gorden, 1975).

Unlike structured interviews, which include a structured sequence of questions that interviewers will ask all interviewees in the same way, semi-structured interviews contain some key issues which help to illuminate the areas to be investigated but also allow the participants

to digress to pursue an idea or reply in more detail (Britten, 1999). Semi-structured interviews were thus chosen to enable greater flexibility about the sequence of questions asked and whether particular fields could be followed up and developed further with each participant. The flexibility of this approach, "allows for the discovery or elaboration of information that is important to participants but may not have previously been thought of as pertinent by the research team" (Gill et al., 2008, p. 291). Consequently, the interview was formed by the participant's opinions as well as the interviewer's interests that sometimes could result in unexpected themes.

Interviews were designed to allow respondents to express themselves freely. Each interview was founded on reference to particular areas of interest; for example, anti-corruption legal frameworks and related policies, anti-corruption implementation, and factors that contribute to corruption in the public sector in Vietnam. To facilitate this, an interview guide was prepared that included themes—areas to be focused on during the interview rather than a sequenced script of standardised questions. This method ensured the investigation remained open to discovering additional reasons or different priorities. Open-ended questions took into account any other ideas respondents had on factors that might be crucial for the research. Sometimes new ideas emerged and were followed by an additional study of the literature, in an iterative process.

4.3. Limitations of the method

The goal of qualitative research is providing a comprehensive, detailed explanation; the method has some limitations, principally that its findings cannot be extended to broader populaces with the same degree of inevitability that quantitative study can (Atieno, 2009).

Moreover, the positionality of the researcher was considered an influential aspect in obtaining access to participants who had both advantageous and possibly adverse consequences. Being a former government official gave the researcher access to the desired participants. In this regard, many contacts with participants were conducted to stress that the only purpose of conducting interviews was to collect data for fulfilling a Ph.D. dissertation. It is believed that interviewees participated in assisting the researcher, rather than because of her former official position.

This qualitative study is explanatory, and the positionality of the researcher is crucial since the researcher might not always be neutral and objective during the research process.

Researchers' values, experiences, opinions, and biases can affect how research is conducted (Creswell, 2009). Ethical matters may also arise regarding the researcher's role. To avoid the latter, the researcher strictly followed the ethics approval process of Victoria University of Wellington during data collection and data analysis processes.

Another limitation of the method is the shortage of quantitative data. The researcher was unable to access internal working regulations and data on resources of ACAs as they were considered confidential government information. Quantitative data provided by ACAs was uneven. For example, different agencies provided different figures regarding the number of corruption cases investigated, prosecuted, or brought to trial. The amount of losses from corruption and losses that have been recovered from the same period were also different. As a result, the findings on the ACL implementation was affected.

Lastly, since corruption is a very sensitive topic, selected participants were likely to be unwilling to release too much to outsiders, especially when it comes to highly political issues or corruption cases involving high-ranking officials. This phenomenon might reflect the fact that correspondents wished to avoid getting in trouble with their government, or they simply considered the information as the government's secrets.

4.4. Sampling

Selecting the appropriate candidates for interviews is crucial. Creswell (2007) recommends finding participants who will be enthusiastic to openly and honestly share "their story" or information (Creswell, 2007, p. 133) and insists the researcher should employ an appropriate sampling strategy to attain qualified participants. In order to achieve the goal of the data collection, mentioned above, purposive sampling was used, rather than random studies that intentionally include a broad cross-section of backgrounds, ages, and cultures.

Purposive sampling allows the researcher to collect key information from a range of different people and give the researcher a better cross-section of information. In a nutshell, the researcher is in a position to gain a reliable general picture of the research subject. There are many purposive sampling methods (e.g. homogeneous sampling, typical-case sampling, extreme/deviant case sampling, critical-case sampling, total-population sampling, expert sampling), but this study used maximum variation sampling. This involved choosing participants across the spectrum involved in the focus of the research (M. Patton, 1990) and is the reason why politicians, government officials, investigators, journalists, academics, experts

in anti-corruption and even victims of corruption were engaged in this study. Maximum variation sampling allowed the researcher to examine corruption from as many available angles as possible while acknowledging the constraints of time and sampling size.

Purposive sampling has some shortcomings. One of the main challenges for researchers using this method is the increased possibility of researcher bias since each sample is based on the judgment of the interviewer who may be trying to prove a specific point (see Morse, 1991). In this study, the reputations, behaviours, and principles of some of the participants were already known to an extent. These included politicians, inspectors, academics and experts. Based on the researcher's understanding of the interests, values, beliefs, and perceptions of each of the respondents, she acknowledged this selection might create researcher bias. To mitigate the risk she considered very carefully how to ask questions in a way that enabled participants to air their views freely rather than leading them to respond with information the researcher wanted to hear. Furthermore, while doing the data analysis, she forced herself to make judgements based on the data that emerged from interviews, not on what would best support her opinions.

The eight research categories were chosen for particular reasons:

- National Assembly members (two deputies): They are policy and lawmakers who understand why the ACL exists and where the law comes from. They are also supervising the anti-corruption implementation and provide very insightful information for the research;

- Senior officials (seven officials) in government agencies, especially in the anti-corruption agencies and relevant organisations including GI, State Audit, Customs, Ministry of Home Affairs. These people play critical roles in the field as they are familiar with what is going on in the anti-corruption implementation process and might be able to point to the challenges they are facing while dealing with corruption;

- Senior officials (four officials) in International organizations and NGOs whose work is related to anti-corruption in the UNDP, the World Bank, and Towards Transparency in Vietnam. The researcher believed they would be able to offer insights into the background of anti-corruption measures regarding policy and the implementation process;

- A senior manager in the Communist Party's central office who is responsible for Anti-corruption in Vietnam;

- Vietnamese academics (four academics) who are involved in corruption and public administration studies in Vietnam;

- Senior investigators in investigation departments (four investigators). Some formal leaders of the investigation departments were also interviewed, as they were in a critical position (assuming they could talk freely about their points of view on the investigation process, anti-corruption cases, and implementation);

- Mass media (three journalists): Experienced journalists who have investigated corruption;

- The general public (five people) including CEOs of private firms, a taxi driver, housewives who experience corruption in their daily lives and are considered victims of corruption. Thus, the researcher tried to understand what motivated them to bribe officials and how the public servants reacted when they accepted bribes. She believed that these participants could tell of their experiences or their knowledge of corruption.

Thirty participants is a relatively small sample, but this was mitigated by maximum variation approach sampling. Respondents were selected based on some ideas about what these people could offer in knowledge, experiences, and abilities. Moreover, the researcher deliberately chose participants from different sectors who could give contrasting views.

4.5. Pilot interviewing

According to Denzin (1989), the final results will be distorted if there is a faulty design in the development of any research method. For this reason, after designing and selecting the research method, the researcher developed an interview plan to ensure that all areas of the research would be covered. To achieve this, she divided the questions into more controllable groups. The questions were then subjected to what Mann (1985) referred to as "internal testing" to discuss and correct any ambiguous questions and to evaluate the correctness and comprehensiveness of the contents of the interview schedule concerning its subject area and purpose. This testing the researcher did with her supervisors.

After finalising the interview plan, the researcher employed two colleagues for pilot interviews. The aim of pilot interviews is to evaluate the effectiveness of the interview plan in research. They reveal mistakes or bias that could arise during the personal interviews. Pilot interviews also enable researchers to assess whether questions are unclear or too complex, whether their arrangement is likely to correspond cogently with respondents' experiences or

whether interviewees respond defensively (see Barriball & White, 1994). Accordingly, the researcher made some changes and adjustments to her interview plan before collecting the data.

The interviews covered a broad range of issues including personal understandings, public perception of corruption, assessment of corruption, assessment of the AC legal framework, the role of the ACAs and how they practice in reality, and the roles of the National Assembly, civil society and the media in combating corruption. They also cover how historical, cultural, managerial and political factors contribute to the dynamics of corruption, and to the government and the Party's efforts to deal with corruption. The data was collected between May and September 2014. The researcher then coded and analysed the data to expose the existing patterns of anti-corruption measures and to gain an understanding of corruption within the target groups.

This study generally focuses on personal perceptions of corruption and anti-corruption measures. The main purpose of this research was to examine the persistence of corruption in the public sector in Vietnam and explain why anti-corruption measures have been unsuccessful. Based on the literature review on corruption in Vietnam and Quah's institutional anti-corruption framework, the following categories of interviews were conducted:

- Category 1: People's daily experience of corruption in Vietnamese society to understand the extent of corruption, how corruption operates and peoples' perception of corruption.

- Category 2: The anti-corruption legal framework, including why and how anti-corruption legal frameworks measure combatting corruption, personal assessments about this and how to improve the AC legal frameworks.

- Category 3: The ACL implementation: How the anti-corruption legal framework is implemented, who are the key actors and their roles, main challenges or problems of the implementation process, how to overcome these issues and assessment of implementation.

- Category 4: The key drivers of corruption in the public sector: Factors that contribute to persistent corruption or influence corruption or affect the outcome of implementing anti-corruption measures and asking specific questions on these factors when necessary.

- Category 5: The role of the civil society in Vietnam: What effect these roles have on the anti-corruption campaign. The main challenges or problems that they face when participating in anti-corruption activities and how they cope with those difficulties.

- Category 6: The role of the news media in fighting corruption: The main challenges that they face when covering the anti-corruption campaign.

In general, some respondents (e.g. those in official positions and academics) were better-informed about categories 2, 3, 4, 5, 6 and others (taxi drivers, business people, housewives) about category 1. Having the above categories, the researcher needed to tailor her interview plans accordingly and also use some strategies to reduce the likelihood of defensive responses and feeling threatened by her questions. She tried her best to mitigate these possible risks by the way she proposed questions such as, "Have you ever heard/ seen/come across …?" By asking questions in this way, the participants would consider themselves as observers rather than actors, making it easier for them to respond.

4.6. Interview processes

Considering the fact that corruption is a very sensitive and delicate topic, it is difficul to get people talk about it openly in Vietnam. Before the interviews, the researcher arranged the meetings via telephone and gave the potential participants a brief introduction about herself, the research and the interview process. Some respondents flatly refused to take part, while some felt apprehensive about being interviewed. When these situations occurred the researcher often tried her best to use personal skills to control the circumstances, for example showing friendliness and reassuring them of confidentiality and anonymity. The researcher affirmed they would be given a summary of their interview, and their contributions would be confidential. She took reasonable precautions to ensure participant's identities could not be linked to their responses in the future. This reconfirmation made the respondents feel more comfortable about participating in the research. However, 12 of 42 people still refused to be interviewed.

Other issues discussed include the time and location to conduct the interviews. More often than not the participants preferred to be interviewed in a public place like a quiet coffee bar or a private room in a restaurant rather than in their own offices. It is likely the participants felt more comfortable and would speak more openly about corruption in a neutral venue.

The interviews often began with an "ice-breaker" activity, during which the researcher chatted with participants about their daily lives, hobbies, interests or breaking news. This created a warm and friendly relationship.

Once the relaxed atmosphere was set, the researcher began talking about the general nature of the interviewing process and how the interviews were going to be carried out. She reconfirmed confidentiality and anonymity, explained her motives and intentions, and explained how the interview data would be used. This explanation clarified the involvement and contribution to the research. The ethical issues (informed consent; promises and reciprocity; risk assessment; confidentiality; data access and ownership) were also highlighted.

The interviews were followed by the protocol. The researcher conducted the interviews using the semi-structured interview approach with open-ended questions. Some participants were not willing to answer certain questions, while others refused to have a part of the interview recorded, but in general, the content of the interviews was well maintained. The researcher always used appropriate verbal and nonverbal feedback to show she was really interested in what the interviewees said. This could motivate and encourage them to be more open and engaged. Generally, participants were quite cooperative and had a high level of trust in the researcher which resulted in relatively rich information being collected.

To avoid the potential to threaten validity and reliability of the data, the researcher was aware of her bias. Therefore, while conducting interviews, she tried not to impose the answers or ask questions in a way that might influence the participants' responses.

The interviews were conducted mostly in Vietnamese then translated into English; some were carried out in English. The interviews took about ninety minutes each, and they were all recorded. Every interview file was then copied and stored on a laptop with information for identification. All files were secured in a password-protected folder. Each interview was transcribed and identified separately; the transcripts were then returned to participants (if required) to review them for accuracy. To ensure participants' anonymity, all names and other identifiers were removed from the data throughout this study.

4.7. Qualitative data management and analysis

The amount of data produced by the qualitative method is likely to be large and to prepare them for analysis, it is necessary to condense and compare them (Berg, 2001; Yin, 2009). This was evident in thirty interviews as a relatively large amount of data was collected. Besides, the

collected documents and other sources of data demanded the researcher manage them to "get a sense of the whole" (Patton, 2002, p. 440) for the analysing process and to guarantee the validity and rigour of the study. The researcher used NVivo software to manage and code all data collected including audio recordings, interview transcripts, and documents.

The analysis had many approaches such as content analysis, semiotic analysis, and thematic analysis. Thematic analysis is considered the most common method that helps to move the analysis from a general reading of the data to a need to find patterns and develop themes. According to Braun and Clarke (2006), "Through its theoretical freedom, thematic analysis provides a flexible and useful research tool, which can potentially provide a rich and detailed, yet complex account of data" (p.5). This is why the researcher decided to choose thematic analysis. According to Boyatzis (1998, p. vii), thematic analysis is a process of "encoding qualitative information." Therefore, the researcher developed "codes," phrases or words, which work as labels for sections of data. The thematic analysis includes a six-phase process, which needs back and forth movement during the process.

4.7.1. Phase 1: Becoming familiar with the data

In the first step of the thematic analysis, during data collection, the researcher attempted to familiarise herself with the data by reading the interview transcripts carefully looking for patterns of meaning and issues of latent interest. Then step by step the researcher created a framework of potential codes (e.g. knowledge, concern, commitment, determination). During this process, she continually moved back and forth through the whole data set. While becoming familiar with the data, the researcher took notes in order to develop potential codes (see Braun & Clarke, 2006). At this stage, she was familiar with all aspects of the data and able to find obvious patterns.

The researcher did the transcription and translation. She was aware that by transcribling and translating from Vietnamese into English she would become familiar with the data which would enable her to generate emergent insights. This process is recognised as an interpretative work. So the researcher was not simply recording the spoken sounds on paper but creating meaning from the data (see Lapadat & Lindsay, 1999). This was very valuable as she achieved a far more thorough understanding of the data while transcribing.

4.7.2. Phase 2: Generating initial codes

From the data, the researcher generated an initial list of items that had a recurring pattern. In other words, the researcher organised and the content including the main features of the data (latent or semantic) that was of interest to her. She also identified "the most basic segment, or element, of the raw data or information that could be assessed in a meaningful way regarding the phenomenon" (Boyatzis, 1998, p. 63).

NVivo provides many ways to code data both manually and automatically. Due to the complexity of the interview data, the researcher decided to use a manual coding approach to ensure no essential elements were overlooked. She began with bottom-up coding by creating free nodes. Even though she was considering some themes before the coding, she still wanted to let the data guide her process rather than using theoretical constructs.

Moreover, the researcher wanted to be as flexible in coding as possible. So she created codes and nodes as she worked through the data rather than defining node structure first and then coding it to the existing nodes. For example, she gathered all the negative views on ACL and examined them together in a node, "weaknesses of ACL." She also collected all the opinions on cultural aspects that led to corruption and put them together in a node called "cultural aspect." An example of coding is shown in table 4 below.

Table 4: An example of coding

Node	Codes
Weaknesses of ACL	It is not necessary to have ACL since it does not have any mandate. The Penal Code should be enough and easy to implement when it comes to dealing with corruption cases.
	There is a mismatch between these two laws. If we look at the anti-corruption law, there are a set of crimes or acts of corruption that are not identified in the Penal Code.
	ACL has no sanctions: A tiger without teeth.

In the first instance, the coding process was not completed in this study. Initial coding provided the ground for detailed analysis in the next step. At this stage, the data was analysed for larger themes and was categorised for different codes into potential themes. Any codes not

relevant to many main themes were moved into a "miscellaneous theme" for later use, if necessary (Braun & Clarke, 2006).

In this phase, the researcher worked systematically through all the interviews, giving full and equal attention to each and classifying interesting features of the data set that may create the basis of frequent themes across the data. Sometimes, individual extracts of data were coded several times in different nodes as she found their relevance. Table 5 is an example of themes across the data.

Table 5: Themes across the data

Nodes (theme level)	Code
The lack of independence among ACAs	The GI is a government agency which has a vertical system from central to local government. GI employees at local levels are selected and appointed by the GI, and most are Party members. They must join the Party organization where they work. Under Party doctrine, all members have to obey their party organisation. This requirement makes things complicated. Where there is a conflict between work and benefit of the local Party organisation, then they have to listen to the Party.
Political interference and the role of the party	

4.7.3. Phase 3: Searching for themes

With the long list of codes the researcher had initially collated, she analysed the data at the broader level of themes to classify the different codes into potential themes. While considering how different codes may connect to form an overarching theme she drew a mind map to organise them into suitable themes and sub-themes.

Using NVivo software, the researcher created six main different nodes (theme levels) which emerged from the data namely, (1) "peoples' lived experience of corruption", (2) "the institutional anti-corruption legal framework", (3) "the ALC implementation" (4) "the drivers of corruption", (5) "the role of civil society in controlling corruption", (6) "the role of the news

media in anti-corruption campaigns" and "miscellaneous" (codes which are unlikely to fit into the main themes). The relevant codes were then selected, dragged and dropped into the identified themes. At the end of this stage, she created a set of potential themes, sub-themes and all extracts of data were coded in relation to them as well as the "miscellaneous" ones. Table 6 is an example of the broader level of themes.

Table 6: The broader level of themes

Theme levels	Nodes	Codes
Anti-corruption Law	Strengths of ACL	ACL helps raise societal awareness of anti-corruption
Miscellaneous	Comparision with other countries	Singapore also has a single dominant political party, but the two countries have different value systems. Most important is that the voice of the people is respected. Moreover, the political party in Singapore is chosen by a democratic regime. It is not a matter of a single or multiple parties; it is the issue of ensuring democracy.

4.7.4. Phase 4: Reviewing themes

The themes were reviewed and checked for a good fit in relation to the coded extracts and linked to the whole data before proceeding with the analysis thematic map. To do this, the researcher first read all the collated extracts for each theme and considered whether a coherent pattern emerged. When the potential themes did not lead to a recognisable pattern, she reconsidered the possibility of creating new themes or removing them from the analysis. Having all potential themes sufficiently detailed in the outline of the coded data, the researcher had a potential thematic map (Braun & Clarke, 2006). She then moved to the second step. Here she considered the validity of individual themes in relation to the entire data and examined whether the potential thematic map perfectly replicated the significant evidence in the data. To do this, the researcher revisited the data to determine whether the themes "fit" the data. She also tried to code any additional data inside themes that had been left out in previous coding stages. Having completed this process, the researcher found the thematic map fitted well with the data and made sense to the overall story of the data.

4.7.5. Phase 5: Defining and naming themes

At this stage, the researcher identified the *spirit* of each theme, what the themes, in general, were about, and what features of the data each theme captures. To do so, she returned to the collated data extract for each theme and structured them into a logical and internally coherent account.

Then the researcher wrote a detailed analysis of every individual theme and found the "narrative" of each theme. In fact, she wanted to see how that narrative fits into the overall picture. She also needed to show her data and how it is related to the research question. To avoid overlapping between themes, she considered not only the themes themselves but also each theme in connection with the others. While dealing with broad and complex themes, she created sub-themes to build a hierarchical structure of meaning inside the data. For example, theme (1) was divided into two sub-themes, i.e. "experiences of petty corruption" and "grand and political corruption." Theme (2) was developed into three sub-themes namely, "weaknesses of the general legal system," "weaknesses of Anti-Corruption Law," and "prevention measures." The sub-themes of this theme helped us to identify the weaknesses of the Vietnamese anti-corruption legal system that are impeding anti-corruption efforts of the country. Similarly, the other themes were divided into sub-themes under each theme.

4.7.6. Phase 6: Writing the report

The researcher conducted a thematic analysis that had to go beyond the surface meanings of the data to make sense of it and present a truthful story of what the data means and make an argument concerning the research question (Braun & Clarke, 2006). After reviewing the themes, the researcher prepared the final report. During this process, she decided on themes that were meaningful for the research question. Using raw data from the research participants and documents she manually drew a picture of each step. The goal was to write a thematic analysis that was presented logically, coherently and concisely with solid evidence that clearly supported the main arguments. The writing of the final report included sufficient evidence that themes within the data were related to the data set. Extracts were included to gain the full meaning of the arguments in the analysis and the arguments that supported the research question. The final report was developed according to the following steps:

- Step one gathered data regarding people's lived experiences and perceptions of corruption. This provides an idea of the extent of corruption and how it operates in practice in the Vietnamese public sector.

- Step two identified legislative and administrative responses to corruption. How the Vietnamese anti-corruption institutional framework is designed, whether the ACAs are given enough power and resources to deal with corruption cases effectively. How ACAs cooperate with each other in the investigation and prosecution process and what the ACL implementation results are.

- Step three analysed what explains the ineffectiveness of anti-corruption efforts. This includes the weaknesses of the Vietnamese legal system, especially the anti-corruption legislations and management structure concerning anti-corruption, the gaps that exist between the legal framework and real practice, the weak prevention measures as well as the supervision of the NA. This step helps us to explain the limited success of the country's efforts in reducing corruption.

- Step four highlighted the other key drivers of corruption that impede the country's efforts to tackle corruption including historical, cultural, public and economic management factors. Besides this step discussed the role of civil society and the news media in controlling corruption in Vietnam.

- Step five discussed how the Vietnam institutional anti-corruption framework corresponds with Quah's framework and the appropriateness of his model in the case of Vietnam.

Notably, even though step one did not directly address the third sub-research question, it gathered and analysed data to find out what people think about corruption, how and why they are involved in corrupt activities. Thus, it sheds light on the ways that step four was conducted to analyse other primary factors contributing to the persistence of corruption in the public sector.

In this research, the researcher also used the document analysis method to combine with the in-depth interview methods as a tool of triangulation. By using the two sources of evidence, she could substantiate findings through data sets and hence moderate the impact of potential biases that could occur in the research (Bowen, 2009). To triangulate the data, she made an effort to offer "a confluence of evidence that breeds credibility" (Eisner, 1991, p. 110).

For this purpose, the researcher collected documents as secondary data sources. These included some main types of "open" documents, such as government annual reports, ACAs reports, government ordinances, regulations, decrees and the National Assembly Resolutions. These documents were considered as public resources because everyone could access them. The researcher also decided to collect unpublished "closed" or "restricted" documents, such as annual reports, work programs and other statutory documents, and guidelines for anti-corruption implementation within ACAs. At times, she was refused access to specific documents. The agencies that refused her access to these documents often gave reasons such as "they are confidential," "they are for internal purposes only."

After having obtained a substantial number of documents, the researcher analysed them to refine ideas, classify thematic boundaries and pinpoint the suitable and relevant groups (see Charmaz, 2003). All the evidence from the interviews and documents led to a clear picture of how conditions and circumstances peculiar to Vietnam might contribute to the persistence of corruption in the public sector. Besides, the evidence also clearly indicated how strong the anti-corruption institutional measures were, how well they were implemented and how effective they were.

4.8. Presentation of findings

The findings acquired from the methodological approach will be presented in the following sections. In chapter 5, results will show how corruption operates in the Vietnamese public sector and how the government deals with corruption, the ALC implementation, its results, and explanations. Chapter 6 will present and discuss the main factors which contribute to the persistence of corruption as well as the role of civil society and the mass media on fighting corruption. Chapter 7 will discuss the research findings, their value, meaning and relation to existing literature and Quah's model. Then, chapter 8 will present the limitations as well as contributions of research. Implications for further research and policy also will be presented.

CHAPTER 5: RESEARCH FINDINGS ON CORRUPTION AND THE INSTITUTIONAL ANTI-CORRUPTION FRAMEWORK

5.1. Introduction

As mentioned in chapter 4, the interviews focus on personal experiences and perceptions of corruption and anti-corruption measures. The main purpose of this research was to understand and explain the continuing prevalence of corruption. The research compares Vietnam to Quah's institutional framework to understand the relative lack of success of anti-corruption measures so far.

This chapter provides the "on-the-ground" information shared by participants. The researcher's aim is to provide a fresh approach to measuring the significance of Vietnam's anti-corruption measures especially about what is happening in reality, why there is large scale corruption, what obstacles ACAs are facing while dealing with corruption. There are some stories and experiences told by participants who were victims of corruption. The interviews helped the researcher to understand the story of corruption and anti-corruption in Vietnam which she could not find in the existing literature and documents.

5.2. "Everything can be bought at the right price"

All these interviewees believed corruption was rampant in Vietnam; it is endemic and systemic. As one interviewee (5.3) said: "It is everywhere, in every walk of life like cancer, which metastasizes throughout the body." People regularly mentioned two types of corruption, the first being political. The second, petty corruption, related to everyday life and small earnings, and was hence more evident. However, according to one interviewee (5.2), not everyone in Vietnam thinks petty corruption is "corruption" in a Western sense, considering it rather as *những nhiễu* (harassment) or *gây khó dễ* (to make difficulties). In fact, this is a widely-held view in Vietnam. It makes the task of gaining popular support for defining petty corruption as criminal highly problematic.

Interviewees generally confirmed that petty corruption is considered a big problem. However, levels of grand and political corruption are now seen to be more severe. Politicians may either change or issue policies to favour supporting interest groups. Everyone acknowledges the system operates in a way that shares spoils with interest groups, even without knowing what goes on behind the scenes. That is one good answer to the question of why corruption is rampant in Vietnam.

Before trying to understand and explain the continuing prevalence of corruption and success or failure of anti-corruption measures, it might be a good start to look at lived experiences with corruption both vast and small in Vietnam.

5.2.1. Experiences of petty corruption

The interviews conducted emphasised that corruption comes in a variety of forms and various sectors throughout government and business; different forms depend on the nature of the business concerned. Below are some examples of lived experience with corruption. The following are questions the researcher asked a taxi driver (interviewee 2.8) in Ho Chi Minh City and his answers:

Q: Are you often pulled up by traffic police officers for breaking traffic laws?

A: Yes. I always drive very carefully; still, I am pulled up.

Q: Do you get a receipt when you pay a fine or just pay a fine without a receipt?

A: It depends on certain factors. Normally police officers take cash and do not give receipts. However, sometimes they do because they need to issue a certain number of receipts every day. Once they stop me, for whatever reason, I have to pay at least VND 200,000 to VND 300,000.

Q: Do the police ask you for money or do you voluntarily give the police a certain amount?

A: It is an unwritten rule. I always put money in the warranty book, and they take it.

Q: Have police ever refused money?

A: No, never.

Q: Why do you give money to them?

A: Because I cannot argue with them. When customers are in the car, it will take too much time. I had better pay the police and move on. I need to earn money; that is why I do not want to waste my time.

Q: How do the police ask for money?

A: Sometimes they ask us to give them VND 300,000 and go. However, during holidays or on certain occasions when the traffic is very busy, they often hire someone like

a taxi driver (*Xe ôm*) to write the speed record and collect money. That results in VND 300,000, or VND 500,000 for a slight fault, VND 1 million is imposed for a heavier one.

In fact, the traffic law is too strict with stiff sanctions. Car drivers may get a fine of VND 1.200,000 for parking in a wrong place. At times they take away the driving license for one month. That could be a reason why people are always willing to bribe the police officers rather than face their wrath.

Not only corruption among police persists at all levels, but it is a significant issue in the public service, especially in the healthcare system. The Vietnam Household Living Standard Survey 2008 indicates that 85% of Vietnamese citizens perceive severe corruption in central health services, and 65% perceive corruption in local health services (General Statistical Office, 2008). Below is a story told by the interviewee (8.3) who cared for her husband in a hospital.

My husband is in the hospital. He is in the emergency section. Every night I have to give money to the doctor who is on night duty. In general, every patient has to bribe the surgeons and nurses who are involved in surgery in advance. Patients have to pay official fees, buy medicines and many other unofficial things.

Before an operation, the surgery team will ask the patient for a certain amount of money. Doctors will not ask the patients directly, but the nurses are those who approach the patients. If a patient's family does not bribe them, they will show their frustration on the patient which makes the patient's family worried. Good doctors may get VND 10 or 20 million per day.

Q: What if you do not give money to them?

A: So, in that case, they will treat the patient differently. They become indifferent to the patient. If something happens to the patient, they will not respond promptly or just simply ignore them. You will be treated as a second-class citizen. However, sometimes doctors are spoiled by people. People often think that if they do not bribe the doctors, their beloved ones will not be treated well.

As mentioned in 2.10, corruption is widespread in education. The story relating to corruption in schools below can help to understand more about how it occurs in reality. An interviewee (8.4) told her story:

There are many ways of getting admission to a good public school. If you are not in the school zone, and you want to send your children, then you have to find someone who can help you. Normally, good or reputable schools set aside a certain number of places for its own zone students. It depends on the location. A school may have from 60-70% for its own zone students. The conditions for getting admission to a secondary school (from year 6 to year 9) are clear cut. The students need to have excellent grades for five years or secure at least the third rank in any of the subjects in the assessments at the city level. However, in practice, even if one meets these conditions, it is unlikely that one can get a place in the school.

Every year, the schools issue a certain number of applications and distribute them to local government agencies such as the police, the department of education, the court, the People's Committee and the People's Council. The applications will be on sale or given as gifts. They are called "diploma applications." If you have a good relationship with someone, who has the application you may have to pay USD 500. If not, you have to pay around USD 1,500 to USD 2,000. So everyone is involved in the racket, and everyone is happy, and the school benefits the most. Every teacher in the school also has an application, and they can sell it. If they have a good relationship with the principal, they may get more applications. This kind of "diploma application" is a form of corruption the schools use to try to build a good relationship with the local government agencies. Principals of the schools often have extensive relationships with local government agencies.

More often than not, if you want your child to get into a good school, you have to make sure that he/she gets good grades from the first year. If he/she is not a good student, then you have to bribe the teachers so that good grades are guaranteed. Moreover, of course, bribes for good grades are very common in higher education as well.

As mentioned before, a common understanding is that corruption is endemic and systemic. However, how that system operates to make it so is rarely described in the literature. Here are some other examples provided by participants which can explain how corruption works. An interviewee (5.4) said:

Let us take the traffic police as an example. If you are stopped by a police officer for some violation of traffic rules, you are forced to bribe him between VND 300, 000 and VND 500, 000 to avoid a penalty. Should you report this bribe demand to higher officials, they will turn a deaf ear by ignoring such a complaint. That is because the police officer taking bribes from street commuters shares them with higher ranking officials. Every month each traffic police officer is expected to give his superior a fixed amount of money. The superior will then have to pass on a certain sum of money to his boss. That is how bribes flourish, and it is unstoppable. Water runs top-down, but corrupt money runs bottom-up. This kind of illegal money flows like a chain link. If one link is broken, the whole system will stop. However, no one in the chain wants it to stop it as they all gain from the system. The higher your position, the more money you may get. That also explains why officials are likely to pay for a position.

Another interviewee (7.2), an experienced journalist who is a specialist in anti-corruption, gave further details describing how this corrupt cycle operates within the traffic police:

Normally the police stop commuters who violate traffic rules on the road or stop vehicles which break traffic laws. They divide the amount of the penalty which they collect 50/50. It is an unwritten rule according to which the drivers give 50% of the sum of the fine that he is supposed to pay for the state budget, and they do not give a ticket. Every taxi driver understands the rules and knows pretty well how much they have to pay. With ordinary people, they may not know; then the police will tell them how much the fine is.

Every working group has to give the team leader a certain amount of money every day. The team leader then shares that amount with the office leader, who will share it with the higher officials. That is a chain that keeps moving to the top of the system, an unwritten law with which everyone has to comply. If someone gives any excuse for not contributing or gives less than the normal amount, then leaders have many ways to harass him. For example, they may send a motorcycle taxi to observe his working day, or keep track of the number of fines he demands per day and thus know how much the police should be getting. That police officer may get a simple "punishment," relieved from road duties and sent to an office to work as an administrator where people have only fixed salaries, not any extra income.

This kind of corrupt action is like catching fish in a pond. The fishermen have to be creative and use every means to catch as many fish as possible. To understand this comparison, we must recall the police hiding behind trees or in corners so that they are out of sight.

One of the most prominent forms of corruption that people regularly mention is the purchase and selling of jobs and positions the public sector. It is the "mother of corruption" in the public sector, one interviewee (2.1) claimed.

Interviewees saw human resource management in Vietnam as a big problem, breeding much corruption. Many are keen to secure a good position and then use it to get money. Interviewees believed the public system had enough loopholes to permit people to buy jobs and positions. As interviewee (5.3) said:

The country leaders have admitted that buying and selling jobs and positions in Vietnam are becoming a more and more severe problem. It obviously occurs everywhere, and everyone knows about it. However, no case has been brought to court so far because all evidence is destroyed.

Interviewee (2.1) said: "This can be done in many ways. Sometimes, these transactions can be in the form of free luxury travel trips or offering free meals in restaurants, money or expensive gifts or even sex, not only money."

Now the term "multi-level business" is applied to the buying and selling of jobs and positions. It seems that everyone knows there is such a market, but no one is willing to provide evidence to prove it. Probably this is because the commerce in jobs and positions is both opaque and complex.

Currently, there seems to be a mismatch between low salaries in the public sector and paying to get a job there. Nevertheless, this is a gap people are willing to cover when paying to get employment in the public sector. Interviewees indicated that, more often than not, new employees have to pay for a job even though they have had to sit for an entrance exam. An interviewee (5.3) gave an example of the Head of the Inspectorate Council of the Hanoi Communist Party, stating in a Hanoi People's Council meeting, that every new employee had to pay VND 100,000,000 (estimated USD 5,000) to get into the public sector. Moreover, he added, "I think in reality that number is much higher."

Given that everyone has to bribe officials to get a job, competent people not wanting to offer such bribes will not get a government job. That helps explain why the professional standard of many public sector employees is low. We can readily imagine how those who bribe officials to get jobs then find ways to get a return on their "investment," thus leading to further corruption. In fact, monetary is not always the case to get a promotion. An interviewee (2.1), a high-ranking government official gave an example:

> I happened to know someone who was not eligible for a position, but he was keen to get it. So every year on Tet (Lunar New Year) he and his family flew to his direct boss's hometown to spend the New Year holiday with him. He took care of every single member of his boss's family. Finally, before retirement, the boss decided to promote him to the position that he wanted.

So, to be promoted or get a better position, public officials can come up with novel ways to please their bosses.

The interviewee commented that, in general, there are two main types of people willing to pay for a position:

- The rich are willing to bribe to any extent and do not consider it an investment. What they want is to ensure they protect their assets, which could be from the black market, earned illegally from other businesses, corrupt earnings, or returns from illegal properties. He gave an example:

> I have a friend, who was director of a military port. He used the state budget which was earmarked for military purposes, to trade old battleships (sold them as parts). He illegally earned much money in that business. Besides, he managed military port construction funds and other budgets for the defence services. Interestingly, Vietnamese state budget allocation, which is meant for military purposes, can be seen as a black box that no audit authority can check, not even the NA. As a result, my friend got a huge number of properties and a lot of money. Later on, he moved to another position, which is safer for his assets. He declared that he had had enough, and he will not be involved in any corrupt act anymore.

- In general, many government officials who are keen to secure a good position then exploit it to make money.

An interviewee (7.1) stated that as corruption happens in every part of the Vietnamese public sector, the buying and selling of jobs operates in a cycle, as he described:

> Almost everyone has to bribe someone to get a job. If someone wants to work as a contract worker on the ward committee, then he or she has to bribe the lowest ranking government officials to get a job. After getting that job, one tries one's best to get one's money back by hook or by crook. The government salary is so paltry it is barely enough for a decent living. The committee leader, who receives money from his staff, has to give some money to the district level officer. The district officer, in turn, has to send money to the city leaders. Finally, the city leaders have to send a certain amount of money to the central government.
>
> More seriously, it is not just the public system; even the NA is not free from corruption. The NA deputies also have to "buy" their seat. Once someone becomes a member of the NA, then it is a trump card for that person to do business.

Several interviewees (2.1, 5.3, 7.1) claimed, although no one has been convicted of corruption relating to purchasing jobs, various job scams have become common in Vietnam. According to the respondents, the patronage system favours those having connections with the government or the Party. As a result, criminals exploit these perceived incentives to cash in on the gullibility of common people. More often than not, unscrupulous criminals place fake job advertisements for government employment and positions. Here they mention the names of high-ranking government officials in the advertisement to make it seem credible. Many are victims of such bogus advertisments. They pay criminals much money for government jobs which are not there. When they realize that they have been duped, these people sue the criminals. Many such criminals have been convicted in Vietnam. Such incidents demonstrate how common people believe the practice of buying a job is now a way of life. It is a form of corruption that has now become widespread and entrenched.

The cited examples show how the corrupt system operates in Vietnam, as a very tight set of arrangements and "understandings." Most of the interviewees emphasised those in the system who do not toe the line will be kicked out and will have to find other ways to make a living. That makes it hard to ask government employees to avoid corruption since they need employment to look after their families.

5.2.2. Grand and political corruption

When comparing political, grand and petty corruption, most agreed that petty corruption is rampant and makes people distrust government officials, but it does not greatly affect the economy. It is less severe than grand corruption which drains the country's natural resources. Further, interviewees believed political corruption was damaging: many investment policies do not prioritise the country's socio-economic development, and investment projects often are conducted without taking their net effectiveness for the country into account.

One interviewee (1.2), a National Assembly deputy, cited a bauxite project in Tay Nguyen[9] as an example where, despite opposition from scientists and others, the government exercised its firm political will to proceed. From the beginning, the project lost an enormous amount of money. Another interviewee cited the high-speed railway system project, supposed to take 20 years and requiring a huge budget. However, it was only brought up at the last meeting of a final NA term: "Why did they not give themselves some time to think carefully and prepare well for the project document?" Moreover, the respondent continued, let new tenure deputies of the NA approve the project and supervise its operations. The answer was that the government wanted to give the project approval to satisfy supporting interest groups. Once approved by the NA, five per cent of the USD 5 billion total cost of the project was to set up an executive office with the Minister of Transportation as project manager. The Project manager would then have the authority to invite whomever he wanted to share the benefits without heed to the long-term result, this interviewee concluded.

Another interviewee (6.4) commented in like vein, saying that: "Public management, of policy making at the macro level, is fragile. Somehow they try to create conditions which are conducive to their interest groups." In Vietnam ministries make policies in the fields they manage, in other words, they have become both players and referees. The conflict of interest is this management system is obvious, creating huge corruption problems for the country. The

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[9] "In 2009 Vietnam's leaders were confronted by widespread elite opposition to their plans to develop a bauxite mining industry in collaboration with a Chinese company. For the first time the competency of the government to decide on large-scale development projects was called into question by a broad national coalition of mainstream elites including environmentalists, scientists, economists, social scientists, and retired officials. That controversy represented a major challenge to the performance legitimacy of the government led by Prime Minister Nguyen Tan Dung. As a result, the government was forced to modify its plans to take environmental concerns and the effect on ethnic minorities into account. The government agreed to permit the National Assembly, ministries and local authorities to conduct regular reviews of how bauxite mining was being implemented. Nevertheless, the prime minister and other government officials asserted that bauxite mining was "a major policy of the party and state" and would proceed…" (Thayer, 2009b)

interviewee (3.4) said that government investments in every sector are initially huge, but they decrease during implementation as a big percentage of the funds get siphoned off.

Interviewees believed high-ranking government officials often acquire natural resources illegally, allocating them through their various *sân sau* (their own companies but under others' names). Here the economy and political process work hand in the glove which, in turn, distorts the entire society, threatening a rise of so-called Mafia government. An interviewee (6.4) said:

I can say for sure there is not a single Party and senior government official who is not very wealthy. So where is their money come from? They become wealthy because they are corrupt. As the Vietnamese often say *thượng bất chính, hạ tắc loạn* (the fish rots from the head down).

Every interviewee agreed that corruption has nowadays become more diverse in its forms. An interviewee (2.6) said,

In the past, public officials issued fake dossiers to steal money from their state budget, but this kind of action is less common now. Instead, government officials now often exploit their positions for purchasing, contracting out government expenditures, distorting government investment projects, and gaining kickbacks from their partners.

All interviewees said that kickbacks are an unwritten law in Vietnam, which has become common among government officials. One interviewee (2.1) said:

I sometimes cannot avoid getting kickbacks. For example, we had a project that needed to outsource some consultancy work. We signed a contract with a company. After they finished their job and got their compensation, they gave us ten percent of their compensation and said that was their rule to give 'commission' *(lại quả)* to the project owner.

Another example this interviewee gave was:

There were two companies, which participated in a bidding process for a project. I was invited to join the Selection Committee. The committee's duty was to mark the bidders according to their profiles. In that bidding, one got ten points, and another got eight points. Normally, we have to choose the one who got highest points. However, the project manager asked us to accept the one who got eight points because that company belonged to his relative. Once the company was given the job, they gave us some money.

Interviewee (2.6) confirmed that if a leader of a government department which is bidding on a government project wants a particular person to win, he can always find a way to achieve this. Bidders may negotiate in advance to support an assigned winner, then get some return from that winner. Such bid rigging is a form of fraud as when a commercial contract is promised to one party but, for the sake of appearances, several other parties are also present to offer bids. This form of collusion is illegal, but no one can prove it conclusively.

A contractor who gets a job has to pay out other parties doing the "bid-rigging" but then needs to launder that cost by providing receipts from elsewhere. So how does the contract winner proceed with the job, having spent a significant amount of money to succeed? The interviewee explained:

> If you are an investor, and I am a contractor, I pay you 100 million VND to get the contract. I cannot use my money, so I need to get that money back, and I also have to add 100 million to the total amount cost to legalize that payment. So I buy 10 tons of cement to build a house, but I get an invoice for 12 tons; thus, in reality, the house is completed with insufficient materials, so the quality is lower than it is supposed to be. That is evident, and we all know that is the fact but still it is not easy to check the quality.

Another interviewee (8.1) who is the CEO of an enterprise said:

> While dealing with the public sector workers, it is always important to have a good relationship with some VIPs. For example, if my company wants to win a bidding process, we have to have some connections with some high ranking officials. In fact, such a person could be someone who works for the state agency, which organises the bidding or someone who can influence the bidding process.

The interviewee (2.6), experienced in the auditing sector, described how bid-ridding works according to the extract below:

Q: Have you ever heard about any bid-rigging cases and how does it work?

A: Sure, there are many ways to do bid-rigging. If you want to win the bidding, you have to have a good relationship with the investor who opens the bidding. However, there is only one investor but many bidders, and they may all have relationships with the investor[10].

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[10] For example, there is a project to build office buildings for a government organisation. The legal structure in Vietnam means that the Director of that organisation is the project owner and director of that project. He subcontracts people to do the work, but retains overall responsibility.

In this case, the bidders and the investors need to negotiate with each other to decide who will be the winner - those who are *quân xanh* (green) who are *quân đỏ* (red); *quân xanh* will be a winner. There are some unwritten agreements among the bidders, which can be: those who accept being *quân đỏ* in this bidding can be *quân xanh* in other projects, or the *quân xanh* has to pay the *quân đỏ* money or get a bid working as a subcontractor. Where they cannot get an agreement, the bidding will open fairly with the highest bidder being the unaided winner. The most important actor in this "game" is the investor; they decide who will be the winner and of course receive the kickback.

This description can explain why, in government construction projects, there are always three or four independent agencies to oversee and supervise this activity. These projects often produce low-quality constructions, the interviewee said. The ACAs can sometimes say there are signs of collusion but find it hard to find evidence of proof. The interviewee continued:

It is not easy to find evidence in the accounting books and documents because they always have receipts for every purchase and payment. The better way would be to conduct a quality assessment but it is too complicated, and it takes time.

Referring to the substantial amounts of kickbacks, he said:

It depends on the nature of the work. If the contract guarantees us a high profit, then we have to give a considerable share of the profit to the project owner (it is always from 5-10%). A sum of kickbacks is always negotiated and paid before the contract is let. Normally, the company which wins the bidding, let us say for example company A, company A will transfer the contract to contractor B after taking a certain percentage. Contractor B will subcontract to contractor C. This kind of process will stop once they reach a point where there is little prospect of any further kickbacks. The last subcontractor is ultimately responsible for carrying out the contract.

The interviewee emphasised that, since the contract is outsourced to so many subcontractors, it becomes impossible to get the work done to the required standard. That often leaves the last contractor severely compromising on quality and standards. To get a profit, corners are cut wherever possible. As a result, the overall quality of the work is shoddy. Many national highways, bridges and high-skyline buildings have been found to be of poor quality because of corrupt practices. Although inspectors from relevant ministries have overseen

construction projects, their quality has stayed poor, and many are dilapidated soon after completion.

Another interviewee (8.5) claimed:

> State authorities discovered the use of bamboo instead of steel when they inspected the beacons on the highway. On another motorway, they found wooden banks instead of rock, gravel, and other proper materials. The government has to allocate a huge amount of money to repair and maintain the roads every year as it fails to force the contractors to do it.

Independent agencies and inspectors overseeing construction projects should be held responsible for poor quality projects; supervising agencies working professionally have to find out what is going on and the actual quality of projects. However, interviewees (8.1, 2.6) believed there are agreements between these agencies to falsify reports. There must be strong reasons for these secret understandings driving corruption or, as illustrated by one interviewee (8.1), "everything can be bought at the right price."

Interestingly, most people who admitted being involved in getting kickbacks replied as follows to the question about why they did not refuse such money. They said they could not do so, interviewee (2.1) saying:

> If I refuse to get the bribe or kickback, it means I am against the whole system since kickbacks and 'gifts' are considered as normal by everyone. So, you cannot do differently. If you do so, you will be kicked out from the system, or you can no longer hold that position. If you want to survive and develop further, you have to accept the fact and keep quiet.

There was only one interviewee (3.3), who was an international expert, and who said he refused the kickbacks: "Sometimes we do some work and then we are sent some gifts or some money. We cannot accept 'gifts.'" Clearly, giving and receiving kickbacks have become cultural issues in the Vietnamese public sector. In general, kickbacks are so widespread that virtually everyone takes them. In fact, the practice is mostly treated as if it were legal.

Corruption in Vietnam is rampant not only in public procurement but also the privatization process. According to all interviewees, the privatization process is a serious obstacle to improvement since government officials often try to buy state assets at the lowest price. That often does not include trademarks and the intellectual properties of SOEs. "It is

more a process of transferring public assets to private owners, and this is not privatization. In fact, we call it daylight robbery," an interviewee (3.4) said angrily. We examine this further when we focus on economic factors leading to corruption.

The evidence of the respondents seems to be in line with the existing literature, which indicates corruption is serious in form and scope in Vietnam (see also Davidsen *et al.*, 2011; Davidsen *et al.*, 2009; Martini, 2012; Nawaz, 2008; H. V. Nguyen, 2009; Sato, 2009b; Segon & Booth, 2010). Considering the nature of corruption in Vietnam both at petty and grand level gives an impression of where things go wrong and what must be done. Petty corruption seems to be a far-reaching problem which demonstrates the weakness and loopholes in the public system. Grand corruption appears to be more related to the nature of the political system and economic management. These issues need to be fixed to reduce the opportunity for corruption activities.

The evidence shows how petty, grand or political corruption is operated within the system that partly explains the persistence of corruption in Vietnam since virtually everyone in the system is involved in giving and receiving kickbacks or bribes and has excuses for doing so. Moreover, government officials tend to think that to stop doing so would mean exclusion from the system. It is of interest that nobody considered themselves a link in a systemic corruption chain.

Corrupt practices differ by area because they depend on the nature of the work. However, since the stories told above are quite common across all fields in Vietnam, they appear to demonstrate that corruption "happens everywhere" at least at street-level bureaucracy. All those factors may be parts of the main reasons why corruption has become persistent, and the anti-corruption campaign has not been effective so far.

Now we have some understanding of what is meant when people say corruption in Vietnam is endemic and systemic. We know what it means and how it manifests itself. In the following section, we are going to examine how the Vietnamese public administration responds to the corruption issue.

5.3. Dealing with corruption

The previous section claimed that corruption is a self-sustaining cycle. Although Vietnam has an anti-corruption legal framework and some ACL enforcement agencies, corruption remains persistent, endemic and has become more severe. Why is this so?

This section helps us to have some understanding of how the Vietnamese government has tried to deal with problems of corruption: the enactment of the ACL, the establishment of ACAs and their objectives and, most importantly, how the AC legal framework is implemented by ACAs. By examining how ACAs carry out their tasks in anti-corruption, the thesis attempts to represent insiders' views rather than what was written in the legal framework.

5.3.1. Why did the Vietnamese government introduced the Anti-Corruption Law?

According to some interviewees (6.2, 5.1, 2.4), the main reasons for the establishment of ACL included the following. First, in 2003 the nation signed the United Nations Convention on Corruption (UNCAC). After signing the Convention, the government found the Vietnamese legal system did not meet the requirements of the UNCAC. Corruption had become a serious public issue, but the government lacked appropriate provisions for dealing with it. The previous 1998 Ordinance on anti-corruption was ineffective, its provisions for fighting corruption likewise. Therefore, stronger measures to deal with corruption were considered necessary as the country faced pressure from international donors, investors and its citizens to combat corruption. So Vietnam enacted ACL.

According to interviewers who are specialist in the anti-corruption field, some objectives the ACL has met include:

- To demonstrate the Vietnamese leaders have the will to fight corruption.
- Some specific agencies have been set up, and the ACL implementation forces all the government agencies in every sector to produce action plans to fight corruption.

ACL helps to raise societal awareness of anti-corruption. People can become more active in anti-corruption and support the ACAs. Some interviewees stressed that from 2003 onwards, corruption was considered a very sensitive topic, people not daring to discuss it in public. Now, on the internet and in the media corruption is discussed everywhere. ACL also endorses

transparency: almost every state organisation has a website to provide information and to broadcast periodic press conferences.

The ACL includes: (1) prevention solutions, such as requirements for publicity and transparency in the operation of public organisations; requirements to formulate, promulgate and publicise regimens, norms and criteria in state agencies; codes of conduct for public servants; transparency of public officials' incomes and properties; responsibilities for heads of government agencies in controlling corruption; administration reform, application of technology in management and payment; (2) detection of corruption by inspection, investigation, audit, control, adjudication and supervision; (3) handling of cases of corruption committers and corruption-related properties (National Assembly of Vietnam, 2012). The preventive measures are quite new to Vietnam, and their application has brought some changes. According to an interviewee (3.1), a local anti-corruption expert, there are some good elements in the AC measures: "The approach of the ACL in Vietnam is mostly focussed on prevention. In my opinion, it is the right approach because once corruption is allowed, the losses and the consequences it triggers are huge."

However, there are other views on this. Some have argued that if Vietnam focuses merely on corruption prevention without giving enough attention to curbing it, then it can never be eradicated. Therefore, Vietnam needs to strike the right balance between prevention and control of corruption.

The interviewees believed there had been improvements since Vietnam initiated steps to implement new rules on transparency and accountability. Under the ACL, public agencies have to provide public information and positive policies such as mandatory income declaration and a decree regarding the giving and receiving of gifts. However, as will become apparent later in the thesis, the implementation of these otherwise promising initiatives, is less than satisfactory.

5.3.2. Why did the Party take control of the Central Steering Committee on Anti-Corruption from the government?

In 2003 the Central Steering Committee on Anti-corruption (CSCAC), formerly under the supervision of the government was taken over by the CPV (The Communist Party of Vietnam, 2013). The Party's Central Committee for Internal Affairs (CCIA) is the standing unit of the CSCAC. It has a responsibility to direct, coordinate, inspect and promote anti-corruption tasks. Under the CCIA, the provincial Committee for Internal Affairs was established throughout the country. In general, people held different views about this, some

considering the arrangement an example of the Party's will to fight corruption. However, many interviewees argued that it was only superficial, a further analysis indicating that it may be just a contest among political groups jostling for power. An expert on anti-corruption (3.1) said:

> It seems to be the best solution in this political context and political institutions. The old model has proven to be ineffective, so it needs to be changed. We should try the new set up and see if it works.

Many people complained the Party already controls too many areas that result in governmental functions overlapping. However, this interviewee thought the Party should temporarily lead the anti-corruption campaign to make it work. "People may also say the new setup is just 'old wine in a new bottle' but I think the same people but different leadership can guide in a variety of ways which may produce different results," she said.

Interviewees (2.2, 3.1, and 5.1 - a leader of an ACA, an academic and an expert on anti-corruption) also believed the re-arrangement of the CSCAC under the Party was an improvement for the following reasons:

- Formerly, the head of the executive body was the chair of the ACAs, meaning the Prime Minister played the roles of both "player and referee," leading to an abuse of power. Dealing with corruption means dealing with the executive branch; scope to do so with greater independence is permitted by a move to the Party.
- The Party manages and controls virtually every sector in Vietnam: politics, society, the economy and, especially, human resource management. If it resolves to act, the government has to implement accordingly. Under a single party state, it is easier to enforce Party resolutions and policies because all leaders of government agencies are its members. They have to obey and effectively reinforce the Party's will. Whoever disobeys the Party and violates its regulations faces discipline. If corruption cases are taken seriously by the Party, the ACAs have to do likewise.
- Previously, the CSCAC was under the executive branch. However, dealing with corruption needs engagement by the judiciary, which is ostensibly independent of the government. It could be argued that in taking over the CSCAC the Party could make both systems more effective.

Some interviewees believed, in its current situation, Vietnam needs to have the CSCAC and ACAs guided by the Party. Interviewee (5.1) said, "I think the CSCAC has made progress as it supports the investigation process and brought some significant corruption cases to court."

Another (7.3) stressed: "It is heartening to note the ACAs seem to take up corruption cases a lot faster than they used to."

Although interviewees believed the re-establishment of CSCAC and Internal Affairs had brought some positive signs, they nevertheless thought this arrangement was not suitable for the long-term goal of an effective rule of law. The rule of law is the legal principle that law should govern a nation and it should not be directed or guided by anything other than law. Monitoring the implementation of the law is based on principles of law, not on any political regime. Once the ACAs work more efficiently, the form the CSCAC takes should be redefined.

Some interviewees thought it too early to evaluate these new institutional arrangements but did say it appeared the party had been trying to impose heavier sanctions on corrupt officials. Interviewee (3.2) said: "They try to show their commitment in fighting corruption but for me, it is not enough. The new institutional arrangement should require strategies for a systemic, independent investigation of corruption by ACAs."

By contrast, most interviewees saw the transfer of the CSCAC from the government to the Party, and the establishment of Internal Affairs throughout the country, as a dividing of authority between the Party and the government. Interviewee (3.4) said:

The Party wants to take over the anti-corruption tools because they believe the government has too much power. However, the CSCAC and the Central Internal Affairs cannot be effective since the whole system is corrupt. Here, some have more opportunities to become corrupt. Thus, the anti-corruption measures are used to fight each other.

Interviewee (1.2) shared the same opinion that the establishment of Internal Affairs throughout the country is meaningless as they are not independent. Its leaders' positions have less standing than do local government leaders at the same levels. Furthermore, the Party is driven by the collective, not the individual, that means there is no motivation for reform.

Another interviewee (2.5) stressed that the country should apply the rule of law. Therefore, it is not necessary to have CSCAC and Internal Affairs since those institutions have only supervisory, not investigating or prosecuting functions. The interviewee said: "It is like a ball which is kicked from one place to another location. The Party wants to strengthen its power rather than confront the culprits in the real battle." Therefore, having those institutions makes the AC implementation procedure more complicated. Another interviewee (3.3) said: "That is

not new. Vietnam had Central Internal Affairs before 2007. Basically, it replicated the same model so don't expect different results."

Another interviewee (5.2) added:

To be frank, I still haven't seen the functions of the Committee in dealing with corruption. Since the enforcement agencies are weak and influenced by other forces including the party's central and other committees, the government, and the judiciary. The question is how we use the legal framework to combat corruption?

So, the CPV's leadership of the anti-corruption strategy has become increasingly important. Even though the level of corruption remains serious, the new institutional arrangement seems to have made some positive progress. By establishing machinery at provincial levels, and moving it into the Party system, the Party somehow shows the will to fight corruption. However, the CSCAC would exist only for a set period because it may be cumbersome in the system and deny the role of the judiciary. If Vietnam wants to fight corruption effectively, it properly needs to operate a 'rule of law' state which monitors state power as well.

5.3.3. How do Anti-Corruption Agencies carry out their work?

As mentioned in sections 2.5, 2.6 and described in figure 4, the institutional anti-corruption system is complex with many agencies involved. This section now will investigate further how ACAs implement ACL. The findings will help us to understand why the anti-corruption measures have not managed to control corruption.

In Vietnam, there are four stages that a typical case can be divided into (for any criminal proceedings including corruption) as shown in figure 6 below.

Figure 6: Legal procedure of criminal case

Pre-Investigation (Police or People's Procuracy) → Investigation (Police) → Prosecution and Pre-Trial (People's Procuracy) → Trial and Sentencing (People's Court)
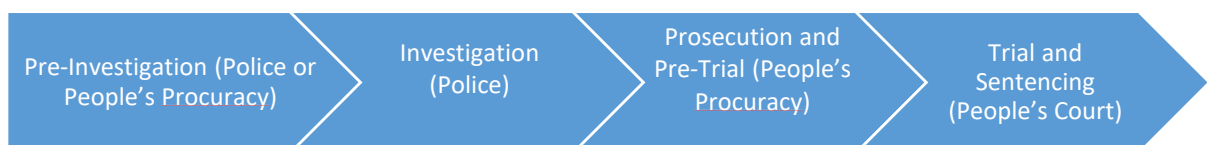
Interviewee (6.4) highlighted that, during the investigation process, the staff of the procuracy and the police have to cooperate closely to exchange information and discuss the

direction the investigation should follow. Where there is a conflict of approach between the procuracy and the police, the case is brought to an upper level of the judiciary for instructions. Ostensibly, all the processes are conducted under the Criminal Law and Criminal Procedure Law. The interviewee emphasised, however, when dealing with grand corruption cases, the ACAs are generally directed by the Central Internal Affairs, or an even higher level such as the Party Secretary General, the Politburo, or the Party Central Secretariat Committee.

By law, an investigation of a case is meant to take about four months (National Assembly of Vietnam, 2009) the prosecution process taking from one to three months depending on a case's complexity (National Assembly of Vietnam, 2015). However, according to the GI's reports, many cases have taken seven to eight years to investigate. In general, when a case is brought to trial there must be convincing evidence. Where the court determines that to be inconclusive, the ACAs need more time to gather further evidence. However, some interviewees believed another reason for the delay is the limited capacity of the ACAs as investigating bodies—especially in banking, stock broking, and other specialized financial fields. They said it is hard to access bank accounts because of privacy and security laws. Investigating bodies also have to present many legal documents to banks to investigate accounts. In their opinion, it became apparent that investigators have to deal with not just the judiciary in corruption cases, but some agencies resistant to cooperating with investigating bodies.

To clarify the legal process in a corruption case, and what happens during the process, interviewee (6.5), an investigator in the police, described a likely scenario below:

The police received a complaint from the public. It was about a housing scandal. There was a housing project called An Lac ward project. This project was to build houses on public land and hand them over to local poor people. Mr. A was the Director of the project, and Mr. B was the land management officer. Contrary to the original objective of the project, Mr. A, and Mr. B included themselves and their relatives in the list of landowners. Strictly speaking, they should not have included their names or the names of their families. To make matters worse, they surreptitiously asked the accountant of the project to inflate the total cost of the manifold project times. The process of dealing with such a case is one where:

- There is a collection of all relevant information and all necessary supporting documents. Gathering all possible evidence to ensure the complaint is appropriately substantiated.

- If the documentation is convincing, the police will initiate the investigation. However, ACAs usually have to present a report on the case to the local Party Standing Committee and wait for their response. Strictly speaking, no provision in the law requires the police to do this. However, in reality, the police have no other option. As a result, and more often than not, information on the case is leaked which helps suspects to liquidate their assets well in time.

- After getting the police report showing strong evidence, the Local Party Standing Committee approves prosecution. Then the police act by issuing a warrant to raid the person's workplace in search of more evidence related to alleged crimes. Furthermore, a detention order is issued if necessary. After carrying out a raid, the police have to send a request to the District Procuracy for approval to proceed with a prosecution. The police have to obtain agreement for an arrest warrant and detention order. Once this is given by the District Procuracy, the case is investigated under the Criminal Law. Nevertheless, the Party may summarily reject the case for any reason, which will nullify the investigating body's initiative as it lacks autonomy. Hence if the case is presented wrongly, the police are not held responsible because they have to heed the Party.

- The head of the investigating body (police) then appoints the leader of the investigating team and team members. Once appointed, investigators handling the case develop a schedule and plan of action which may include: the objective of the case; issues needing clarification; measures taken to get evidence; relevant time frame; and required resources. They could include personnel and equipment depending on the complexity of the case. After completing the investigation, the investigating body will report its findings to the District Procuracy and recommend prosecution. After receiving these results, the procuracy will then issue an indictment and transfer the case to the district court for trial. If the accused is found guilty, the court will then determine the penalty.

During an investigation, defendants and their families often try to meet and influence investigating teams and their leaders, local government leaders, or local party leaders or with whomever they have close relationships. This frenetic activity to influence many people is to lessen the charges, so the case is handled by administrative authorities, not brought to trial. Thus, all possible means such as money, valuable assets, and political influence are used to manipulate those involved in the case.

> If the case is related to a high ranking officer, the investigating team is less rigorous. Internal Affairs, the Court, Police and Procuracy often meet to discuss ways of either making the case less damaging or dismiss it.

The example above reconfirmed what most interviewees said ACAs do not know what happens within it when a draft is submitted to higher level leadership during investigation, procuration, and trial of corruption cases. Some interviewees said they do not have enough information, meaning they do not know why some particular cases take a longer time, many cases appear to be a "black box" to them. Although they did suggest some possibilities include (1) the nature of corruption being so complicated as to make it difficult to find the evidence needed to convict corrupt offenders, (2) the lack of transparency in investigations, procuracy and trial procedures. Moreover, lastly, there is political interference.

Regarding the role of each of the ACAs, most interviewees said they could not say which ACA plays the more important role, or identify any particular key player as they have different roles and functions. However, it is believed the CSCAC and Internal Affairs have recently assigned new responsibilities to the ACA, these seeming to have more authority than other organisations (The Communist Party of Vietnam, 2013). Most interviewees felt the responsibilities of ACAs remained superficial.

Interviewee (2.4) explained further that if GI inspectors discover a violation of the law, the dossier of records of the case needs to be transferred to the police. However, under the Procedure Criminal Law, all evidence that is collected by government agencies before the case is prosecuted cannot be used as evidence in court. As a result, the investigation agency (police and procuracy) must again investigate and collect evidence. All evidence needs to be collected under the Procedure Criminal Law. The interviewee believed this is time and money consuming.

For these and other reasons, existing legal processes seem to make corruption cases difficult to prosecute. Years are often needed to complete them, even when required procedures are followed. As interviewee (2.4) explained:

> For example, there is a case where the investigating agency finalised and transferred its findings to the procuracy which checked the dossier and found some things were irregular. They returned the dossier for further investigation. When this was completed, it was again given to the procuracy which then transferred it to the court for trial. The

court checked the file and found some things unclear and then asked for more evidence. That is a typical corruption case. Every case which is brought to trial needs to have solid evidence to ensure success.

In principle, if authorities cannot find sufficient evidence during the investigation process within a set time frame the case is abandoned. Due to lack of evidence, a judge will find offenders not guilty. According to interviewee (2.4) if the authorities believe offenders are guilty then they have to restart their process of investigation and prosecution.

Under government regulations, documents sent from an office to other offices need to be followed up, appropriate feedback about cases returned. However, interviewee (7.2) pointed out that almost all corruption cases stayed inside a black box – especially those which related to high government and Party members.

Under an annual inspection system, government inspectors and auditors have to agree on those areas they want to investigate in the following year. Interviewee (3.3) said: "Everybody knows the chances of coming across any problems are minimal, as the pre-plan announced audit is the bare minimum, 99.99% of the cases will be all right."

Most interviewees believed most corruption cases were revealed following information leaked by insiders, especially following conflict among staff. Here insiders provide information to the mass media, police, or the GI but, so far, no corruption case has followed official inspections. In general, it seems the role of the Party inspection and GI is insignificant.

To sum up, even though the roles and functions of ACAs seem to be clear, their duties and responsibilities appeared superficial in practice. Evidence identified some key points in the ACL implementation process: other laws hinder implementation of the ACA's responsibilities, there is a lack of accountability in the ACA's handling of cases and weak coordination among ACAs. More importantly, the findings also demonstrate the ACAs cannot always act according to the law as they have to ask for the Party's permission while dealing with a corruption case. It seems that no single agency has independence as there is always significant interference from other organizations, especially the party.

The very complexity of the system makes it largely ineffective, a point that will be examined further in this thesis. Also, the lack of independence among the ACAs and the dominant role of the party in the implementation process will be discussed further in the following sections.

5.4. Anti-Corruption Law implementation results

It is worth knowing participants' perception of the ACA implementation results, especially participants who are working in the anti-corruption field in Vietnam. That enables some sense of how far the AC legal frameworks meets its objectives and what needs to be done to make it better. However, as mentioned earlier, the Vietnamese government does not publish systematic data on anti-corruption implementation. It is hard to determine how many are investigated, prosecuted and convicted on corruption-related charges. Thus, it is impossible to conclude the overall efficacy of Vietnamese effort on corruption in term of what proportion of corrupt officers get caught.

Interviewees indicated that the number of cases, number of defendants, or asset recovery amounts are not always comparable to reports submitted by different agencies. Interviewee (6.4) gave some reasons. First, the period of the reports is not the same, and second, the updated numbers are not exact. Furthermore, he added, there is no specific provision for making a report. So it is up to each sector to decide a time for reporting. It has been recommended the period covered by the report should be aligned across agencies. However, they say that their operation is the best for them, meaning no changes have been made so far.

Interviewee (2.1) claimed that, while the GI is in charge of compiling information, it does not have all the information needed nor access to all asset declarations. That leaves only ones compiled by public officials filing declarations each year, only a percentage of them doing so. The final report is based on reports from 63 provinces and central agencies, but this does not comprise complete information.

The interviewee added that all reports are treated technically in such a way that does not allow anyone to draw conclusions regarding the effectiveness, or otherwise, of anti-corruption implementation. Despite all the figures produced in these reports, no one can know how much the ACAs have actually done, or what actions are needed in future. That is like a numerator without a denominator. This interviewee (2.1) said:

> When we make a report, we put all available figures in detail. For example, in this year ACAs recovered ABC out of XYZ needed to be recovered. However, we had to take the details out because the government did not want to upset the public.

Things have become even harder, since "different agencies may provide different figures. The numbers in the reports of the GI, the police, the procuracy are different, and one can barely find out which figure is correct," the interviewee (3.2) emphasised.

The systematic problems that are occurring in reporting and statistical methods seem to constitute obstacles for ACL implementation as well as for policy makers since no reliable data is available. It is necessary to make ACL implementation results clear and transparent so that one can put pressure on the ACAs.

When assessing ACL implementation, interviewees agreed it was a problem. The Party and the government often report that anti-corruption measures have not, as yet, been effective, so corruption remains rampant and severe. However, due to the lack of transparency about corruption information, it is hard for us to get the full story about these cases.

In the ACAs' reports, it is always stated that corruption cases were handled by the law. However, interviewee (5.3) pointed out:

In reality, they applied laws selectively to handle the cases especially those who (1) make a quick declaration, (2) try to recover corrupt assets, (3) have a good family history, such as a family member who joined the wars and a person not involved in crime or who did the right things for the society.

The interviewee (5.3) emphasised:

In fact, most public officials are considered to have a good personal rapport with the higher officials, so if they are found guilty, they may not be scared to face the charges. As a result, they are not afraid of being found guilty because they know that they will be protected no matter what happens.

Politics unquestionably plays a role in Vietnam's anti-corruption battle, and people believe powerful people escape prosecution because of their *ô dù* (protective umbrellas).

Interviewee (6.2), who had been involved in corruption investigations said: "In many cases, we found enough evidence to prosecute the officials for corruption, but they cannot be pursued as corruption has become systemic. Collective corruption involves everyone in the system." Interviewee (2.5), a leader of a government inspectorate department, gave an example of collective corruption regarding buying jobs and positions. He specified that it is hard to be convicted even if there is solid evidence. The interviewee said:

We can even indicate the scope, nature, places and those involved. In many incidents, we have enough evidence to convict those who give and receive bribes for jobs and promotions. However, we are forced to ignore these cases because it involves many people who hold high positions in the state system. In general, those cases are not only treated lightly, but no prosecution is allowed to take place in the light of the legal framework.

Another interviewee (2.1) confirmed:

When we carried out an inspection in a government agency, it was not very hard for us to find out what was going on. If we look into the recruitment personnel files, we often see signatures of the agency leaders outside the records with words 'prepare a labour contract.' This kind of 'sign' means the person is recruited in a "secret way."

NA deputies often complain of many cases of corruption, but only a few have been processed. Interviewee (5.3) stressed that:

Normally, seven or eight cases are found in some provinces, but only one or two cases are handled. Those cases got very slight sanctions or were treated internally. There was no trial, even in cases that caused the loss of thousands of billions of VND while a farmer who stole a duck got four years imprisonment.

Interviewee (5.1) confirmed that even though sometimes the penalty for corruption may appear severe only the small fish end up being punished while the big are fish discharged or get a slap on the wrist.

More recently, corruption cases have been unearthed in the banking sector and related to ODA, and FDI. People see many cases of petty corruption, but they also know there are "huge fish" involved. Interviewee (3.3), an international expert on anti-corruption in Vietnam, saw little improvement in combating corruption to date:

Look at the number of the cases that have been brought to court, the number of people who have been prosecuted, the number of convictions; the number has remained stable.

If we look at the cases of Bau Kien,[11] Vinalines, Huyen Nhu in Vietinbank[12] we can see the same. Maybe now there are a few more prosecutions because the media exposes some cases. However, I do not see data which tells me there is major improvement. I have some data about the convictions, but they do not show me major changes over the past five years.

Some interviewees thought the trial cases had had some positive impacts, possibly limiting the power of some groups. However, most shared the views of the interviewee (3.4) who said, "It is a battle of political conflicts, but it is not an anti-corruption campaign even if it has some small deterrent effects." Interviewee (3.3) agreed and said:

You see some birds on the branch of a tree. How can you kill most of them? If you just shoot at them, they will fly away, then they come back after the noise of the fire is gone. You have to change the tree, change the roof. The cause of corruption in Vietnam is incentives. What is happening in Vietnam is just a lot of noise.

An interviewee (7.2) believed fighting corruption in Vietnam is like choosing "unlucky candidates," a performance making corruption in Vietnam seem incurable. He stressed it is the nature of corruption in Vietnam that it is a collective problem. To explain this, he said:

The Head Government officials often give a task to their deputies who are asked to sign the relevant documents. So they can avoid responsibility. Of course, everyone will share the benefits from that. However, if things go wrong, those who signed the documents will be held responsible. These people can be seen as "unlucky candidates."

Interviewee (2.1) said: "I have been working in the anti-corruption area for almost 15 years, but I do not have confidence in its success.

The perception of interviewees about the outcomes of ACL implementation in Vietnam seems to be very negative. According to the participants, corruption cases brought to court

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[11] Nguyen Duc Kien, 50, founder of Asia Commercial Bank, one of Vietnam's largest private lenders, was found guilty of a litany of crimes along with seven co-conspirators who used "sophisticated and cunning tricks" to deprive depositors and companies of hundreds of millions of dollars. http://www.nbcnews.com/news/world/vietnam-tycoon-nguyen-duc-kien-jailed-30-years-over-fraud-n126001

[12] "A former banker at a state-owned Vietnamese lender was sentenced to life imprisonment on Monday for masterminding a scam that swindled customers of $190 million in the country's highest-value bank fraud case. A court in Ho Chi Minh City found Huynh Thi Huyen Nhu, 36, guilty of 'swindling to appropriate assets' and of using counterfeit documents and stamps to steal customers' deposits while working at Vietinbank, Vietnam's biggest partly private bank by assets, from 2007-2011." http://www.reuters.com/article/vietnam-court-fraud-idUSL3N0L13I920140127

were often a result of political battles. The findings seem to contradict one of the fundamental elements of political will that Quah highlighted. That is AC measures are not used as a weapon against opposition. However, it is likely the Vietnamese government and the Party tried to crack down on the opposite components rather than apply the rule of law.

The above narratives may not provide us with the whole story about how the ACAs carry on their work; the reality may be even more complex and more challenging for them. However, the narratives at least provided some facts of shortcomings in the legal system that hinder implementation of the ACA's. Furthermore, the narratives indicate some problems in ACL implementation, especially the lack of independence, transparency, and accountability in the handling of cases. Also, the coordination among ACAs seems to be weak and needs to improve.

The narratives of corruption, anti-corruption laws implementation, and its result can partly answer the research sub-question of there other factors impeding anti-corruption efforts in Vietnam. However, to understand more about the reasons why the anti-corruption campaign is slow and not up to expectations, that will be explored further in the following sections.

5.5. What explains the ineffective results of Anti-Corruption Agencies efforts in Vietnam?

5.5.1. Weaknesses of the general legal system

One of the key elements in Quah's framework is that the country needs to have comprehensive anti-corruption legislation. The Vietnamese government has prided itself on a having a sound legal framework. Top leaders have repeated that claim since the adoption of the anti-corruption law in 2006. However, after some years they realised there were loopholes in the ACL leading to the amendment in 2011. The ACL and the legal system to support anti-corruption measures still retain numerous shortcomings.

Interviewee (5.3) said:

The Vietnamese legal system is the most complex in the world. It is incomplete and inconsistent so much so that it creates many problems for law enforcement agencies. The legal system itself is like a maze. It is easy to be interpreted in a way that one can take advantage of all the loopholes in the system.

Some interviewees saw the legal framework as excessive and lacking essential provisions. While it has many unnecessary regulations, others lack required specificity. According to interviewee (6.4):

There is a lack of a specific mechanism when dealing with individual cases in a legal framework. For example, with an extremely severe case, the sanctions frame for the offence is from 12 to 20 years. Based on the laws, the judges have no benchmarking to decide whether the crimes should get incarceration within the rank from 12-20 years.

Interviewees emphasised that some regulations exist that government agencies cannot implement because they are not applicable to existing circumstances. Interviewee (2.6) gave an example:

In public expenditure regulation, the budget for buying a meal for a guest is VND 100,000 [estimated UD$5] but in practice, it has to be VND 200,000. Thus, this inappropriate regulation forces the employees of government agencies to tell a lie. They have to double the number of guests to spend double the amount of money.

Moreover, and according to interviewee (2.4), the concept of state management is still very unclear. That should be understood as the way the state uses its powers to deal with country issues. They include executive, legislative, and judicial powers. However, in Vietnam, state management is understood as exclusively the power of the executive branch. The interviewee said:

For example, in law, it says 'the government manages anti-corruption measures throughout the country,' presumably meaning the inclusion of legislative and judicial branches. However, in practice, the government cannot manage those two branches; this is the reason why Vietnam needs to have CSCAC to direct and supervise the whole process which creates many difficulties for the ACAs.

5.5.2. Weaknesses of the Anti-Corruption Law

The interviewees revealed some shortcomings in the design of the ACL. Vietnam ratified the United Nations Convention against Corruption (UNCAC) in 2009 but had begun acting on it since 2004. The ACL was constructed partly from old ordinances but, in general, the ACL and Penal Code were revised to accord with UNCAC provisions. Related laws were also adopted to accord with the spirit of the Convention, such as that related to asset recovery,

prevention measurements, and transparency. However, interviewees highlighted four key points where the Vietnamese legal framework has not yet met the Convention's requirements:

- The objectives of ACL are limited only to public sector employees, who are in government positions.

- Although the ordinances of the ACL are consistent with the principle in criminal Law, the ACL has not yet defined the legal status of firms or organisations. Where the entity operation itself causes harm to society, and only individuals take responsibility, then the offence may not be prosecuted. Article 26 of the UNCAC, the "Liability of legal persons," was discussed in Vietnam but many different views were expressed about it. In Vietnam, people believe *legal responsibility* is about sanctions and imprisonment, making it unreasonable to convict a legal entity. Responsibility should be individualized, as people not understand the concept of *legal responsibility*. Instead of being handled by the same law regardless how serious the crime is, Vietnam law tends to separate wrongdoing into *less serious, serious* and *very serious* offences. Those *less serious* actions are dealt with by administrative measures; those that are *serious* or *very serious* actions are treated under the Penal Code. The country has continued to ignore the liability of legal persons. Although Vietnam has not incorporated this UNCAC Article in law, its legal framework still allows it to deal with legal entities by, for example, closing down firms and requisitioning properties.

- Under UNCAC, giving or receiving a bribe are considered corrupt acts. However, in Vietnam only the receiver is considered as the corrupt entity, the giver treated differently. Here ACAs face many difficulties when trying to implement ACL provisions.

- Vietnam has not applied Article 20 of the UNCAC on illegal enrichment. Recently, in 2014 the NA discussed an amendment to the Penal Code, the Ministry of Justice assigned to review some provisions of the UNCAC, especially those criminalizing illegal enrichment. Under UNCAC Article 20, every state party,

    shall consider adopting such legislative and other measures as may be necessary to establish a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain about his or her lawful income.

This Article conflicts with a principle of the Vietnamese Penal Code where state agencies, not individuals, are liable and suspects among the latter are not required to prove innocence.

Corruption in its different forms needs to be clearly defined, according to Quah. However, those interviewees did not see the Penal Code as being on the same page as the ACL. "There is a mismatch between these two laws. If we look at the ACL, there are a set of crimes or acts of corruption that are not identified in the Penal Code," an interviewee (2.4) said. As a result, the implementation process will be hampered unless these two laws are made consistent with each other.

Furthermore, as an interviewee (2.6) pointed out, the definition of corruption in Vietnam is insufficient for clarifying all corrupt acts. He said:

For example, a Chairman of the People's Committee in a province using his position to recommend, or even to demand a place for his relative in a government office will not be considered as acting corruptly. However, from society or people's perception, this is a form of corrupt practice.

The definition of corrupt behaviours in the current laws is not appropriate. Interviewee (2.4) suggested they should be amended in a way that makes it easy to identify corrupt practices, even where it is not necessary to describe them in detail. He said, for example, "bribery means trying to make someone do something for you by giving them money, presents, or something else that he or she wants [an official]." Likewise, embezzlement behaviour can be plainly defined.

The ACL in 2005 did not state its mission clearly. Hence an interviewee (2.4) claimed that: "It was like the research question of a dissertation that was not very clear." As mentioned, the ACL includes prevention, detection, and case-handling mechanisms. However, here many organisations supposedly perform anti-corruption functions. They include not only judicial bodies but also administrative organisations. Accordingly, implementation becomes confusing since the anti-corruption functions should be handled only by the judicial agencies and the administrative organisations must have the prevention functions. These functions have overlapped, causing confusion.

Regarding the prevention and fighting of corruption, "responsibility" is stipulated as that of the whole society. While many agencies are involved, none are specifically tasked with

being responsible, particularly for anti-corruption. Supposedly, everyone is in charge of anti-corruption but in practice, no one is in charge.

Interviewees believed solutions need further development given such weaknesses as lack of transparency and inadequate publicity measures. The principle of transparency regarding both content and responsibility is not clearly defined. However, others have argued the ACL of 2005 has already included these requirements which have been implemented relatively well. That leaves additional areas not previously covered by the legal system. Moreover, here Vietnam has recently made provisions on minerals, SOEs, and personnel management, and strengthening social welfare policies. Interviewee (2.4) said: "In my opinion, the law should be brief and concise but cover all sectors."

According to one interviewee (5.1), the main differences between Vietnam ACL and UNCAC occur for two reasons: (1) different assumptions about some key issues; (2) wider systemic deficiencies in the legal system that have left the ACL unable to conduct its implementation activities effectively.

In fact, after about ten years of implementation of the ACL, almost all interviewees saw the law as just a "tiger without teeth" because of its lack of provisions for imposing legal sanctions. Therefore the ACAs cannot be implemented without referring to other laws, such as the Administrative Law or Penal Code (depending on the seriousness of violation cases which are handled by the Administrative Law or Penal Code; however, there is no clarity as to criminal responsibility, political or administrative responsibility). Some interviewees even argued strongly that the ACL is useless. One international expert (3.3) said: "At the end of the day nobody cares about ACL. Nobody has been convicted or put on trial because of the ACL."

Another interviewee (2.5) shared the same view when saying: "It is not necessary to have ACL since it does not have any mandate. The Penal Code should be enough and easy to implement when it comes to dealing with corruption cases." Some interviewees thought the ACL had met three objectives but in negative ways. First, it shows Vietnamese people that country leaders have the "will" to fight corruption. Second, it tries to please international donors. Last, it helps monitor and control power within the Party and the government, and as a tool to purge those who are unwanted.

Above all, some interviewees commented that to have ACL just for its own sake offered little prospect of enforcement, as Vietnam uses it to show international donors that it has such a mechanism in place. There is no attempt to actually fight corruption.

By contrast, one interviewee (2.2) did regard the ACL as suitable for Vietnam's legal system. His point was that, under Vietnamese law, actions considered crimes must be stipulated in the Penal Code. Moreover, when dealing with crimes, one needs to take into account the Criminal Procedure Law. The subjects of ACL are public employees holding positions in government offices. Once officials violate the law, state agencies can apply ACL immediately. If their actions are serious, they need to be dealt with under a provision of the Penal Code. The interviewee said: "This approach will improve the effectiveness of anti-corruption and there is no contradiction between the ACL and Penal Code. There is no need to modify the fundamental principles of Criminal Law."

While views differed, in fact, looking at the effectiveness of ACL implementation, in reality, it is likely the ACL has not met its objectives so far.

5.5.3. Prevention measures

5.5.3.1. Asset declarations mechanism

Interviewees believed there are many disadvantages of ACL, especially when it comes to preventive measures. Every interviewee admitted that the asset declarations required are too formalistic and do not have as much effect in fighting corruption as intended. There are too many people who have to declare, including public officials from deputy directors of government offices at the district level, or those of the same rank and above. In fact, the opportunity for corruption differs from place to place, not everyone at similar positional levels having the same opportunities to engage in corrupt practices.

Interviewee (5.1) said:

I think the declaration was not well designed. It would be better if this measure only applied to a certain level that can be managed otherwise it wastes money and time. All state organisations spend almost all of December to declare, evaluate, vote, and those works are not very useful and assets declaration is one of them.

The current legal framework does not make asset holdings transparent. As interviewee (2.1) said: "If anyone questions the assets of public sector employees he or she can simply claim to have inherited those assets from his or her ancestors, hence they are considered legal. No one would question where your parents' money came from."

Interviewees (5.4) added:

Maybe once the country and the Party leaders have accumulated enough capital they would want to have a democracy, with a rule of law state to protect their properties. Moreover, they would try to develop a certain level of good governance, and allow the government to manage the assets of the people, not just government officials.

However, interviewee (5.1) believed the asset declaration mechanism had some positive effect as government officials are more responsible for public accountability. He gave an example:

Recently some thieves came to the Vice-Director of a provincial Transportation Department and stole a lot of cash, US Dollars, gold, and diamonds. The Vice Director later explained to the media that he kept those assets on behalf of someone. His explanation did not make sense to anyone and, of course, he lost his credibility. So, everyone has to think about his integrity when he takes up a pen to fill in an asset declaration.

In contrast, all other interviewees thought it had no effect at all. For interviewee (3.1):

The ACL is trying to do too many things without targeting and narrowing down the objective. For example, the access and income declaration should be the aim of a functioning system. However, it is virtually impossible to ask so many people (about a million officials) to declare assets and income annually. It is an impossible task for any system to function well. Not only is the process of submitting the income declaration cumbersome and unrealistic but also the random verification process of those declarations is a tall order.

Interviewee (5.4) claimed, currently, the top Party and government leaders have tried to declare public assets by the means available. However, the current legal framework cannot make actual assets transparent. Interviewee (2.1) emphasised that, in general, it is hard to monitor the sub-incomes of public officials in Vietnam. For them, having sub-incomes is not wrong because most public employees cannot live on their salary alone. Their sub-incomes may come from legal sources like government budgets. He said:

For example, a person who works in a government office may participate in a meeting, join a conference, give a speech, for whatever activity he performs; he often gets some allowance, money to buy lunch, or some other form of payment.

Nobody knows how much money that person gets per month, nor can anybody control it. For interviewee (6.2), "the Party and the government cannot explain how the former General Inspector[13] and the Party Chief of Hai Duong[14] managed to acquire so many high-value properties. They do not seem to be worried about assets declarations."

Interviewee (5.3) emphasised the results from Vietnam's first assets disclosure campaign were hard to find since only one public official out of a million was found to have lied about his assets in 2013. Only five out of a million government officials had their property disclosures audited, and only one was declared dishonest.[15] That person was director of an SOE in Kien Giang province and he was disgraced. The interviewee (2.1) suggested that Vietnam needs better measures to manage the incomes of public employees, including any significant expenditures conducted through bank accounts under their control.

Recently the GI has been annually disbursed across the country, over ministries, and also different provincial departments at district and commune levels. That is a big challenge and risks hindering the effectiveness of the income and asset declaration system. Interviewee (2.1) suggested that to make the asset and income declarations system function well; there needs to be a centralised body in charge.

That is not something new in countries which have an effective governance system, and where everyone has to declare their assets, but this seems to be very hard for Vietnam. If the country could make finances flow transparently then maybe it could force public officials to account for their money and assets. Generally speaking, the asset declaration mechanism is unlikely to be seen as an effective anti-corruption tool since Vietnam has deliberately avoided criminalising illegal enrichment, as is required under the UNCAC.

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[13] "Former chief government inspector Tran Van Truyen is currently subject to scrutiny over all his properties following growing questions about his huge real estate holdings…" http://tuoitrenews.vn/society/21226/vietnam-inspects-properties-of-exgovernment-chief-inspector

[14] "Minister Nguyen Bac Son told the media that the unusual aspect is such a large house is owned by the son of the party secretary of a rural province. However, he noted there was no official conclusion about this work yet": http://english.vietnamnet.vn/fms/society/22679/garden-house-of-hai-duong-party-chief-s-son-is-unusual.html

[15] "Vietnam's top anti-corruption investigator dismissed the results of Vietnam's first asset disclosure campaign as "hard to believe" since only one public official out of a million was found to have lied about his or her assets": http://www.thanhniennews.com/politics/vietnams-anticorruption-official-dismisses-official-asset-disclosures-33087.html

5.5.3.2. Asset recovery

Asset recovery is complicated not only in Vietnam but virtually every country. In general, every single ACA has the power to recover assets after a prosecution process has assigned guilty in corruption cases. Here inspection agencies and the police are empowered to recover corrupt assets. Even during a charge process, prosecutors can recover corrupt assets. During a trial, the court may issue a judgment embracing criminal and civil responsibility, the latter including asset recovery. That is then handled by a civil judgment enforcement agency under the Ministry of Justice. That agency need not have to cooperate with the criminal enforcement agencies. The Procuracy oversees the implementation functions of those agencies.

All interviewees confirmed that the whole process is complicated because so many institutions are potentially responsible for asset recovery. When it comes to relevant statistics, no agency can provide exact figures about actual asset recovery. Interviewee (6.4) said:

> It is always tough for the enforcement agency to perform well since the corrupt assets are dispersed or cannot be recovered. There were no official statistics on that but according to figures reported by related agencies in 2013, about 10 percent, and in 2014 about 22 percent of corrupt assets were recovered. However, the corrupt figure, in reality, is much bigger.

Interviewee (3.3) concurred: "In the grand scheme of things what the authorities expect by sending corrupt officials to jail is to deter others. However, what happens in fact, is a repeat of the same kind of cases." Every interviewee believed corrupt officials do not fear being caught or punished because if they are, the corrupt assets are rarely recovered. Interviewee (5.1) said: "More often than not Vietnamese are willing to sacrifice themselves for their children's future (*hy sinh đời bố củng cố đời con*)."

Interviewees' opinions about why corrupt asset recovery is weak. First, law enforcement has not paid adequate attention to the recovery of corrupt assets. Where corruption is an economic crime, then it should be sanctioned by economic tools. However, Vietnamese law tends to treat corruption as general criminality, instead of focusing on asset recovery. Furthermore, during the procuration process, ACAs are allowed to freeze the assets of a suspect once a corrupt act has been determined. However, ACAs will often wait until cases are brought to court. That gives offenders the chance to disperse all assets, such as those hidden in foreign accounts or others' names, thus concealing them from the authorities. In general, the law places

less emphasis on asset recovery than in jailing corrupt offenders or even sentencing them to death.

Another reason is that there is no transparency of personal assets. Vietnamese often live in an extended family structure, comprising different generations. Interviewee (5.3) believed two key questions are pertinent to effective asset recovery and they are: (1) the legal framework and the management system does not support this aim; (2) the government and the Party are not serious about doing it. The interviewee explained:

If the Party and the government are willing to do so, they would have had the policy to enhance the mechanism such as reducing cash in the market. Every valuable asset like a motorbike, car, house or gold has to be purchased through the banking system. Otherwise, those assets are not registered. Once assets are recorded, they are transparent, as the authorities can easily track cash flows. Tax authority can also collect tax through the transaction.

Above all, in Vietnam, the responsibility to prove illicit assets is a state agency responsibility.

To sum up, while dealing with corruption cases the courts tend to place heavy sanctions on culprits rather than trying to get illegal assets recovered. Therefore the percentage of property recovered has been slight. That simply shows the regulatory mechanism is likely to be weak regarding asset management, declaration, and purchase. It is suggested that to deal with these issues the country needs to focus more on asset recovery rather than just putting corrupt officials in jail for a long time. Moreover, Vietnam should carry out better management of cash flows and establish property ownership. The transaction must be transparent, allowing authorities to determine actual ownership clearly and, importantly, to minimize cash flows in the market. It seems the recent measures are like a "toothless tiger". Therefore, they need reinforcement to detect corruption.

5.5.3.3. Head office responsibilities

The purpose of this regulation, regarding the duties of heads of state offices to prevent corruption, is for them to assume responsibility for any corruption cases occurring in their offices. However, one interviewee (5.1) believed the law does not focus on disclaiming the leaders if they have done whatever they are supposed to have done but what happens is far beyond their responsibility and corruption continues. As a result, people try to avoid taking

responsibility by covering up cases. Where a case is detected, heads will find ways to reduce their responsibility.

Most interviewees thought it not necessary to fine heads or, as one (2.5) said:

In fact, the heads of state offices need to organise and manage their offices in a way that corrupt acts are prevented. However, in the implementation process that target is misunderstood. Instead of using the policy to make a leader manage his office well, the policy forces the leader to cover their tracks.

5.5.3.4. Codes of conduct

All interviewees believed the codes of conduct are not seriously used to oversee and evaluate the work performance of government officials. Few care about a code of conduct while carrying out their duties.

According to interviewees, recently there have been no solutions since the Party tends to use educational methods to educate public officials on morality and ethics rather than more effective measures such as strictly reinforcing the law. Interviewees believed the Party acknowledges that human resource management is weak and leads to incompetent staff and corruption becoming serious.

5.5.3.5. Gifts

Most interviewees mentioned *gift-giving* as a weak point of preventive remedies. According to government Decree 64 of 2007, government officials cannot receive gifts worth more than a certain amount and anything over that must be returned to their office. However, the Decree does not regulate who will supervise enforcement or what kind of punishment a person refusing to return gifts may receive. As one of the interviewees (2.1), a senior official, said, "no one dares to ask me if I accept gifts from someone in my office." All the interviewees think the current policy is still formalistic and has not become effective at all.

5.5.3.6. Information access

Transparency means providing necessary information for citizens, and state agencies have to assist them to access information in the most efficient way. Interviewee (2.4) compared ACL with other legal frameworks on transparency and found they were inconsistent. For example, who is responsible for providing information and the right of citizens to be provided

information is not clear. There is a provision in the transparency policy, some interviewees believed it is entangled with the specific provisions related to the national secret provisions. Hence what can be released remains unclear. As a result, according to one interviewee (2.1), citizens may go online or find information from government documents, but this is often too vague for comprehension. In the opinion of most interviewees, it is a formalistic policy.

5.5.3.7. Denunciation law

The Complaints and Denunciation Laws have recently been separated but, according to interviews conducted, they are still too complex, and people are not sure how to apply them. In various countries, anyone with a problem has one office to go to, but in Vietnam, there are many layers to go through. Interviewee (2.1) gave an example: "If you want to complain against or denounce someone, you have to submit the complaint to the direct boss of that person then the complaint will be sent to higher levels."

The interviewee said many agencies are assigned to receive denunciations, but only a few have the functions needed to handle cases. While dealing with denunciation cases, one needs to follow specific procedures but, according to interviewees, the procedures involved are complex and overlapping. More often than not, people do not know which organization is responsible for their cases. As a result, denunciations often go beyond the level they are supposed to. Interviewee (2.4) said: "I think the government is to blame for this consequence because they did not do a good advocacy job to get people to understand the legal system."

Moreover, under the Denunciation Law, if the case involves multi-agencies, the agency receiving the denunciation first is the one to take up the case. According to interviewee (2.4), there are some policy areas where the state does not even know which particular management entity is responsible. Moreover, there could be instances where several agencies are dealing with the same case, but doing so independently because of unawareness about each other's activities. This interviewee emphasised:

> This institutional setup does not allow us to follow the job up. For example, we got a call from a truck driver in Thanh Hoa province. According to the report, the police stopped him on the road without any reason, and they asked him to give them money. He asked us to provide him with protection. According to the law, the person making a complaint has to provide personal details including full name, address, workplace, and occupation. After having got this personal information, authorities then have to verify identity. The

time allowed for this job is 15 days. It is a time-consuming exercise so people would be better off bribing the police rather than waiting for the authority to solve the problem.

It is of interest that, instead of investigating the individual accused, it is the accuser who is being inspected.

It seems the Denunciation Law is one of the reasons why people resist getting involved in anti-corruption. Ordinary citizens may have to face a heavy legal burden when using their right to make a denunciation. Conclusive evidence is needed, but this may be too difficult for citizens because they lack the means to access it reliably.

Engaging people for anti-corruption is important. However, handling of denunciations is seen to be big, unresolved issues in Vietnam. The law should be amended so that, no matter who the accuser is, the law enforcement agency should take immediate action to stop the violation in question. Moreover, authorities should be given sufficient power to deal with cases; that authority should be given to the procuracy and police, rather than an administrative agency like GI.

5.5.3.8. Whistle blower protection

By law, in Vietnam witnesses and whistle blowers are supposed to have high-level protection, this even allowing for a change of identity to avoid retaliation. However, all interviewees believed, in practice, even the slightest of measures to protect whistle blowers had not been adequately implemented in Vietnam.

Interviewees noted that, initially, many people had participated in the anti-corruption campaign, but their interest had diminished with the few improvements evident. Therefore they saw no advantage in continuing. People have realised they cannot change corruption and, perhaps, most importantly, they may attract enemies. Fear has become a factor because they know that no authority will protect them if they are threatened or attacked. Interviewee (3.3) noted that most people do not report corruption because they fear retaliation and do not want to go through a very complex process.

This issue is repeatedly raised during NA meetings: there is no effective mechanism to protect whistle blowers, employees justifiably fear that reporting their bosses will induce revenge. Accordingly, it is necessary for Vietnam to apply effective laws to protect whistle blowers.

To conclude, from a public administration perspective, one wonders how implementation could ever succeed. Too many on-the-ground, basic, excessive legal and definitional loose ends abound that prevent final resolution in particular cases and result in the current ACL framework achieving only limited success.

Thus, concerning Quah's criteria for comprehensive anti-corruption legislation, it seems there are many ways for Vietnam to improve. Many factors influence anti-corruption implementation. One of the key factors could be an inadequate legal system that is not comprehensive. There are many formalistic policies when it comes to preventing corruption. Indeed, most of the regulations on preventing corruption such as asset declarations, asset recovery, head office responsibilities, code of conduct, gifts, information access, Denunciation Law, and whistle blower protection have an insignificant impact in practice. In general, Vietnam seems to look for fragmented solutions without a comprehensive approach to deal with corruption issues.

5.5.4. Level of political will

Interviewee (1.2) said: "It is hard to identify the strength of political will or how to measure it." While it is useful to gauge political will by using indicators like laws, human resources, and finance, more importantly, the country needs an indicator for monitoring political will since there is no common societal interest in doing so. The interviewee believed there are some interest groups which share similar interests and collaborate to gain influence. However, in a society where those in power tend to be corrupt, the primary objective is to control their power. Some interviewees thought the abuse of power needs to be supervised and monitored by law enforcement and by society. However, they believed the ruling Party of Vietnam does not support such mechanisms.

Regarding top-down perspectives, interviewee (3.4) said: "The top-down perspective has some positive signs even though the Party and the government are using *gậy ông đập lưng ông* tactics (He who lives by the sword dies by the sword) to deal with each other." As mentioned in section 5.4, most interviewees believed some recent corruption cases in court were only a fight between political groups over their own interests, not for the good of the country. Interviewee (2.2) explained this further:

> They are all aware of corruption problems, but we do not know whether they want to deal
> with it or not. If Vietnam's leaders have the political will, they will find solutions for

dealing with corruption through measures such as downsizing, improving salaries, controlling and monitoring the public officials' incomes, and giving heavy punishment to illegal asset owners.

Another interviewee (2.5) added:

If the country leaders really want to fight corruption they should implement some simple measures to reduce its chances of occurring such as reducing widespread use of cash in the market. Every purchase up to VND five million needs to be transferred through banks. Technically, there is no problem, but they do not want to reduce cash. It is clear, they have no political will at all.

Interviewee (1.1) shared his idea:

The biggest problem for anti-corruption campaigns is the lack of commitment among top Party leaders to rein in corruption. While people's perception is that giving direct cash briberies is illegal, the senior leaders still do not believe it is corrupt to put their relatives and supporters in lucrative positions, steer contracts in their direction, or give them opportunities to purchase land and shares in companies.

Without an agreement between the CPV and the government as to what constitutes corruption, there is little hope for improvement in shielding those who report it. In other words, anti-corruption measures will never succeed until Party and government leaders set an example by putting the good of the country first.

Indeed, according to most interviewees, Vietnamese leaders are well aware of what is good and not good for the country. However, they still want to maintain the current institutions and their convoluted systems for their benefit. They stressed it is in the nature of this Communist political system to extract maximum profit by taking advantage of the confusing system. According to them, the root of the problem is the regime itself. It is totalitarian and dictatorial and manifest itself by the leaders' interference in anything that maintains the privileges of leadership.

Almost all interviewees saw political will as merely lip service or window-dressing. As one interviewee (2.5) said: "The anti-corruption campaign is just a gimmick. They only come up with a lot of meaningless watchwords. In other words, it is only an abstract mechanism." Another (3.4) shared the same view commenting: "The Party and government have no political

will, so anti-corruption measures are a humbug. The more they talk about corruption without any concrete action to tackle it, the less credible they become in the eyes of the public."

Interviewee (2.1) thought international partners seem to believe that, as long as the ACL is available, corruption in Vietnam can be reduced. However, the reality is very different because government and Party are not willing to fight corruption. Interviewee (3.1) indicated that what they often say is different from what is stated in the law, or what is broadcast in the media. Furthermore, he added, there are not many insiders willing to change the conduct of these institutions and anyone trying will not find it easy to do so. Interviewee (5.2) indicated (in the box below) how a powerful individual, who could play a significant role in curbing corruption, revealed how difficult it is to win this battle in Vietnam.

> With the establishment of the Central Committee for Internal Affairs (CCIA), the Party appointed Nguyen Ba Thanh as Chairperson. He had served as Chairman and Party Secretary of Da Nang city. His statement "saying is doing" was supported and trusted by the people, who expected Thanh to make a positive contribution to the fight against corruption when he assumed the position of the chairperson in late December 2012. He showed commitment, took his responsibilities seriously, and used his authority to deal with corruption cases. With hope and optimism, people believed he could do something effective for the anti-corruption campaign.
>
> Since Thanh's appointment, the CCIA has established a kind of organisational framework to combat corruption and revived some corruption cases. Recently, the cases of Vinashin, Vinalines, Bau Kien, and Vietinbank were prosecuted. They related to an abuse of power and trying to misuse legislation for the benefit of some groups. However, after some time in office Thanh was diagnosed with myelosuppression, a condition which causes a significant reduction of platelets in the blood. That created the rumour "Thanh was poisoned." The party said there was no evidence to prove Thanh was poisoned by chemicals or toxins, claiming anybody can contract this malignant blood disease. However, many people still believed he was a victim of revenge because of his anti-corruption campaign actions. Whatever the case, Thanh was not given sufficient powers to enforce the laws.
>
> With the Party firmly in power, the reality continues of all ACAs remaining the same, as does the conduct of law enforcement agencies, and supervision of the legal framework. Therefore, we cannot hope for different results so long as this continuity persists. The judicial system, moreover, is neither independent nor robust.

Another interviewee (7.2) described the AC:

It is like a picture with thousands of fish. There is a big beautiful fish right in the middle. Whenever the fish tries to move forwards, it is blocked by the shoal of small fish. Those who want to break through and move forward are not able to do so because they are blocked by the whole system. Those who are trying to fight against it will be either rejected by others, or by the system itself.

The interviewee (7.2) gave an example, occurring at the beginning of the anti-corruption campaign, of two formal leaders of CSCAC. They were competent to the extent that they dared to fight corruption. However, after some successful cases, they were stripped of their powers to investigate. As a result, their office could then only receive complaints and denunciations, which they could then pass on to higher investigating bodies. Interestingly, they never received any feedback or reports about cases that they handed over.

When discussing whether single party dominance matters, the interviewee (1.2) compared Vietnam and Singapore:

Singapore also has a single dominant political party, but the two countries have different value systems. Most important is that the voice of the people is respected. Moreover, the political party in Singapore is chosen by the democratic regime. It is not a matter of single or multiple parties; it is the issue of ensuring democracy.

An interviewee (1.2) claimed that, unless the party goes into deadlock through pressure from outsiders or people's lack of trust, the situation would not change. The interviewee (1.2) believed the bottom-up push is becoming stronger:

We are now in a globalised world with a set of value systems that monitor each other which increases a positive trend. However, in Vietnam, the most significant trend is whether or not those in power have the will to relinquish that power, or prohibit the 'bottom up' system and so called 'pressure of the public' and 'the voice of the civil society.

The bottom-up trend of political will in fighting corruption in Vietnam will be discussed further in section 6.5.

The above narratives demonstrate perspectives on the political will from top-down approaches. Political will from top-down is considered to be lip service. It seems impossible to have a master plan for fighting corruption since that kind of plan always has a top-down approach. In the Vietnamese context, if there is only top-down or only bottom up the anti-corruption measures will not be successful. The following section will investigate further whether the interviewees' perception is actually true in practice.

5.5.4.1. The lack of independence among Anti-Corruption Agencies

In Vietnam, the principle behind multiple anti-corruption agencies system is one of every ACA having its functions, outwardly based on the law and the regulatory system, but not given sufficient authority to go beyond the boundaries of its function. This principle, on paper at least, acknowledges some degree of checks and balances within the system. However, according to some interviewees who are leading the anti-corruption campaign, it is far from easy for these agencies to perform their work since it is impeded by multiple factors. They admitted in confidence that a separation of powers is a fundamental basis for the effectiveness of many countries in the world including the United States of America, the United Kingdom, and Singapore. However, unlike those countries, Vietnam's public institutions lack a separation of powers throughout its constitutional system as a whole.

The first contact point to the corrupt offence is the section inspectorate. Sector inspectorate is a system under an administratively hierarchical system - the specialized inspection is placed within the Ministry. Section inspectors are specialists and, if competent with high levels of discipline, they can handle cases. However, some interviewees (2.4, 2.6, 3.2) considered the sector inspection system ineffective since they have found no corruption cases.

Regarding the implementation of anti-corruption, the GI is supposedly a key actor in the anti-corruption strategy. However, interviewee (2.1) said:

> The GI has no powers of a subpoena or any ability to force cooperation from government agencies. Although the GI can investigate individuals, they are not allowed to enter or search people's offices, their computers or files, without written consent of the related agencies.

Interviewee (3.3) emphasised that the GI lacks the autonomy to make even small decisions so no one can expect it to act decisively over bigger things. He questioned: "What

are the provisions for the government inspectorate to act? Why does the government inspectorate need to have the permission of the Prime Minister to conduct a workshop on the amendment of the anti-corruption law?"

Another complicated issue the interviewee (2.4) highlighted was the management of Party members' activities. He said:

The GI is a government agency which has a vertical system from central to local government. GI employees at local levels are selected and appointed by the GI, and most are Party members. They must join the Party organization where they work. Under Party doctrine, all members have to obey their party organisation. This requirement makes things complicated. Where there is a conflict between work and benefit of the local Party organisation, then they have to listen to the Party.

According to interviewee (2.1), the GI has to transfer cases of potential corruption to the police for further investigation rather than doing it themselves. However, in practice, the GI always submits their inspection results to the Prime Minister to ask his permission before sending them to the police for further investigation even though, by law, they do not have to do so. The interviewee believed the GI to be at the low end of the effectiveness scale, and this agency lacks the ability to foster collaboration.

Another interviewee (2.6) added:

I think the reason for the GI not working independently from the Prime Minister reflects the traditional culture which demands that subordinates always have to ask permission from a superior for whatever they do. Another reason is the GI leaders are scared of being responsible for their decisions and being disciplined by the government and the Party or even losing their positions or jobs.

As to investigative capacity, the police have considerably more power than other agencies since they can seize all files, computers and other facilities from relevant departments. Interviewee (6.4) thought MPS and the police stand at the highest levels of absolute authority to request or seize any files from anyone, and without a court order.

The lack of independence among the ACAs, especially in the justice system, seem to be a major issue regarding anti-corruption. Interview (6.1) said: "In principle, the courts should deal with cases independently. However, the trials, especially corruption cases, always face

much political pressure and political interference. Thus, the judiciary faces many challenges while dealing with corruption cases."

Another interviewee (6.4) gave an example:

There were many cases which faced political interference from the central agencies such as the wood thief's case.[16] The case was cancelled by the Secretary of the Hanoi Communist Party, and the Hanoi Procuracy did not dare to go against the order even though we believed there is corruption in the case.

Due to a lack of independence, in many trials judges just follow what the Party tells them to do. Some interviewees said that, sometimes, procurators and judges could not provide sufficient evidence, yet people were still convicted as in the cases of Bau Kien. They claimed actual litigation had little meaning. Under the law, the outcome of the litigation in court will provide the result of a case. In other words, those who provide the strongest arguments and evidence should win. However, all interviewees believed, in practice, *án bỏ túi* (prejudgment) is common in Vietnam. Hence the role of lawyers is not particularly relevant in court, even when they have strong evidence. As interviewee (5.1) emphasised:

There were many cases when the lawyers and defendants argued and gave evidence to prove the allegations of the prosecutors, but the judges refused to consider them. Interestingly, the judges still gave their judgments based on the allegations of procurators.

In general, interviewees claimed the independence of the ACAs, as well as the justice system, is not ensured in Vietnam. They argued that once judicial bodies are influenced by others, and once the government and the Party show interference, the law enforcement body is compromised and changes final decisions when dealing with such cases. The rule of law is not respected, making the legal system invalid. That may help explain why corrupt officials do not fear to get caught or punished, as the controlling mechanisms of law enforcement are weak. That also partly answers the question of why corruption and anti-corruption measures persist in falling short.

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[16] The wood thief's family paid a large amount of money in bribes for reducing a sentence. But the trial result was unexpected so the family then asked for their money back. However, they were threatened with death. Six days after the trial, the thief suddenly died in prison. Doctors found hematomas in his brain.

http://baophapluat.vn/tin-nong/pham-nhan-vu-trom-go-sua-do-gia-2-ty-chet-bat-thuong-198096.html

The following section will examine how the Party members are protected and the challenge for ACAs to deal with corruption cases which involve Party members.

5.5.4.2. Party members are more equal than others

Independence from political control is highlighted as one of the most important factors in Quah's institutional framework for an effective AC strategy. Therefore, it is worth examining whether the ACAs in Vietnam fit with this principle.

Under the Criminal law, corruption is strictly prohibited. However, according to all interviewees, to locate and prosecute corrupt high-ranking government and public officials is never an easy task. All interviewees were aware that once cases involve Party members—especially senior figures, the ACAs face many challenges and forms of interference.

Most interviewees claimed, in reality, the ACAs act on behalf of the Party and take a political stance rather than law enforcement. Interviewees had a strong view that one of the obstacles and challenges of the ACAs is the Politburo Directive No. 15, dated 7th July 2007. It is about "Party leadership on law enforcement agencies in investigations, the handling of criminal trial cases and Party protection implementation." The Directive is a confidential document, with only people working in some particular investigation agencies, courts and Party offices gaining access. Every interviewee thought it tough for judicial agencies to carry out their responsibilities, as all cases relating to Party members have to be approved and guided by the Party.

As interviewee (2.1) said: "If the ACAs want to prosecute someone who is a Party member they must consult with the Party Committee in that person's organisation or the higher level." Some interviewees revealed that under this Directive, before initiating a prosecution related to any senior Party member, permission is needed from the Party committee which supervises that member. Interviewee (2.1) gave the example of Duong Chi Dzung, the former Vinalines CEO: "Before arresting him, the ACAs had to get permission from the Prime Minister and the Party Central Committee, although the ACAs had sufficient evidence."

The investigator (2.1) stressed it is always difficult to investigate CPV members for malfeasance. Without permission from the top leader of the province or city, the authorities cannot initiate an investigation on any CPV member no matter how low-ranking they are. When proposing an inquiry of a senior or high-ranking official, any decision to proceed is always made by the CPV top leader. ACAs thus face many challenges when trying to initiate an

investigation. Where evidence against an official is deemed not convincing, the request will not be approved. Even worse, should an investigator proceed with an investigation without having first gained permission then he can be disciplined or even jailed.

All investigators complained that in general, a Party member is only investigated when an entity of the CPV, like the Fatherland Front or a rival government entity, requests an investigation into well-documented complaints. Even in these situations, the CPV will normally just advise errant members to moderate their behaviour rather than approve an inquiry. In other words, the responsibility of the Party to its members is to help them recognise and rectify their mistakes. Therefore, only those who fail to respond to such advice, or who obviously embarrass the CPV, face investigation. Even in those cases high-ranking CPV members normally act to protect loyal followers under their "umbrella." Below is an illustrative case given by interviewee (2.4), and regarding the example of Nguyen Ngoc Sy:

> It was a massive corruption scandal engulfing a Japanese firm and Vietnamese Government officials. The huge sum of $US2.6 million was illegally paid to Nguyen Ngoc Sy, the former deputy director of the Department of Planning and Investment in Ho Chi Minh City (HCMC) and some high-ranking Vietnamese officials. That was a bribe to obtain consulting contracts on the East-West Highway Project from 2001to 2003. The GI branch in HCMC requested permission to investigate Sy but was denied without explanation, the case only coming to light after a Japanese court convicted the Japanese company for directly bribing Sy. The case led to widespread international news coverage resulting in the CPV finally giving permission to the MPS to prosecute Sy.

That was a popular, high profile case that highlighted the prevalence of corruption. The interviewee believed Sy's close relationships with the HCMC Party leaders would have ensured the case would have been ignored had the Japanese government not exposed the corruption and forced the Vietnamese government to act.

To detect and investigate corruption, special investigation measures such as wiretapping, special agents, and hidden video recordings are necessary. However, interviewees indicated that Directive 15 clearly states that these particular methods cannot be used against Party members before prosecution. This regulation creates many difficulties for the ACAs when carrying out their duties, especially when a case investigation has not gained permission from the Party. "This means if you are a Party member you will be protected," the interviewee (2.1) said. According to respondents, the Directive further states that all guides and directions from

Party bodies to law enforcement agencies are considered confidential documents; they must not be included in case dossiers. In general, interviewees thought that Directive No.15 impedes and slows down the progress of investigations, especially in cases which involve senior Party members.

Interviewees believed it takes a long time to investigate corruption cases because the ACA is not independent of the Party. Their operations are often controlled, and their decisions require approval by the Party. Dossiers are relayed back and forth which further delays case procedures. Interviewees presumed that this happens for two reasons. First, the lack of accountability among the ACAs, as no single agency wants to be responsible for its decisions, making it in their interests to await the Party's instructions. Second, the Party actively prevents them from conducting their work.

Further, the interviewees recognised the single-party status of the Vietnam Communist Party, its pervasive control of the country, and the acceptance of its political interference in corruption cases. That is clearly illustrated in the Party's doctrine: the CSCAC and the Internal Affairs' functions are "To direct and guide complex and severe cases." Interviewee (3.2) commented by saying, "Many cases go into the black box. During this period somebody is making decisions. Those decisions are not necessarily made based on the facts and evidence of the cases. There is always some political approval." Accordingly, Party members are treated differently than non-Party members; senior Party members treated differently to junior members.

More often than not corrupt acts are concealed, as an interviewee (6.2), a police officer who had investigated numerous corruption cases indicated: "There have been no corruption cases found by the police and inspectors in this province, or if any have found any they have been covered up." Interviewee (6.5) gave an example:

In Haiphong province, the sea embankment collapses every two years because of the poor quality of construction. In fact, the government spends huge amounts of money on rebuilding or repairing it. Everyone knows there is huge corruption when such work is carried out repeatedly, but no one is held accountable for failures.

Another interviewee (6.4) added:

The cases of Vinashin and Vinalines showed the investigating authorities had been aware of the extreme corruption for a long time. However, they were only accused after there

were some conflicts among political groups. In general, with corruption cases, there is no official order saying that we cannot investigate. They are simply ignored.

In fact, the government and the Party often state emphatically that there are no forbidden areas in the anti-corruption battle. However, most interviewees believed that there are forbidden areas the ACAs cannot touch. For interviewee (6.5), "everyone is equal before the law, but CPV members are more equal than others."

Also, there seems to be no so-called "judicial independence" when it comes to dealing with corruption cases. Evidence shows that Vietnam has not met Quah's principle of ACA independence since Party regulations allow not only oversight of its members, but also interference with ACA operations. That can be seen as the biggest challenge for the ACAs in implementing the ACL since the Party can direct every single case related to corruption should it choose to do so.

The issues mentioned above are some of the reasons why corruption is widespread throughout the public sector, but they are definitely others. The following section will investigate whether there is corruption within ACAs that impedes anti-corruption efforts in the country.

5.5.5. Corruption within Anti-Corruption Agencies

According to Quah, an incorruptible ACA is one of the main conditions of an effective AC strategy. However, almost all interviewees believed no public agency in Vietnam is immune to corruption. Interviewee (3.3) said, "Every institution is corrupt: the GI, the courts, and the State Audit, police and donor organisations. So that cannot be an argument. I do not think the ACAs are more corrupt than any other organisation in this country." The interviewee believed corruption within the judiciary was among the worst or the most "dirty" corruption. Interviewee (5.1) stated: "Corruption in the justice system can change things from black to white, from guilty to innocent or vice versa. Once justice cannot be trusted the state will lose people's trust." Yet, no one can give full facts or evidence regarding corruption within ACAs.

On the same issue, interviewee (5.1) said:

It is a fact that cases involving common crime, such as theft and robbery, are always processed quickly, but those related to corruption are always very slow. He believed corrupt offenders are often wealthy and hold power, so they have relationships with

ACAs and with the country's leaders who can influence the prosecution process. As a result, not as many corruption cases were brought to court as should have been.

Interviewee (2.2) gave the example of the Vinalines former CEO to demonstrate how corruption occurs among the ACA:

Before arresting Duong Chi Dzung, the Central Party Secretariat had a meeting and approved the detention order. However, right after the meeting, Duong Chi Dzung fled the country. So who leaked the information? Later on, he was caught and brought to court in Vietnam. At the court, Duong Chi Dzung declared that he gave USD 500,000 to Lieutenant-General Pham Quy Ngo, Vice Minister of the Ministry of Public Security, who was in charge of investigating anti-corruption cases. Ngo told him to run away. However, this admission was ignored, and Mr. Ngo died suddenly not very long after the trial. The case was eventually closed with a lot of unanswered questions.

Commenting on some corruption cases that took seven to eight years of investigation, an interviewee (1.1) thought some hidden reasons could include (1) members of the ACAs taking bribes to ensure the investigation process took as long as possible so the case might eventually be forgotten; (2) ACAs unable to find sufficient evidence, even though they believed it existed and did point to the corrupt activity which justified prolonged efforts.

By contrast, interviewee (2.6) thought receiving "gifts" cannot influence a final decision saying:

I think no one would exchange his career for something called 'gifts' when he performs his work. There is just too much imagination in this story. We should only consider giving a 'gift' as petty corruption and that a small bribe should not affect the outcome of an inspection. I do not know what others do but when I carry on my audit work they often give me some money in an envelope after the work is done, as a gift, but at that stage my conclusion cannot be changed.

Although people have different opinions on this matter, it is important to note the Party and the government are aware of corruption within the ACAs. As the old saying goes: "What do you do if your fence eats your crop?" This is one of the biggest challenges facing effective anti-corruption measures, and one that is certainly raised by NA members and the public.

Last but not least, the oversight anti-corruption measures of NA will be examined to understand whether NA accomplishes its role in the anti-corruption campaign in Vietnam.

5.5.6. The role of the National Assembly in curbing corruption

By law, the NA has supervisory and monitoring functions on anti-corruption measures, but interviewees believed, in practice, the NA had not played these roles well for many reasons

First, almost all NA deputies are nominated by the party. Interviewee (1.2) indicated that a Party member who is an NA deputy is seen to have a dual role. That Party member has to act as a people's representative but simultaneously play a part in NA. He added:

> I am part of the NA delegation of a province. A main highway road in the province was destroyed by trucks from a big project. Then the deputy of the delegation (he is one of the province leaders) wanted to bring that issue up in the NA's meeting and ask the Ministry of Transportation to repair the road. However, the province Party leader stopped him raising the problem because they were scared of conflict with the Minister of Transportation. If the Ministry of Transportation is not happy with a provincal leader, they may refuse funds for building transportation to that province in the following year. Then the person who is nominated to speak out is me because I am not a Party member, I am not a government official either so I am free to talk for the sake of people in the province. In general, NA deputies dare not do or say things which could lead to a conflict with other personal interests, while subordinates dare not make superiors unhappy for any reason.

Although this particular interviewee was not a Communist Party member and quite free to talk, the interviewee nevertheless said: "I know my limitations, and I need to stop before going too far." Similarly, he believed some NA deputies are aware of situations and do raise their voice in NA meetings. Others are supportive, but they do not speak out because they may not be allowed to do so, or because they are afraid to give opinions. He added:

> NA deputies must behave wisely even though it may make others think they are opportunists. However, they should not die before getting their target. Moreover, if one is a Communist Party member, one has to act as a Party member.

This explanation may be a reason for interviewee (3.4), who concluded that all the NA deputies can be seen as puppets or *nghị gật* (yes-men); non-Party members are not exceptions. Interviewee (3.4) further mentioned that, sometimes, people could hear their views expressed in the media, but in NA meetings their voice is muffled. In public, they may speak about some issues that make voters happy, but within the NA they will still vote to support bills with which

they do not agree. The interviewee thought people could not expect the NA to play a stronger role so long as there are so few independent NA members. Interviewee (3.1) thought there might be an outstanding individual with enough authority and willingness to change these circumstances but, at least so far, nobody of that calibre has emerged.

In general, it seems that anti-corruption activities led by the party were considered half-hearted. The NA deputies appear to lack the power to do their jobs properly. Their social and political relationships are ambivalent since they can both make and implement the law. Such relationships render the NA unprofessional. Where deputies dare not differ with others in the system through fear that they are impotent, or that they will derive little benefit from it, there is little hope they will use their anti-corruption supervisory and monitoring functions effectively.

5.6. Conclusion

This chapter has examined the institutional anti-corruption framework in Vietnam. A greater understanding of corruption and anti-corruption from diverse perspectives and from different participants, especially understanding people's lived experience of corruption has helped us to paint a clearer picture of extensive corruption in the public sector. In general, participants' convictions are very strong even where they do not have evidence. It could explain why perception shapes reality as much as it is influenced by actual fact. Corruption is perceived "everywhere, in every walk of life like cancer, which metastasizes throughout the body" and "everything can be bought with the right price." Even in ACAs, corruption is considered a serious problem.

Vietnam established an institutional anti-corruption system. Nevertheless, the evidence of the research indicates that many factors impeded the anti-corruption efforts. First, regarding AC legislation, some shortcomings need to be amended. For example, the ACL only applies in the public sector, has no mandate to do anything and its mission is vague. Besides, the definitions of corruption and corrupt acts are imprecise. The mismatch between ACL and the Penal Code also creates many challenges for ACAs to deal with corruption. Moreover, regulations on anti-corruption prevention are considered formalistic.

Regarding ACL implementation, it seems a huge gap exists between laws and actual practice. As interviewees pointed out, the overlapping of functions of different institutions and their poor cooperation has led to buck-passing among them. Agencies involved in AC include

the Party's agencies, government agencies, the courts, the procuracy and the State Audit. In fact, the evidence shows that ACAs are not independent of political control. Therefore, the ACL could not be enforced impartially. In other words, no organisation including the judiciary and law enforcement agencies is truly independent since all are under the Party control. As a result, when dealing with corruption cases, at every single step they must wait for Party guidance over the direction of an investigation and how to impose sanctions.

The research participants strongly believed that Party members are protected all the way throughout the system. It can, therefore, be assumed that dealing with corruption cases which involved Party members even at junior level seem to be a big challenge for ACAs. Not surprisingly, to date no top leaders of the government and the party have been found guilty of corruption. The research findings also demonstrate that AC measures are more likely to be used as a weapon against opposition. The evidence indicates that some massive corruption cases brought to court were the result of a political battle rather than the outcome of law enforcement.

In general, the government's commitment to fighting corruption is considered weak. That indicates low level of political will from top-down approaches. Thus, having the ACL and the ACAs does not necessarily mean the CPV desires to put their efforts into making the anti-corruption measures effective. However, the evidence also suggests there could still be a place for political will if an exceptional powerful individual emerged, who could play a significant role in curbing corruption in Vietnam. At the same time, the research reveals how difficult it is to win the battle against corruption.

Considering Quah's institutional framework, the Vietnam situation does not fit. This research suggested the Vietnam's AC measures are unlikely to be successful, given the institutional characteristic of authoritarianism without checks and balances or the separation of powers. Instead, the whole system is under Party control (see also Fritzen,2006; Gillespie, 2002; Gainsborough, 2003; Gainsborough et al., 2009).

The most significant finding of this public administration analysis of the anti-corruption system in Vietnam (from the political context to the institutional setting, and especially looking at the day-to-day details), is that there are unresolved problems and loose ends in many places. The finding helps explain the relative lack of effectiveness of the ACL so far. Moreover, it demonstrates that a top-down institutional anti-corruption framework is not enough to control corruption. Therefore, a more bottom-up, practice-based approach needs to be undertaken. In the following chapter, this study will investigate if there are any other factors which contribute

to persistent corruption, as well as other obstacles which prevent ACAs achieving their goals. This chapter will include analysis of the findings of the drivers of corruption in Vietnam that are not adequately illuminated by Quah's approach.

CHAPTER 6: THE DRIVERS OF CORRUPTION IN THE PUBLIC SECTOR

6.1. Introduction

Previous studies have indicated the sources of corruption could be ideological, psychological, external, socio-cultural, political, and technological. As we saw in the literature, factors that contribute to corruption are not necessarily causes of corruption (Von Maravic *et al.*, 2010). Instead, corruption can be attributed to many things. Therefore, while opportunities for corruption are present everywhere, the level of corruption differs from individuals, government bodies, administration systems, geographic areas, and countries.

As mentioned in chapter 5, a narrowly-defined institutional approach is not enough to adequately study this topic. Instead, it is necessary to investigate some of the other founding disciplines of the field which the findings suggest are essential: history, culture, public administration and economic management. The weaving of some of their insights into this analysis, and so gaining an understanding of the drivers of corruption, can offer better public policy options to combat corruption in Vietnam. In chapter 2, some important factors relateing to the Vietnamese context were briefly introduced. This current chapter will examine further the persistence of corruption in the country with particular reference to the roles of civil society and the news media.

6.2. History and culture of corruption

6.2.1. Historical factors

To understand corruption in Vietnam, one should first consider the characteristics of Vietnamese society. According to interviewee (1.2), who has studied the history of Vietnam, in the past, *Triều đình* (the top administrative level of the monarchy) was considered to be the most corrupt form of individual activity. However, it also commonly happened at a community level, that being called *nhũng nhiễu* (harassment). Due to the strength of the country's social and village structure, the role of the state was relatively weak. The structure of villages at the lowest administrative level had a direct association with *Lý trưởng* (Village Chief, the representative of the state at the village).

However, *Lý trưởng* was nominated and voted by the villages (based on some criteria given by the state). That resulted in *Lý trưởng* being the only person with relationships at the district level. In the past, the districts were at a small intermediate level, within the society, and

responsible for security. The district level was the link between the village and central government. It did not deal with the economic sector. At the *Triều đình* level corruption was in the form of "buying and selling" positions that did not directly affect the ordinary people. This interviewee (1.2) emphasised that, during the monarchy, people had more democracy as the *Lý trưởng* was elected by citizens. As he said:

> The explanation of this should be because of democracy at the grass-root level where citizens could choose their local leader. In my opinion, the *dân chủ làng xã* (democracy at the grassroots level), does not exist anymore in Vietnam. Besides, the traditional culture of Vietnam created a social norm that gave high expectations of *Quan* (those who hold a high position in the government system) to behave with integrity. The literature of the past has shown that *Quan*, even the high ranking officials in central government, were destitute compared to *Quan* in China at the same time.

Vietnamese traditional society did not have property owners as such, nor a bourgeois class. It generated only some *địa chủ* (wealthy landowners). However, then the *cải cách ruộng đất* (land reform) was instituted, land was divided by the government to remove the gaps between rich and poor. That was an attempt to maintain some equality by the state through a mechanism which, according to the interviewee, also "maintained stability." Nevertherless, regarding corruption, the interviewee said: "If one studies Vietnamese folklore one may find many instances of corruption as defined now."

This interviewee further indicated that Vietnamese society had changed by the late 1880s. French colonisation for more than six decades created new social relationships, mostly linking capitalist to colonial interests. As traditional elements diminished, this led to the rise of newer social and economic formations.

As colonialism ended, Vietnam sought to build a socialist state. The focus was on "democratic centralism" and the dominant role of the national government. According to this interviewee, the new form of state also continued to harbour traditional negative connections such as *họ hàng* - clan linkages or *đồng hương* - fellow countrymen relationships.

Other interviewees (2.6, 2.6, 5.2) shared their view that under the centralised economy, some people had seized opportunities to advance their interests through abuse of authority in the public sector, while others stayed clean-handed to maintain their dignity. While abuse of power and irregular use of state assets did occur, this was only in some government office positions. However, government officials could and did indulge in corruption, especially those

dealing in cash for example, in the financial department. In fact, some researchers highlight how corrupt Vietnam was under central planning (see also Fforde, 1993; Fforde & de Vylder, 1996; Kerkvliet, 2005; Koh, 2004).

During the next period of *Đổi Mới*, the most important thing was an official belief that market economic relationships could solve Vietnam's historical problems. Traditional village social cells were seen as hindering socio-economic development since they did not create a wealthy class. That held back economic growth. Now these were two necessary conditions for integrating into the global economy: a market economy and democracy. However, in the Vietnamese context, democracy simply means people now had rights to own property. All interviewees believed corruption was so rampant "just as mushrooms flourished after rain" because,

> the core purpose of the innovation was to stimulate capitalist democracy to create a property owning class. Therefore, the strong desire to own properties was combined with political power that created a major advantage for those who were in the right positions - an interviewee (3.4) said.

In sum, from a very brief review of relevant history. Rampant corruption possibly follows a major change of social values. Relationships between people and government grew much closer so that a local man could now go to the central government for a solution to his problem. The traditional structure of the society was likely changed totally to become primarily an administrative relationship. This major social shift is considered to be fertile ground for corruption.

6.2.2. Cultural factors

When it comes to cultural factors, most interviewees believed culture has an enormous effect on corrupt behaviour, hindering anti-corruption campaigns. The typical Vietnamese culture of *quid pro quo* has led to corruption. Vietnam's social values, ethics, moral concepts, and lifestyles have undergone massive changes, making corruption increasingly acceptable for both families and society. As public sector employees can get many benefits from many people, people are now more tolerant of corruption. An interviewee (5.2) said: "While interacting with public sector service agencies, citizens bribe officials to get things done; otherwise they do not feel comfortable." Interviewee (3.3) explained why Vietnamese are very tolerant of corruption:

Vietnam has a high level of tolerance to corruption. Why is that? Because the economy is growing and a large number of citizens have benefited from that for the last 20 years. If at the end of the day I have opportunities to improve my living standard, when eight to ten Vietnamese citizens believe the Vietnamese economy goes from good to great. So who cares? Someone explained this to me: If I can give a little bit of my income to deal more effectively with people, why not? Why do people throw rubbish onto the street? Because they know, there will be someone to come and collect it. If they do not throw rubbish onto the street, there will be no job for that person. If there is no rubbish, that person may lose the job. So if I want to pay some money to get a position, why not? I give it and get what I want. If you have that kind of tolerance, it will be tough to implement anti-corruption. There is the example of a taxi driver in Dac Lac who, when the police stopped him he did not say anything. He just got out of the taxi and gave them money immediately without any question asked. In fact, there was no request from the police officer, but he accepted it.

Interviewee (5.3) commented about an unwritten rule according to which anyone who is in need of a public service has to bribe the officials and in fact, no public service can be obtained without money. He said: "The Vietnamese slogan is *Đồng tiền đi trước là đồng tiền khôn* (giving money in advance is wise) thus public officials take advantage of this unwritten rule. Consequently, it has become a way of life." The interviewee said for example, "if someone wants to consult a doctor or get admission to school one has to bribe the officials concerned."

Interviewees emphasised that the gift-giving culture has also metamorphosed into bribery as when people take advantage of special occasions like weddings, New Year, a newborn baby, or an anniversary, to give plenty of money or luxury gifts to those whose support they want. There are regulations on what kind of gifts public employees can receive, and what they must refuse or return to their office. In fact, there is a government directive banning gift-giving at *Tết* (the Lunar New Year). However, according to interviewees, these regulations are there just for the sake of having regulations, but have no effect.

Interviewee (1.2) considered what a gift is and what a bribe is, what is a cultural value or what goes beyond accepted culture. Such boundaries not clearly defined. While it is common to give and receive gifts in any culture, there must be regulations regarding receipt of gifts for those paid by the state. The interviewee gave an example:

In the United State of America the President can receive gifts, to a certain value. Besides, he has to pay tax on it if he wants to keep it. We cannot hide behind the traditional culture of 'gift-giving' to ignore this issue.

Another interviewee (3.2) seemed to agree and say:

I do not object to the culture of gift-giving and mutual expression of appreciation but there should be a certain limit for gifts that one can get and give as a public official. There are many ways of receiving gifts that could influence one's decision and that is corruption.

Another factor related to cultural influences over corruption was identified by the interviewee (2.2) indicating that, from ancient times up to the present, Vietnamese have preferred to become government officials. Interviewee (3.1) said, "Government officials are in a position where *nói có người nghe, đe có người sợ* (people have to listen to them and people fear their hold over them). In other words, public employees often think of themselves as using power to get advantages." According to the interviewee, they seldom consider themselves public servants who should serve people. Moreover, Vietnamese has a culture of *Một người làm quan cả họ được nhờ* (if a person is a high ranking government official then the whole clan will benefit from that). Interviewee (5.3) added that in Vietnamese culture, people live as well-knit communities or clans in villages where they often support each other. As a result, when one gets a good position, one tends to help relatives and people in his village or clan. In general, interviewees believed almost everyone aspires to working in the public sector, seeing it as a great opportunity to gain influence and benefits.

Interviewee (5.2) illustrated the Vietnamese culture as being partly influenced by Confucianism, where people attach much importance to many kinds of relationships, and which he considered could be a strong factor. Unlike those in the West, where leaders or bosses are team members first, in Vietnam leaders see themselves just like parents, expecting all staff to heed them as if they were their children. The interviewee (5.2) said: "That is the reason why corruption is collective action and is hardly uncovered by insiders among state offices." According to the interviewee, this filial piety culture is only viable when the top is clean, transparent, non-corruptible, manages the organisation well and has subordinates follow who suit and build up the organisation.

The interviewee (5.2) emphasised that Confucianism exerts influence over perspectives on human nature "people are born pure." Therefore, if anything goes wrong, it is because

people are not educated. Thus, they must not be punished and better to get them educated first. Unlike Western concepts where human nature is always potentially flawed and therefore needs rules which, when violated, result in punishment.

Another cultural phenomenon that interviewee (5.3) mentioned is, as the Vietnamese proverb goes, *một trăm cái lý không bằng một tí cái tình* (An ounce of love is worth more than tonnes of laws). He further stressed: "This kind of government, not only disregards its laws but also lets staff flout them as well. It is next to impossible to transform the Vietnamese government, which does not respect its laws."

On the other hand, some interviewees saw cultural influence as of lesser importance. Other factors have consequences, and cultural values should not be blamed for what are the everyday practices of people. Interviewee (2.4) said, "If we call corrupt behaviour a dimension of culture then we must change that culture as did the Singaporeans." Above all, Vietnamese society should be governed by the law.

To sum up, many cultural phenomena in Vietnamese society appear to have a close connection with corruption. Some cultural aspects have been converted into corrupt practices and make them part of the way of life. The higher level of tolerance to corruption also makes it persistent and difficult to control in Vietnam.

6.2.3. Discussion on the historical and cultural factors

The findings accord with the existing literature indicating that corruption and abuse of power are not new phenomena in Vietnam (Gregory, 2016; Lockhart & Duiker, 2006; Tran, 2014). During the precolonial state, despite the promotion of virtue, incorruptibility, and other Confucian values, corruption was a problem at the top level of monarchy and lower levels (see also Lockhart & Duiker, 2006). The presence of imperial censorship was able to curb some potential corrupt activities but not all.

Although corruption was a problem as reported in the existing literature, the research findings show that people think opportunities for corruption during the monarchy were fewer than today. There are several possible explanations. The representatives of the state in the village were nominated and elected by the villagers; people seemed to have more democracy than in the current state where bureaucrats are often disconnected from the reality on the ground. The legal system was stronger to prevent corruption. The traditional culture created a

social norm that ensured bureaucrats had a high level of integrity: ideally, officials were conscientious, scrupulous and maintained their dignity.

The research is largely in agreement with the many observers who believed that, during Đổi Mới, corruption seemed to have become more severe both in forms and extent (Bai, Jayachandran, Malesky, & Olken, 2016; Gainsborough *et al*., 2009; Tromme, 2016). However, this research extends what they say, as it demonstrates connections between economic development and the changes of social values. More specifically, the common belief among policymakers was that market economic relationships could solve historical economic problems by creating a wealthy class and developing economic growth. The strong desire to become wealthy, coupled with political power, created many incentives for those in the right position. Moreover, the research finds the traditional structure of society seemed to have been changed mostly from the village structure where the role of the state was relatively weak, and the new social system was a fertile ground for corruption (see section 6.2.2).

Vietnam has both a long history of facing corruption and a culture with a strong association with corruption, as reported in the literature (see Endres, 2014 and Segon *et al*., 2010). However, this research has further investigated the general disposition of Vietnamese toward corruption. Looking at the cultural triangle may help us to understand Vietnamese ideas and beliefs, the customs and the social norms that form their disposition to act concerning corruption (in section 2.2 and 6.2). Furthermore, it helps us to understand the reasons and motives for officials to become corrupt. A question needs to be answered: How is corruption a cultural phenomenon?

First, the typical Vietnamese culture of *quid pro quo* not only has a bad effect on society as a whole but also leads to a proliferation of corruption. Such cultural actions are the place for corrupt acts to begin; this is in accordance with recent studies indicating people consider *tỏ lòng biết ơn* (evoking gratefulness) unavoidable and necessary (see also Duc, 1999). The finding also matches those of Endres (2014), where the bribe is understood as a token of gratitude in exchange for applied law with intention and sentiment in inflexible and selective ways. In other words, as long as a bribe is given, the law may be implemented differently in a way which benefited the bribe giver. However, the findings of this research go deeper as it provides examples and explains why Vietnamese people practice *quid pro quo*. They believe "giving money in advance is wisdom" and, by doing so, they can get what they want. As they can see at the end of the day, everyone will benefit from the system (see section 6.2.2). Therefore, the findings suggest *quid pro quo* could be a major factor, if not the only one, driving

certain kinds of corruption - traditional relationships between citizens and officialdom (petty corruption) rather than others arising from the exploitation of political power or influence (grand corruption).

Second, the finding is in accordance with the observation of Gillespie (2001) that bureaucrats and the public accept some official misconduct. However, as we see in section 6.2.2, there is a lot more to consider, such as the massive changes of social values, ethics, moral concepts, and lifestyles, making corruption increasingly acceptable for both families and society. This study finds that both beneficiaries and victims do not consider corruption as a crime or evil but as a customary rule and a reality necessary to maintain the stability of the system. As a result, Vietnam has a high level of tolerance for this type of corruption, similar to what Sato (2009a) and Gillespie (2001) point out. So, the question here is why cannot all the institutional efforts stop it?

Third, the gift-giving culture has evolved into bribery and people take advantage of it. This finding seems consistent with other studies that found that the traditional culture of gift-giving evolved into bribery, and into a way of life (see also Gregory, 2016). This research finds government regulations for banning gift-giving have a tiny impact in reality (see sections 5.5.3.5 and 6.2.2). The research suggests that even though gift-giving is a traditional custom, the issue still needs to be addressed seriously. Thus, it is necessary to define clearly the boundaries of gifts, bribes, and cultural value.

Fourth, on the surface, the research findings agree with Endres (2014) and Segon *et al.* (2010) about the relationship between cultural aspects and the pervasiveness of bribery and corruption in Vietnam. However, the research finds the deeper reason is that Vietnamese have always aspired to become public officials. More often than not, people consider working in the public sector an excellent opportunity to gain influence and benefits for themselves, their family and other relatives (even their clans or their villages). They prefer to think of themselves as government officials than civil servants (see section 6.2.2). It can thus be suggested that changing attitudes of government officials toward considering themselves public servants could reduce corruption and improve the quality of public services.

Fifth, the findings corroborate the ideas of Gainsborough *et al.* (2009), who suggest that, in the Vietnamese state system, it is regarded as culturally correct to look after those in one's boss or patronage network; to do otherwise would be seen as behaving badly. However, on top of that, this research identifies the profound reason: Vietnamese culture is influenced by

Confucianism in many ways; family and other relationships (for example clan linkages or fellow countrymen relationships) are considered critical. That could partly explain why it is hard to avoid nepotism and favouritism in the public system. Moreover, the research also finds leaders often consider themselves as parents. Therefore, they expect their staff to heed them as if they were their children (see section 6.2.2). That could explain why corruption is a collective activity, carefully covered by the insiders among the government organizations, so it is hard for ACAs and media to uncover corrupt activities.

Another surprising finding related to Confucianism is that it influences perspectives on human nature and affects the Party's attitude for dealing with corrupt offenders. For example, the regime believed "people are born pure." So if people do anything wrong they need to be educated rather than be punished (see section 6.2.2). State law does not seem to be respected since its application is interpreted according to "reasonable circumstances" or *Một trăm cái lý không bằng một tí cái tình* (An ounce of love is worth more than tonnes of laws). The findings suggest that to deal with corruption, one must understand that the root of the problem lies in cultural factors which need to change if the drivers of corruption are to be weakened.

It is a great challenge for the anti-corruption campaign to reach its goals since the culture retains a deep influence on behaviour. These findings raise intriguing questions: How can one bring about any changes at all where corruption is so deeply embedded in the fabric of the society and accepted both in the society and the family? How is it possible to remove apparent conflicts of interest in one's official function?

It is understood that history and cultural influences have a huge effect on how people react, whether or not the action is illegal or legal. If people are culturally biased in their perception of corruption, changing their rationalization is essential. That might be a challenge but could be a possible measure to alter corruption. Of course, these cultural issues may not be solved quickly. The degree of success in fighting corruption in Vietnam mainly depends on how much the deep-rooted cultural factors, which feed corruption, can be transformed. This finding has important implications for increasing awareness of corruption. Although anti-corruption legal frameworks and other watchdogs are in place, the actual change should take place in the hearts and minds of the Vietnamese people. If the citizens were convinced of the enormous damage which corruption causes to the country's economy, they would stop paying a bribe or demanding bribes. They would start reporting corruption to the ACA. More importantly, they would support anti-corruption efforts.

In fact, citizens could exercise some influence on corruption. If they could stop giving bribes, or change their representation through their votes, then some changes could be expected. However, their votes do not make a difference: electors can only vote for the NA and People's Councils, not for government leaders (see section 2.4). If the electoral system could be overhauled by allowing voters to elect a government directly, would this help prevent corruption? Since the country leaders are not voted by citizens, the only way to deal with corruption (and, at that, only petty corruption) is for citizens to stop paying bribes to government officials and thereby end the upward corruption cycle. However, this is much easier to say than do and this is unlikely to happen.

Although corruption is a widely accepted cultural phenomenon arising from traditional relationships between citizens and officials, officials still find it necessary to disguise it. What is going on here? In fact, most Vietnamese probably accept bribery of civil servants or corrupt use of official power as a necessary but strongly resented part of life. We can, therefore, infer it is not a universally accepted value or time-honoured tradition. Consequently, an important argument we can raise here is that so-called cultural values are not universally held after all, and may be changed.

For a better understanding of the persistence of corruption in Vietnam, in the next section findings on economic factors which have close connections to corruption will be discussed.

6.3. Economic factors

Related to economic factors inducing corruption, interviewees identified other salient determinants including:

6.3.1. Monopoly on controlling the economy

In democratic systems, all the main development plans are proposed by the government and then deliberated in their legislatures. If approved there, the government may then proceed. Unlike such countries, Vietnam has a centralized power system. Only a few people in the Politburo and Party Central Secretariat decide on the country's development plans. After a final decision by the Politburo, plans are brought to the NA for "approval." According to interviewee (3.4) in practice, once the Politburo agrees on a course of action the NA cannot reject it.

The Politburo also controls all other important matters such as overall economic development strategy, and membership of key government and Party personnel. For

interviewee (3.4): "The Party uses their power to benefit certain groups and has become an obstacle to the development of Vietnam and its people. It now works in contradiction to the interests of our population." Interviewee (3.3) added: "It is pointless to talk about a grand corruption issue. The elite group is capturing the state." As a result, Party patronage and its connections are important issues that must be addressed.

Interviewees (3.3, 3.4, 6.2) argued that when a law or policy draft is proposed to the NA for approval, its deputies cannot engage to real effect because they are not experts in the policy field concerned, while few have legal expertise. Accordingly, laws are often interpreted in ways that allow those active in particular sectors to gain outcomes favouring their interests.

6.3.2. Wrong approach to economic development strategy

From the early 1990s, the country has shifted from central planning to a market economy which has created major opportunities for an appropriation of rents (see also Vuving, 2013 and Khan, 2009). At the same time, Vietnam has tried to build a socialist society built on a state economy rather than other, private economic sectors. The state also wants to use SOEs as tools to control the economy. For interviewee (3.4): "SOEs are considered as *cha chung không ai khóc* (no one cares about the public assets)." He gave examples of the cases of Vinashin and Vinalines that have shown Vietnam has failed when it comes to managing state companies effectively. Most interviewees believed this is a wrong approach. As interviewee (2.1), in fact, the country's leaders are aware of that, but they still want to maintain the tools that allow them to share public resources together.

All interviewees thought that economic policies are the breeding ground for corruption. Interview (3.3) explained that, while economic growth has been high in Vietnam, it has also led to corruption because interest groups have flourished in certain areas. Hence his query: "Every policy and decision of the government on investment generates a rent; how is that rent managed? How can the system ensure that this rent is fairly distributed and not captured by the specific interest is the key challenge?"

Interviewee (2.1) stated that grand corruption becomes more severe since it drains natural resources from the country. He confirmed that not only are land, mines, and mineral resources illegally exploited, but also SOEs are drained to maximize rents. He gave an example:

We received a report about the illegal action of a coal mining company. That company used ferries to carry coal from the mine and sold it to the market. They rated the coal surface by

type as 5 (surface), and 1 (below), type 1 being the best. The different price of a ferry is about USD 500,000 and they sold four of them each day. Thus, every month the state lost about USD 30 million. In its annual report, the company was always losing money. In fact, they stole state assets and shared them among themselves.

6.3.3. Poor economic management

The *cơ chế xin cho* (asking and giving mechanism) or danger of tight political-business relationships seems to be a big issue for economic management (see also (Beresford, 2008; Fuller, 2012; Gainsborough, 2010b). This mechanism works in a way that sees lower-level government officials always having to ask for the finance and staff needed to maintain their duties, as well as local development project funds. Interviewees believed this is a mechanism that gives higher officials too much allocation discretion, thereby facilitating corruption.

All interviewees stressed that behind the "asking-giving mechanism" is political corruption. Interviewee (3.4) explained the figure in central government who makes state budget allocations to local authorities might ask not only for a kickback but do so to gain votes. On the surface, people may believe central government budget allocations are made to local levels for development. However, many such projects are either useless or wasted due to a flawed development approach. Money is spent without proper and prior evaluation of their effectiveness. The interviewees confirmed, in many cases, local governments have to implement projects according to central governments, not according to their needs.

Interviewee (3.4) explained this happens: (1) to gain votes (in the Party National Congress) from local officials (2) to create factions or (3) to avoid managing responsibilities. Where there is a failure, local officials shift managing responsibility to central government and vice versa. At the end of the day, no one stands responsible for state losses. However, interviewee (2.6) said: "Nobody knows when the 'asking-giving mechanism' will end."

Interviewees claimed, in general, management mechanisms do not clearly determine responsibility among agencies. Besides, there is a lack of transparency in the economic management system. Regarding outcomes, it is hard to see clearly who bears ultimate responsibility. For policy actions by government agencies or SOEs, it is necessary to proceed through many levels before reaching a final decision. Interviewee (2.1) gave an example:

If an SOE in transportation decides to invest in a project, they must have the approval of the Ministry of Transportation and the Ministry of Finance. The CEO of the contracting

firm also has to sign the project documents and carry out the project after approval from the Management Board. While the CEO signs on to every document related to a project, he also has to act upon the decisions of many other agencies and leaders. Thus, if something goes wrong, it is hard to determine who is responsible.

Moreover, interviewees believed government economic policy is not stable and, for that matter, neither is tax policy. Sometimes even just a small change of tax, export, import, or investment policy can degrade an entire economic sector. Interviewee (8.1) cited the steel industry where domestic capacity clearly showed it outstripping domestic need, yet the government still allowed foreign companies to build factories and produce large quantities of steel. Those companies also can enjoy preferential tax treatment. As a result, domestic steel firms cannot compete and go bankrupt.

Every interviewee believed using too much cash in the market could support corrupt activities. However, to date, there has been no policy designed to reduce the use of money for transactions in the market. In the public sector, some purchasing regulations require the conduct of operations through the banking system, but that regulation is not compulsory either for individuals or private sector entities.

To conclude, flawed approaches in economic development strategy, a monopoly on political power, and poor economic management policy significantly compound the economic factors that lead to the spread of corruption. It is likely that poor economic governance and the rise of corruption challenged the regime's claim to political legitimacy by performance.

6.3.4. Discussion of the economic factors

One of the most significant findings of this research indicates an important relationship between economic factors and corruption which, again, is consistent with previous studies (Gillespie, 2009; Maclean, 2012; Vuving, 2013). Both petty and grand corruption are likely to be increasingly rampant, although Vietnam has been recording a high rate of economic growth. The implementation of *Đổi Mới* has provided fertile ground for corruption on an enormous scale at all levels of the state hierarchy. To a large extent, this research finding is in line with those previous studies. However, the study investigates deeper to explain those statements by providing on-the-ground evidence and causes.

First, the state monopoly on political power over economic development: the most profound problem could be that Vietnamese leaders still have not figured out how to fix the

economic situation without surrendering some form of political control and they are unwilling to take that step. This finding is consistent with the conclusion of Gainsborough (2007). However, one interesting finding is that economic development practice in Vietnam is rather different from the developed countries where governments decide on economic development plans and implement them. In Vietnam, economic development plans are proposed by the government but decided by the Politburo and Party Central Secretariat. The economic development plan covers all state investments and allocates investment capital to industries. It also provides a framework for regulation and subsidy. The Party also controls the implementation process carried out by the government. Since it has power, the Party takes advantage to ensure benefits for particular groups or *lợi ích nhóm* (cronyism). That may well explain why grand corruption becomes a huge problem in Vietnam, and it could be an obstacle to the development of the country (see section 6.4.1).

Second, the approach in economic development strategy is not appropriate. This finding further supports the studies of Vuving (2013) and Saxonberg (2013). The fact is that corruption has flourished since the *Đổi Mới* came into existence with the implementation of *kinh tế thị trường theo định hướng Xã hội Chủ nghĩa*—a market system with a socialist orientation. Consequently, the country maintains its motive on the economic policies or economic development. A possible explanation is that the government fears economic development left to the market could cause social instability and social inequality (see also Dinh, 2006). However, translating socialist ideas into implementable economic policy remains challenging, as the Communist Party and the Vietnamese government often admit. It seems to be an unrealistic ambition for the government to achieve a redistribution of economic gains towards equal shares for everybody in the society. In reality, as Neubart and Roeckel (2008) point out, some recent economic reforms such as ownership of factories or manufacturing units (which in theory should be owned by the labour force) are in conflict with the core tenets of "socialist orientation".

Đổi Mới and "market socialism" created the possibility of private profit. This concept was believed to provide the institutional basis for faster economic growth on the capitalist model, largely through incentives and opportunities for individuals to amass wealth. This resulted in a rich class, and a less egalitarian distribution of income and assets—which some would argue is an inevitable consequence of capitalism. The development of a capitalist economy in Vietnam also included a vast element of state capitalism, with wealth-creation regulated by the state. The opportunities for grand corruption arose in large measure because

of the ability of elites to exploit state ownership and regulation of capital for their private benefit. That raises the question of whether the corrupt acquisition of productive assets is the inevitable companion of state capitalism (or more generally state regulation of the economy) or whether there are additional factors in Vietnam which predisposed these societies to corrupt state capitalism.

Moreover, the Vietnamese leaders attempt to control the economy using the state-owned enterprises as tools to develop the economy and social equality. However, some massive corruption scandals and the huge losses of some of the biggest cooperative state-owned companies such as Vinashin and Vinalines are strong evidence that economic development is the wrong approach. The finding also indicates that national resources are illegally exploited, and SOEs are drained to maximize rents. Besides, deficiencies in transparency, oversight, and management of SOEs give rise to corruption (see sections 2.8, 2.3, 6.4.2).

The finding further supports the idea of Vuving (2013), that Vietnam's domestic politics face the crisis of a rent-seeking state (see also Maclean, 2012). "Equitization" of state assets has given public officials opportunities to cash in on their privilege and power. That can be seen as a serious obstacle to improvement since civil servants often try to buy state assets at the lowest price (see section 5.2.2). The findings suggest that Vietnam should change its economic development policy to clean up the system and give fair treatment to private businesses. By doing so, the country would minimise bureaucracy. That, in turn, could avoid the patronage networks between the Party elites, banks, and SOEs that led to abuse of state assets, corruption, and other serious consequences. Moreover, the findings also suggest the rent should be managed effectively to ensure it is fairly distributed, rather than monopolised by any particular groups.

Third, economic management in Vietnam is weak. In general, this finding is in agreement with Gainsborough, 2010a; Sato, 2009b, Davidsen *et al.*, 2011. However, the research goes deeper into crucial issues that impede the development of the country and provide opportunities for corruption to flourish, such as the asking-giving mechanism. The research explains how the asking-giving mechanism works the way it does (see sections 2.2, 3.4.2.1, 6.3). It is not just a problem for economic regulation but also for the abuse of power in health, education, justice, and elsewhere. A different explanation for this could be the tight political-business relationships in economic management, which government officials exploit for their benefit (see also Beresford, 2008; Gainsborough, 2010b).

The research also finds some other issues that reflect the poor economic management in Vietnam and contribute to the rise of corruption, such as the lack of transparency and unclear responsibilities of various government agencies. These make the government management complex, and it is difficult to see who bears the ultimate responsibility when things go wrong. Moreover, research finds unstable government economic policy, and its inability to control the cash in the market, are crucial factors that could pave the way for corrupt activities (see section 6.33).

The study results are in agreement with Goldsmith (1995) who argues that significant changes made to political and economic structures increase corruption. Like some other countries where the economic situation is in transition (such as the former Soviet Union), corruption is a major issue in Vietnam. Moreover, there is a lack of experience in managing co-existence between public and private sectors. Another possible explanation for corruption flourishing is the dramatic changes in economic institutions that have given more opportunities for government officials to sell favours and make profits for themselves. In fact, many factors such as state ownership, market regulation, and property rights have changed. Despite many steps the Vietnamese government has taken in 30 years of *Đổi Mới* to make everything better, the problem is still there. On the surface, it seems to have changed a lot such as the country has new laws and new ACAs; everything is in place but it does not work well, and corruption remains a severe problem. It seems perverse that what this research finds about the structural problem is the same in the literature of more than two decades ago. On the other hand, one could argue that the system has not changed because it serves the interests of elites, or simply the context has not changed at all.

There are, however, other possible explanations. The economic inequality arises because the high-profile politicians in CPV have power over the key economic sectors. Economic inequality between the SOEs and the private sector is also growing. SOEs enjoy regulated monopoly power and government subsidy as well as budgets. However, that does not explain why privatisation increases the risk of corruption. The privatization process can increase corruption risks since public assets are transferred to competitive private ownerships. The usual argument is that the process of the sale of state assets provides opportunities for insiders to take their cut. What is transferred is often a monopoly power which gives some the ability to extract rents.

Corruption results from many factors, not just those of an economic nature alone. In the following section, the public management factor will be discussed to provide more understanding of the persistence of corruption in Vietnam.

6.4. The public management factors

Every interviewee seemed to agree that one of the key factors that impact corruption is good governance; where it is sound enough corruption will be reduced. However, the interviewees emphasised, at the moment, overall governance in Vietnam is weak and with many loopholes (see also Acuna-Alfaro, 2009 and Gainsborough *et al*., 2009). Certainly, cultural factors such as gift-giving exist, but they mainly affect petty corruption. Interviewees specified a weak institutional system, on the other hand, facilitates grand and higher level political corruption.

6.4.1. The state machine is too big

All interviewees firmly claimed the state machine is too big and its operation too complex. In fact, too many people are paid from the state budget. Those factors they thought lead to weakened efficiency and unprofessional conduct in the public sector. Interviewee (5.1) believed a deeper reason lays within the organizational structure itself. According to this interviewee the state covers too many areas, both socio-economic and political-social organisations. For example, political-social organizations such as the Women's Union, the Youth Union, and the Fatherland Front should in principle remain autonomous and financially independent. However, their operations and employees are still paid from the state budget.

Interviewee (5.2) agreed that the state machine is too big, and it is not working well which creates many problems such as corrupt, inefficient, and unnecessary staff. Too many of those people are not competent, which places a heavy burden on the state budget and public sector system. Interviewee (2.5) pointed out that civil service reforms have stagnated for more than 20 years, its downsizing remains unfinished business.

6.4.2. Poor management mechanism

All interviewees believed the whole system is dysfunctional, management mechanisms a critical issue. Interviewee (5.3) thought both economic management and the administration system in Vietnam also persist in applying "asking-giving" mechanisms which generate

164

corruption. Administration procedures are unduly complicated and not always transparent. As a result, more often than not people resort to giving bribes simply to get things done.

Interviewee (2.1) added that authority control mechanisms are weak, meaning institutions cannot account for each other. Although the Party has assigned government agencies to coordinate and account for each other, this is not specified in any specific provisions. This is a cause of many problems; once subordinates break the law leaders cannot discipline them. Moreover, likewise vice versa: when leaders violate the law, subordinates can neither complain nor sue them. Such weak accountability encourages corruption, aggravated by an ineffective oversight mechanism that, in turn, weakens public service ethics.

Interviewee (3.3) saw opportunities for personal enrichment through abuse of public office as an important issue. He pointed out the public/private boundary was blurred in Vietnam. Besides, a lack of clarity prevails as to where the income for public sector officials originates.

Every interviewee seemed to agree that the deepest reason for corruption in the public sector lies within its organisational structure. The existing structure of government agencies is not appropriate. Also, according to the interviewees, the state covers too many areas. They suggested that state management should be changed in ways that it manages less and only where necessary.

6.4.3. Incompetent staff in the public sector

All interviewees thought inadequate human resource management is a major factor leading to a profusion of incompetent public sector staff and this seriously aggravates corruption. They believed the government and the Party were aware of these problems but so far have had no solutions. The Party tends to use educational methods to impart moral and ethical standards among public officials rather than more efficient methods, such as strict enforcement of the law.

Interviewee (5.3) cited a Deputy Prime Minister's speech to NA meeting which said only a third of government employees are competent and capable of performing well. However, a report by the Ministry of Home Affairs (MOHA), which is in charge of public services and public sector employees, claimed only one percent of public sector employees are not competent. That incredible number was based on an annual assessment that is made by public officials.

Not surprisingly, interviewee (5.3) said: "According to reports of the government agencies there is only one percent of public sector employees, who do not complete their tasks, but in reality, the number is greater than 30 percent." The interviewee thought the government does not want to assess the actual quality of the public service system since they do not use the right mechanism to do so.

The current principle of employee assessment is based on self-assessment. Every year, each public employee submits a self-assessment report. Based on this self-assessment, other staff in the same office vote on whether or not that employee has performed their work satisfactorily throughout the year. However, according to interviewees, this kind of collective assessment never reflects true performance in the workplace. They explained this is because the Vietnamese try their best to avoid offending, or creating conflict with colleagues in public. Colleagues do not want to upset each other, so they often negotiate with each other for mutual benefit. As interviewee (5.3) said, "If I vote for you then you have to vote for me."

All interviewees agreed that human resource management is a key focus of the staff evaluation conducted under the Party's directive. Those directives are not administrative regulations. The assessment method is inaccurate because it cannot distinguish between competent and incompetent staff.

It is widely accepted that, to manage human resources well, managers must evaluate the quality of the staff, and an individual's strengths and weaknesses, so the right task is given to an appropriate person. Nevertheless, all interviewees thought managers in the public sector do not have the authority needed to manage human resources. Consequently, public sector employees tend to think of ways and means of pleasing one another for further development of their careers, rather than focus on their work for public good.

Most interviewees claimed that a flawed and inappropriate human resource management method has negatively affected the quality of public sector employees. For example, public sector staff are recruited by career, not by position. More interestingly, there is no detailed job description provided while recruiting new employees. Another main reason, as interviewee (6.2) said, is "To get a job or get a promotion people have to pay the officials millions and billions of dong, so how can we have competent staff?"

Most interviewees emphasised that not only recruitment but also upgrading levels of staff lead to incompetent staff throughout the public sector. Civil servants are divided into three ranks: junior, senior, and super senior. To attain a higher rank people have to fulfil certain

conditions and pass an examination. These are organized by the MOHA. However, some interviewees indicated that, in the recruitment and promotion process, the examination is not an effective means for choosing competent staff. Candidates are solely tested on English (writing only), computer skills, and basic knowledge of state management. These test components cannot assess people's skills, capacity, or expertise. Interviewee (2.5) described how an upgrading of levels for public officials works:

MOHA has the power to distribute the number of candidates throughout the country every year. Thus the people involved in organizing relevant examinations often have a strategy to make use of their power. Every year each province and ministry identifies the number of candidates who can take such exams. For example, province A is supposed to be given 100 seats to 100 candidates, but the MOHA may decide to give them only 50 instead. That means provincial leaders have to conduct lobbying to get another 50 seats.

After the exam results are declared, numerous candidates learn that they have not got the required marks in the exams. They then have to bribe the officials concerned to ensure that they get the required marks. In general, this illegally gained money is shared among the organizers and examiners. This kind of illegal practice is rampant because all candidates taking these exams are government officials, some holding key positions in the system. They are scared of failing the exams because it will mean the loss of fame, position, or chances of promotion. As a result, they are willing to bribe officials to get the required marks in the exams.

Obviously, the examination content itself does not help government officials improve their capacity or working skills. It has been used for many years without improvement of content or methods. Interviewees saw this not only as a money-making racket and time wasting exercise, but also a form of abusing power to control power.

Promotion in the public sector, as some interviewees highlighted, mostly depends on whether one meets "special criteria" (which is a euphemism for illicit advantage) or not. These criteria include *Tiền tệ, hậu duệ, quan hệ* (money, descendance, relationship). In many cases, government officials who cannot fulfil their duty or make terrible mistakes in their work are moved to higher positions. Interviewee (6.2) said:

Mr. Duong Chi Dzung [the son of the former police chief of Hai Phong city] is a great example for that. He used to hold a director position of several SOEs. However, the loss of government budget that he sustained worsened over time. Instead of facing accusations

of incompetence, he was promoted to a higher position. From being director of a small SOE in Hai Phong province, he became Director of a major General Cooperation Company, and then CEO of Vinalines, the biggest government sea transportation company. Before being arrested, he had been a Director of Department of Marine of Vietnam.

From such cases, interviewees concluded that the buying of positions is far-reaching in Vietnam, corrupt officials staying well-protected.

In general, interviewees believed the public sector capacity is inadequate, staff neither responsible nor loyal. Interviewees thought public employees tend to think first of what they can get for themselves when performing their duties. Interviewee (5.3) said, "if they were to sign a contract, they always look at a contract regarding bribe or commission. The longer they are in the system, the more skilful they become in taking advantage of their public position."

6.4.4. Low salaries

It is said that public sector employee salaries are low, with officials unable to live on them. However, most interviewees stated that a low salary is not a real reason for corruption because a civil servant's income is much higher than the salary.

Interviewee (5.2) shared his view:

I do not believe lowly paid people would be corrupt because those who get a low salary are at a very low level. They are not sufficiently important to be corrupt, actual corruption mostly occurring with people having the power to make decisions. Those who have the right to say 'yes' or 'no' are not the low paid.

The interviewee stated that, for the past ten years, public sector salaries had improved faster than the average income in the economy. "You get USD 200 per month now and if I give you USD 400/month, would you stop taking money?" he questioned. This interviewee argued low pay might affect some parts of the work, part of the ethic, but higher salaries are not the full answer to bolster anti-corruption.

Another interviewee (2.4) stressed that employees in the private sector get higher pay than their public sector counterparts. However, public sector employees get government benefits making their total income better. Interviewee (2.1) wondered whether, despite their low salary, many public sector officials could buy houses and cars. In fact, most of their other sources of

income are excluded from their official salaries, which is a clear violation of the law. Here their official source of income, salary, is legal, while another undeclared income seems to be illegal. He gave an example:

> I was hired as a consultant for the Ministry of Justice. To be a consultant, I had to sign a contract. I could have asked my employer for leave so that I could work for them. However, I could not do so. Nevertheless, I wanted to get this consultancy work, and the Ministry of Justice also needed me. So they had to find someone who could sign the contract for me. I took my time to do that job at home, not using my office hours. Once I finished the job, they paid me through the account of the proxy person who had signed the contract on my behalf. That man took a certain amount of money and paid income tax, then gave me the rest.

According to interviewees, there are many opportunities for moonlighting, for additional income that should be regulated. Otherwise, government officials who want to earn money legally find it impossible. They cannot explain to the law enforcement agencies that their income is legal, even though they do not do anything that is seen to violate the law.

By contrast, some interviewees believed low salaries do lead to petty corruption which has become rampant in Vietnam. Interviewee (5.3) thought people work in the public sector for four main reasons: (1). salary, (2) career development, (3) interest, and (4) societal reputation. All such factors come together. He supposed that public employees at lower levels demand enough for their basic living need to be met first. Then they may want a higher standard of satisfaction. Accordingly, the majority of public employees feel relatively lowly paid. Therefore, they try hard for a better position to earn more even if they have to bribe someone for it. Their main focus is earning enough for daily living.

Interviewee (5.1) argued:

Low salary is an issue. However, it only can lead to petty corruption. The rest is because of other reasons. Other crimes are committed by bad people, but corruption is different. The management mechanism and institutional structure account for 50 percent of the reasons or, as the Vietnamese often say, this is what *mỡ để miệng mèo* (puts cheese in front of a mouse).

In general, different perceptions are prevalent among public officials, citizens and firms about low salaries. The state salary is very low and often cannot meet daily needs, thus making them indulge in unlawful means to increase their incomes. Once in higher positions, and with

169

access to stronger influences through involvement in interest groups, their role in making decisions or policies helps them to get bigger benefits. However, if we look at the budget in the public sector for salaries in total, it is not inadequate. In fact, it is more about how the budgeted amount is distributed among and within the public sector. Also, important is the actual efficiency of public sector services. Moreover, what matters here is how job functions and job descriptions are allocated to individuals in the public sector. That goes beyond simply saying that salaries in the public sector are low and that this contributes to corruption.

To correct this, interviewees suggested implementing a clear and efficient downsizing policy that retains only competent employees while paying them higher salaries. Doing so will attract competent workers from the private into the public sector.

6.4.5. Discussion of the public management factors

Poor governance, mismanagement of public service and corruption are some of the most controversial issues in many developing countries including Vietnam, where the pervasiveness of corruption is a way of life. The public administration reform program is considered relatively inclusive since it covers most central areas such as governmental structure reform, institutional reform, human resource development for the civil service and public finance management. Nevertheless, commentators believe the reform progress has been painfully slow and has had limited results (Acuña-Alfaro, 2009; Poon *et al*., 2009). Consequently, it fails to keep pace with the requirements of the *Đổi Mới*. Previous studies point out the weaknesses and shortcomings in the Vietnamese public administration system. They are not only backward operational styles and manners at the micro level but also inconsistent and unsystematic institutions, having unclear tasks and mandates for public administration at the macro level (Acuña-Alfaro, 2009; Gainsborough et al., 2009; Malesky, 2015).

As mentioned earlier, it has been suggested that corruption exists because there is too much possibility for discretionary power in the public sector. In fact, moral standards worsened during the *Đổi Mới*. In the view of some other studies, corruption in Vietnam is a result of deficient reform, a consequence of the central state management and subsidy period (Acuña-Alfaro, 2009; Poon *et al*., 2009). Besides, the asking-giving mechanism, laws and implementation of regulations are perceived as a significant contribution to the persistence of corruption (Gillespie, 2009; Hausman, 2010; Wischermann, 2010).

The research findings are broadly consistent with the previous studies. However, for a more comprehensive understanding of the drivers of corruption this study highlights the following particular weaknesses within the public sector. They include:

- The state machine is too big: This research finds the state tends to control too many areas, not only the critical economic sectors and public service delivery but also social organisations. That creates a huge burden for the state budget. The unwieldy size of the state machine leads to inefficiency, overstaffing and corruption (see section 6.6.1). It can thus be suggested that institutional reform needs to be taken seriously to reduce the size of the state in the light of the principle that government governs least and only where it is necessary.

- Poor management system: This finding is in accordance with the previous studies of Acuña-Alfaro (2009), Wescott (2003), T. Nguyen *et al.* (2010), Painter (2003) and Poon *et al.* (2009) indicating that administration processes that are excessively complex and not always transparent provide fertile soil in which the asking-giving mechanism grows. Moreover, this research points out that, the fundamental reason for corruption in the public sector is the inappropriate structure of the government that leads to weak accountability among government agencies. An ineffective oversight mechanism also weakens public service ethics, since government organs cannot account for each other and the leaders cannot fine or discipline their subordinates. Moreover, because of the blurred boundary between public and private, the income sources of civil servants cannot be checked (see section 6.6.2). All these factors are encouraging corruption in the public sector. From these findings, we can infer the existing structure of government needs to be comprehensively reformed to make government agencies more accountable and transparent, as well as to deal with inefficiency in the public sector.

- Incompetent staff in the public sector: This research finding is largely consistent with recent studies that indicate a profusion of incompetent staff in the public sector severely aggravates corruption in Vietnam (see also Poon & Do, 2007, Poon et al., and World Bank, 2010). This research does suggest some possible explanations for the problem. From the legal point of view, human resource management regulation is not comprehensive. For example, the rights and obligations of public servants in performing public tasks are not defined clearly. Besides, employee assessment, discipline, and reward processes are inadequate. The process of recruitment and the promotion of civil servants relies on ascriptive personal advantages (money,

171

descendance, relationships) rather than technical competency. The training and upgrading of the staff are not linked to needs (see section 6.6.3). Such a flawed and inappropriate human resource management method is wasteful because it is unable to allocate tasks to the appropriately skilled people and unable to distinguish between competent and incompetent staff. More seriously, when jobs and positions come with price tags, it seems to be impossible to recruit suitably qualified staff (see 5.2, 6.6.3). Significantly, poor ethics in the public sector could be most severe, since public employees tend to think of what they can get for themselves rather than the good service they can provide for the public (see sections 6.2.2, 6.6.3).

However, the above possible explanations are superficial. The deepest reason could be the Party's control of human resource management. Thus, the results suggest the relationship between politics and administration, between management and service delivery, should be more clearly defined to improve the quality of public management.

- Low salary levels: it is surprising that most of the participants in this research believed a low salary is not the real reason for corruption. This overwhelming view is in sharp contrast with Hausman (2010), Gillespie (2009) Wischermann (2010) and World Bank (2010). An explanation is that public officials' incomes are much higher than their salaries. The incomes of higher government officials are not low (see section 6.4). This, nevertheless, cannot explain why petty corruption is so rampant. In fact, people at lower levels demand a salary that is enough for their basic living. If it is not sufficient, their primary focus is using their positions to earn enough money for their daily life. So, a low salary still seems to be a possible explanation for corruption in Vietnam, at least at the lower levels.

It is important to deal with the problem of a flawed system of public administration in order to reduce corruption. A strong government commitment to dealing with corruption is essential. But how can such "will" be created in practice, especially in a highly corrupt environment like Vietnam? This is a conundrum. Similarly, the idea of a sectoral approach to focus anti-corruption work in some particular areas also seems impossible to apply in reality. The question is, where the entire system is corrupt, is it possible to make officials in one or some areas change their behaviour?

Furthermore, increasing public salaries may be the right thing to do. However, it may not have much effect in a situation where corruption is political, endemic and systemic. Similarly, improving oversight in the functions of NA or establishing a merit-based system in the public

sector may be commendable in themselves but for curbing corruption they are not primary concerns (see also Gainsborough *et al*., 2009). One could argue it is much more crucial to focus on improving the rule of law, developing media and judicial independence, strengthening the role of citizens' participation in curbing corruption, downsizing in the public sector and economic reform (see also Shah, 2005). On the other hand, others may ask: is it realistic for a regime to stop doing certain things quickly since they are not a priority in fighting corruption, particularly if they are beneficial for some reasons?

To sum up, as highlighted in the list of findings, some key factors drive continuing corruption in Vietnam: historical, cultural, economic and public management. Together with the analysis of the institutional framework, having a discussion on those primary factors provides us a better understanding of the persistence of corruption as well as the failure of anti-corruption measures. Alongside the above factors, the role of civil society in fighting corruption (or political will from a bottom-up perspective) is also crucial. This will be discussed further in the following section.

6.5. The role of civil society in fighting corruption

The Vietnam Constitution Law states that "people are free to establish and join civil society organisations." The country is supposed to be governed by a principle that the "people know, people discuss, people do, and people check." According to those principles, society organisations should play a major role in anti-corruption. However, all interviewees claimed people are not encouraged to do so in Vietnam. So far, the country has not acknowledged the role of civil society although it is increasingly important.

Certainly, Vietnam has numerous mass socio-political organizations established by the Party and government, such as the Youth Union, Women's Union, and the Vietnam Fatherland Front (VFF). The VFF, supposedly "the political base of people's power." However, it is an umbrella group of pro-government organisations and it has close links with the CPV and the government. As there is a conflict of interest, it is not able to effectively exercise the rights and power of people. Thus, interviewees argued those organisations, at least in the fight against corruption, are virtually useless. Interviewee (3.4) emphasised that much money is wasted on these organizations with few results, given that they were established to serve the Party, not society as a whole.

All interviewees agreed the government tries its best to minimize the establishment and operation of CSOs. As a result, anyone wanting to establish CSOs faces many difficulties in fulfilling thet many requirements. Interviewee (3.1) cited some examples:

It has been three years since Toward Transparency came into existence but they are still operating under the Business Law. It took three years for a very well-known Charity Fund called *Cơm có Thịt* (official name *Quỹ Học trò nghèo Vùng cao* - Charity Fund for Poor Students in the Highlands of Vietnam) to get registered. The founder pulled all the strings he could and had to plead with high-ranking government officials. Nevertheless, it took a long time without any reason for delaying it.

Interviewee (7.3) gave another example:

To register a charitable organisation a founder has to show the initial amount of at least VND 5 billion. It is not possible to have such a huge sum of money because the charity is usually dependent on fundraising. The government is not capable of managing the situation. Therefore, to deter the people starting CSOs, the authorities try to make the whole exercise as difficult as possible.

Apart from the cumbersome administrative procedures for starting a CSO, some interviewees thought there is a kind of groundless suspicion about CSOs operations. Such fears are not due to any specific reasons, but they remain pervasive. Maybe subordinates feel that their leaders are not keen or interested in having more CSOs. As a result, authorities always give excuses like "development must go along with good management." It is understood that if the government cannot manage CSOs well, they should be reduced in number.

All interviewees affirmed it is even harder for International NGOs to open their offices in Vietnam, especially when their operations relate to what the Vietnamese government considers "sensitive issues" like religion, corruption, transparency, and democracy. Nagging doubts persist that international NGOs always come with some "secret agenda" that might undermine or weaken the Party and the government. The interviewee (3.1) said, "Toward Transparency (TT) is not entirely banned, but the cooperation among government bodies and the TT is not very good."

Nevertheless, interviewee (3.1) thought things are better nowadays since more CSOs are interested and actively participate in anti-corruption in AC in different ways. Besides, positive trends have emerged regarding the role of youth groups in promoting greater transparency and accountability which, in turn, could make a difference in the fight against corruption.

Interviewee (2.2) held a view contradictory to all other interviewees over this. He believed civil society should be developed alongside a market economy and the rule of law. He thought Vietnam still has not yet got the "rule of law" and "market economy" and, therefore, if civil society develops at a higher level compared to these basic requirements then that would be more harmful than helpful. He explained that according to the government strategy since 1986, Vietnam has carried out the *Đổi Mới* policy; its first priority was economic integrity and the second was integration in every field such as culture and politics. Only then could a third step, institutionalizing civil rights in the Constitution, come into effect. However, after three decades these measures have not been synchronized. Interviewee (2.2) noted that the Constitution states that people have rights to protest. However, protest remains an illegal action in Vietnam.

Interviewee (6.2) argued that, nevertheless, thanks to the development of the Internet people have more chances to access information online from many sources. He pointed out:

> In the past, a leader in a government agency could do whatever he/ she wished, but now they have to be more careful since they are monitored by various organisations. The government agencies also are forced to make administrative procedures more transparent.

Regarding "political will," here, the research argues that political will can also arise from civil society engagement that puts enough pressure on the state to take necessary steps in controlling corruption. Although, the bottom-up trend is becoming stronger than it was in the past, still it is not strong enough to get the government and the party taking action. Interviewee (7.3) claimed that only a few people are interested in politics in Vietnam. He explained, first, most people believe engagement does not help improve their lives. Besides, they have not been allowed to discuss politics for a long time, thinking it better to keep quiet and avoid any risk. That seems to be the general picture of Vietnamese society.

The interviewee stressed that even should the government give people the right to oversee its operations; people lack the necessary skills to organise and supervise such monitoring. The interviewee gave the following example:

> I live in a very modern residential area, where the highly educated people (including lawyers, doctors, and lecturers) live. A property management company was contracted to manage and maintain their residential properties. However, the company did not manage this well yet still asked residents to pay unreasonable extra costs which left them

unhappy. Instead of taking the matter up directly with the company, the residents discussed it among themselves. Finally, everyone agreed to pay the extra cost and accept the poor service, so as not to "rock the boat".

Tellingly, the interviewee believed people do not often cooperate with each other. They barely raise their voices to protect themselves. This could be a reason why Vietnamese do not engage in fighting corruption.

There are several laws and regulations which have contributed to the opening up of more areas for civil society activity. However, the findings of this research suggest it is far from a smooth process to establish a civil society, especially with such a sensitive issue as corruption. In fact, the government holds extensive discretionary powers (see sections 2.10; 6.8 and see also ADB, 2011 and Wischermann, 2010). This finding is in line with Thayer (2008) which indicated in Vietnam there is no clear distinction between state-civil society and political and nonpolitical state-sponsored organizations. However, the real issue the research highlights is that the state-civil society organisations are not able to exercise the rights and power of people. Besides, associational rights to policy and public advocacy of CSOs are very narrow since the government has continued to lock down the opposition. The above findings suggest that deteriorating public governance may contribute to higher levels of corruption (see also Dang *et al.,* 2006).

Some could argue that in different circumstances, civil society may play different roles in fighting corruption, as they do in the least corrupt countries in the world - Denmark, Finland, Sweden and New Zealand. In these countries, the rule of law is highly respected, so the role of civil society in fighting corruption might not be crucial. Others would argue it is usually the opposite: the stronger civil society is, the less corruption will exist.

Along with other actors such as elected or appointed leaders, and stakeholder groups, civil society is considered a crucial actor to act as watchdogs to attack perceived causes or effects of corruption (Post, Raile, & Raile, 2010). Nevertheless, the findings suggest that Vietnam lacks civil society organizations that can act as ombudsmen to expose corruption and the abuse of power. In the light of the data, we can infer it is important to increase the role of the watchdog and the civil society in controlling corruption. A possible solution is to establish an environment where whistle blowers, including investigative journalists, are not intimidated.

Generally speaking, it seems to be impossible to have a master plan for fighting corruption since that kind of plan always has a top-down approach. In the Vietnamese context,

if there is only top-down or only bottom up the anti-corruption measures will not be successful. Obviously, up to now, it seems there is no solution for changing the situation since the Party has shown the very low level of political will as they protect their own interests (see section 5.5.4). Not many insiders are willing to change and people are not interested in fighting corruption anymore. In other words, political will from both top-down and bottom-up is likely to be non-existent. This general picture explains why anti-corruption measures have been unsuccessful so far.

The last but not least important factor is the news media with potential to shine a spotlight on corruption will be discussed in the following section.

6.6. The role of the news media in fighting corruption

The mass media always plays a major role in raising people's awareness and advocating participation in the AC campaign. Vietnam's legal system does not restrict the activities of reporters and journalists. However, most interviewees thought, in reality, and similar to civil society activities, a free media is neither encouraged nor developed. Accordingly, journalists face numerous challenges when covering the AC campaign.

Concerning the legal framework of the Press, some interviewees (7.1,7.2,7.3) identified two aspects for consideration: (1) the status of media agencies and (2) the oversight functions of the media. Regarding the status of media agencies, the mass media in Vietnam belongs to state bodies and some political-social agencies also under control of the state. It is to be emphasised that there is no independent news media in Vietnam. As a result, the role of news media agencies is necessarily constrained.

Regarding overseeing functions of the press, interviewee (7.2) stated that in other countries, the mass media could be seen as a fourth power. However, it is different in Vietnam. The government and the Party consider the mass media one of it tools needed to manage society. The Vietnamese citizens are not aware of the news media's possible monitoring functions. They rarely send complaints or denunciation to the press agencies. Moreover, the citizens would face many challenges if they wished to do so. This interviewee gave an example:

> If an accountant in a government office wants to send the accounting books to a news agency to expose corruption, she cannot do so because no regulation supports her. The accounting books of a government agency are considered state secrets and she may be sued for any release of them. To avoid being arrested, the accountant may anonymously

send those documents by post to a media agency or a journalist. More often than not, journalists or media agencies are questioned about their sources. If they fail to answer these questions, the case will be closed or sometimes they are even arrested and prosecuted.

Interviewee (7.3) believed there are three key points to take into account when discussing the role of the news media. First, the legal framework on media reporting is quite supportive when it comes to AC. Second, the public is receptive to media coverage of corruption cases. Third, above all, is law enforcement. The interviewee thought the first two factors are relatively satisfactory, but the third was considered weak. With the ACAs seemingly "inactive" in anti-corruption, it is up to the news media to play an active role. That would entail conveying information, reporting cases, conducting initial investigations, and providing information to investigation agencies or inspectors. However, interviewee (3.1) said, "the role of the media sometimes is up and down, it depends on the will of the Party and government."

By contrast, interviewee (7.3) thought the media could only work well when it is harmonized with other anti-corruption activities. On its own, the media cannot function appropriately because it does not have sufficient legal capacity or powers to investigate. Hence, it was difficult to report corruption cases successfully without irrefutable evidence. In many cases, the news media only supply part of the story with some evidence. That may not be strong enough, but should the ACAs take investigations further they may uncover more serious case evidence. However, the interviewee argued, even the ACAs are aware that the cases the media uncover are potentially corruption cases; but if they are not supported by the top officials to investigate such cases, they will simply ignore them. Interviewee (7.2) added there were corruption cases which the media had to handle as if they were investigating agencies, even though their powers of doing so were limited. Where ACAs are ordered to investigate cases, or where they are genuinely interested, results can prove entirely different. Interviewee (7.3) claimed the ACAs do not focus on what the news media has highlighted; they may even close a case without any clear outcome, leaving the media powerless to change the situation

Interviewee (7.2) noted a regulation requiring journalists to provide the ACAs with their sources of information. That means journalists need more protection given the difficulties that they already face in accessing information for their investigations. The interviewee further mentioned strict measures and sanctions applicable to journalists investigating corruption cases. The interviewee stressed that even if laws and regulations do not restrict the activities of reporters and journalists, they must have press cards. In some high profile trials, only some

journalists can obtain referral approval or attend trials, other reporters are banned. The interviewee (7.2) said:

The authorities try to make it difficult for the media to report, especially in serious corruption cases. The conditions for holding a press card are so strict, that many competent and experienced reporters are not granted one. Press card renewal within five years also creates difficulties for journalists.

All interviewees mentioned that the "intelligence agency" oversees all public figures, or whomever they believe may have influence over society, including journalists, painters, photographers, bloggers, and writers (see also section 2.11). This is to avoid the development of a strong civil society and democracy, by ensuring there are certain issues the media cannot disclose. All this is to ensure the Communist regime remains beyond criticism. Significantly, every week there is a meeting of the Party Central Committee for Ideology and Education and the public media general auditors to inform the media what topic cannot be disclose.

Strict censorship, as a result, journalists are under constant pressure. Even where they gain evidence of corruption, getting it published is another matter. Where cases are found, the General Editor faces pressure from the government and the Party. The editor may be asked to stop publishing case details or even be threatened with a trial. It is no surprise that media professionals give up reporting finally so as to avoid punishment. Interviewee (5.4) observed:

The first thing that I have to consider is my safety and security. I have to inform the general editors of newspapers to check my writing carefully so that, if there is something that is sensitive or objectionable, I can tone it down. In fact, some people have been arrested for such write-ups, and I do not want to end up in jail like them.

Interviewee (7.2) added:

I used to be seen as a very active journalist fighting corruption. I spent much time investigating corruption cases and made films reporting about them. I hoped they would be broadcast on TV programs. However, all those good films were rejected, and I felt frustrated.

Every interviewee emphasised that censorship is robust in Vietnam. General auditors of the media agencies are the first to be held responsible for the contents published in the press.

The Journalists Association is supposed to protect journalists, but interviewees claimed it is "toothless" and not in a position to protect its members. When some journalists were

arrested because they fought against corruption, the Association never protested. Interviewee (7.2) gave an example: "Some journalists who worked for Tuoitre News were arrested and convicted. The General Editor of Tuoitre News was also threatened. He could not protect his staff. However, the Association did not take any responsibility."

In general, the narratives indicated that neither a realtively free news media, nor a robust civil society, are encouraged or promoted in Vietnam. Since the active participation of civil society in combating corruption is limited, it relies mainly on some active news media agencies which are willing to engage in anti-corruption battles. In short, the media operates under limitations (see also sections 2.11) that include:

- There is no freedom of the press. Under the Constitution, freedom of speech and expression must be guaranteed. However, this research finds there is no media freedom, as the media is tightly controlled by the Party and the government. In practice, the media is subject to government censorship, and is supposed to function as "the mouthpiece of the Party organisation." So, it is the Party's job to inform the media about what they are not allowed to report. Since there is no independent media in Vietnam, the government-owned media is unlikely to speak out against corrupt public officials and criticize the government.

- The protection of journalists is closely related to the freedom of the press. However, the research findings bring out a disturbing fact that the laws barely protect the journalists from any backlash or persecution since there is no freedom of the press in the country. Under government regulation, journalists are required to provide the ACAs with their sources of information. Often journalists who fail to provide sources of information receive harsh punishment like imprisonment (see section 2.11). The media agencies often come under attack by politicians or powerful officials if the report exposes their corruption. In fact, the anonymity of sources and precedence of fact over defamation is not acceptable. That creates many challenges for investigative journalists reporting corruption cases.

- The media requires verifiable and reliable information to substantiate corruption cases. However, the research findings show that the authorities often try to make it difficult for the media to access crucial information for reporting corruption cases. For instance, reporters are banned from access to some serious corruption trials. The findings also indicate that citizens rarely send complaints or denunciations to press agencies. A possible explanation for this may be that they are not prepared to face unpleasant legal

consequences. Another probable explanation is that they want to keep themselves anonymous to avoid any revenge attack.

- It is believed the media should function as watchdogs, agenda-setters, and a public forum. Nonetheless, the research finds the Party and the government keep a tab on all public figures including anti-corruption journalists to ensure the media do not disclose certain sensitive issues which could destabilize the Communist Party. Moreover, as mentioned above, reporters and editors are supposed to consider themselves as a mouthpiece for the government and the Party rather than as pillars of democracy. It can thus be suggested that journalistic culture needs to undergo a change in Vietnam to promote and strengthen the role of the media in their anti-corruption endeavour.

- Journalists' capacity in understanding corruption and utilizing investigation methods can determine how far the media can be a useful tool in the anti-corruption campaign. Nonetheless, this research finds the media capacity is limited or restricted since they do not have sufficient legal support to investigate corruption cases (see also Baotinnhanh, 2015). It is a challenge for the media to report corruption cases successfully without any irrefutable evidence. The findings also indicate that even if the press have sufficient evidence, it is not easy to get it published because of the influence of the Party and government pressure.

- Another interesting finding is that ACAs tend to ignore the corruption cases which the media brings to light or go slow on corruption cases, which leaves the media powerless to effect change. The findings also underline the fact that the press could work far more efficiently if it were to cooperate closely with ACAs. For example, the media may highlight the symptoms and raise pertinent questions with requests for official answers. Then it is up to relevant institutions to take such cases further. In such a murky world, the hardest part for the media is to gain sufficient evidence, such as who bribes whom or by how much.

- Motivation is of paramount importance for journalists to be successful, especially in the case of investigative journalism. This research reveals the risks journalists face; they become demotivated when their reports are rejected for publication or when they get little support and protection from the Journalists Association and government. If CSOs, and private corporations were to set up awards for acknowledging the work of such high-risk professional investigative journalists, it would certainly go a long way to motivate the journalists in Vietnam.

In general, the finding shows the media could play a pivotal role in the anti-corruption campaign if ACAs and other actors were to use the media as associates and tools for their work to increase their likelihood of success, efficiency, and sustainability. However, in practice, state agencies neither cooperate with nor support journalists.

6.7. Conclusion

The evidence presented in this thesis suggests that some factors are significant in facilitating, or providing the conditions for, if not causing, widespread corruption in Vietnam that are not adequately illuminated by Quah's approach. The analysis of the key drivers of corruption in Vietnam also provides us with a clear picture of the persistence of corruption and the challenge to control it.

Generally, the research findings confirm that corruption is the product of a complex mix of state institutions, behaviour of political elites, political and social, economic and cultural factors. The government system is extremely complex, and is characterised by a lack of accountability and transparency. Party and government officials are given too much power. There are no checks and balances in the system. These are crucial reasons why corruption has become and continues to be such an intractable problem. Indeed, corruption in the Vietnamese situation fits almost perfectly with Klitgaard's (1988) "equation."

The research finds that culture, history, and present-day practices are critical when it comes to corruption in Vietnam. The findings specified that corruption is not a new phenomenon. However, participants of the research perceived a growing entrenchment. The evidence shows that corruption has become the way of life, and is deep-rooted in Vietnamese society. Thus, it seems to be very hard to address corruption if it is culturally accepted.

Above all, the Vietnamese tend to see being a government official as an excellent opportunity to gain influence and private benefits rather than for public good. Besides, there is a *quid pro quo*, and the change of social values that make corruption commonly acceptable as well as high tolerance of corruption among Vietnamese. Further, a gift-giving culture has been converted into bribery in daily life. Besides, Confucian influences lead to nepotism and collective corruption in the public sector. Confucianism also influences how the Vietnamese government addresses corrupt behaviour. Instead of applying laws against it, the regime tends to use self-criticism and educational approaches to deal with corrupt acts.

Regarding economic factors promoting corruption, the research identified some prominent elements. First, there is a monopoly on the political power of the CPV on economic development policy and economic plan implementation. As a result, the party leaders make use of their power to benefit their interest groups. Consequently, that contributes to the rise of grand corruption. Second, the wrong approach in economic development strategy is another issue related to corruption. Indeed, Vietnam considers SOEs as tools to develop the country. However, the country fails to manage SOEs efficiently, which causes significant loss of state assets and natural resources. Some huge corruption cases were related to SOEs. Last but not least, poor economic management, especially *cơ chế xin cho* (asking and giving), is considered as a cause of grand corruption. The research finds that the lack of transparency and responsibility among economic management institutions also contributes to corruption. Besides, government economic policy frequently changes and the use of too much cash in the market also accounts for the rise of corruption in Vietnam.

The research also demonstrates several issues relating to public management, which has a strong connection with corruption. First, the massive Vietnamese state machine is unmanageable with many out-dated institutions attached in the public system. Evidence finds the structure of government organs is not appropriate; that is considered the deepest reason for corruption. Second, is the poor management mechanism such as "asking and giving," as happens in economic management, which leads to many opportunities for corruption. Third, incompetent staff in the public sector provoke corruption. As mentioned above, civil servants tend to think of the public office as a means for gaining private benefits. Flawed and unsuitable human resource management and the ignorance of applying the Code of Conduct allow corruption throughout the public sector. Lastly, the evidence shows that low salary is also a great contributor to the persistence of corruption, especially petty corruption in the Vietnam public sector.

While many factors can be considered as drivers of corruption, the findings suggest that Vietnam lacks the necessary conditions for an effective anti-corruption strategy, especially the political will from the top-down. Against this backdrop, the role of citizens, civil society, and the media is critical. Citizens with a voice can create pressure on government agencies to force them to comply with relevant regulations. However, the media and civil society are controlled tightly by the regime. As a result, civil society in Vietnam is weak. It seems not everyone in the country is aware of their rights, nor the importance of their participation in the anti-

corruption battle, especially those in rural areas where access to relevant information is limited. Therefore, the voice of citizens and civil society is likely to be muted as is the mass media.

In general, people seem to participate no more than passively in fighting corruption. This is left to the talents of journalists and some media agencies in the fight against corruption. The media itself is in a contradictory situation although the law is supportive. The system itself is unlikely to allow the media to go further than what the Party and the government require. As a result, Vietnam still lacks monitoring conducted by watchdogs in society. In other words, the political will bottom-up approach is also likely to be weak. Overall, this bleak and negative record seem to give little hope that any anti-corruption strategy could prove even relatively effective.

The following section, chapter 7 will answer sub-research questions of to what extent the institutional anti-corruption framework in Vietnam embody the requirements that researcher Jon Quah argues are necessary to combat corruption in other Asian countries and how it help us understand the persistence of corruption and anti-corruption measures in the country.

CHAPTER 7: VIETNAM AND QUAH'S INSTITUTIONAL ANTI-CORRUPTION FRAMEWORK

7.1. Introduction

The previous chapters have shown how important factors such as history, culture, economy and public management contribute to widespread corruption in Vietnam, and how these have been discussed in the existing literature. The role of civil society and the news media in curbing corruption was analysed. This section will bring the findings back to Quah's framework to explore where Vietnam fits into his Pattern Three of anti-corruption. This chapter will discuss whether some of the reasons for ineffective state action in Vietnam are rooted in the nature of its formal institutions. Then the political will (or lack of it) for the creation and maintenance of these institutions will be discussed. Finally, this chapter will revisit the relevance or appropriateness of Quah's model in the case of Vietnam. The main findings which were described in chapter 5 are outlined below:

- Despite the fact that a formal institutional framework has been put in place aimed at reducing corruption, including an ACL, the establishment of some ACAs to strengthen ACL enforcement, ratification of the UNCAC and the "National Strategy of Anti-Corruption to 2020," there has been little impact on corruption on the ground. This indicates that institutional arrangements themselves are not enough to combat corruption.
- There are unresolved problems and loopholes in the legal system and inadequate prevention measures to reduce corruption.
- There are continuing institutional weaknesses, such as the lack of implementation power and independence among ACAs.
- There is a big gap between laws and actual practice.
- There are low levels of political will to support top-down approaches to fighting corruption.
- The political interference of the Party in anti-corruption cases.
- A weak role of the National Assembly in overseeing corruption implementation.
- Serious corruption even within ACAs.

In fact, these main findings provide insightful evidence that could explain why it is tough for Vietnam to be successful when it comes to fighting corruption.

7.2. Does the anti-corruption framework correspond with Quah's framework?

As discussed earlier, Quah propounds a hypothesis on the conditions necessary for effective state actions against corruption. He posits a set of formal legal and organizational instruments which require what he called political will both to be put in place and for their continuing effectiveness. The comparison of Quah's framework for the current research could lead to findings that could shed more light on the primary research question.

Reconsidering Quah's model and based on the research findings of some key features of the institutional anti-corruption structure, table 7 below can help to see how far they could correspond to his framework.

Table 7: Key features of the institutional anti-corruption framework in Vietnam

AC strategy	
Quah's Pattern Three Components	Vietnam
An incorruptible ACA	• Corruption recognised within ACAs
Independence from police and political control	• Not independent from police and political control
Adequately staffed and funded ACAs	• Evidence unclear
Enforce the ACL impartially	• ACL is not enforced impartially
Government commitment to fighting corruption	• The government's commitment to fighting corruption is low.
Political will	
Comprehensive anti-corruption legislation	Not entirely comprehensive anti-corruption legislation
• The meaning of corruption and its different forms must be defined explicitly. • The powers of the directors and members of ACAs also need to be specified explicitly. • The ACLs are reviewed periodically to close the loopholes and deal with unanticipated problems.	• The meaning of corruption and its different forms are not clearly defined • Roles and functions of the ACAs are unclear; the power of the directors and ACSs' members is very vague; "responsibility" is stipulated as the liability of the whole society. • The ACLs are reviewed but still there are many loopholes and unanticipated problems: - Vietnam's ACL covers only corruption in the public sector but not in the private sector. Vietnam avoids legislating against illegal enrichment;

	- Under the ACL only the receiver is considered as the corrupt person, the giver is treated differently. - ACL and Penal Code are not synchronised. - Illicit enrichment, bribery, corruption in the private sector or corrupt foreign officials are not covered in the AC legislations. - ACL has no sanctions. - Inappropriate AC preventive measures and the lack of implementing provisions relating to asset declarations mechanism, asset recovery, head office responsibilities, code of conduct, gifts, information access, denunciation, and whistle blower protection.
ACAs have adequate staff, budget, and equipment	• Information is not available.
Anti-corruption is sustained & monitored by government	• Anti-corruption measures are not adequately maintained and supervised by either government or the party
ACLs are enforced impartially	• Political interference • Protection for high ranking officials
AC measures are not used as weapon against opposition	• Power struggles among political groups • Partiality of investigations
ACAs' level of independence	
Location of ACA	• Party directly controls ACAs
Appointment of the director according to merit	• Politically motivated appointments
Independent from the police	• The police are the main force in anti-corruption campaign
Take action against "big-fish."	• Turn a blind eye to "big fish."
Conduct investigation of "big-fish."	• "Big-fish" are protected
AC measures are not used as weapon against opposition	• AC measures are used as a weapon against opposition. The power of investigation and enforcement is not used impartially.

As discussed earlier and shown in table 7 there are certain elements of an effective anti-corruption strategy which are needed for a country to control corruption effectively. Quah's

elements can be considered as a package deal which means they all need to be present. The research findings are as follows:

(1). Vietnam has anti-corruption laws with multiple ACAs which fit in with Quah's Pattern Two. Quah finds reasons for the failure of the multiple-ACA model in such countries: their overlapping functions, poor coordination, and competition for limited resources, which have caused "turf wars" between those ACAs (Quah, 2013a. p241). The research demonstrates on the ground how ACAs function and explains clearly why it appears to be hard for ACAs to perform their job satisfactorily. The findings seem to be consistent with Quah's observations at some points. In Vietnam, the complex multi-layered approach to a potential corruption case makes the whole system confused. In practice, it is not clear which organisation is responsible for what duty in investigation, procuration and trial stages. In contrast to Quah, the findings of this research indicate it is not because of the overlapping jurisdictions and competition between ACAs but the poor coordination and unclear role and task of each ACA lead to ineffectiveness of ACAs. The research finds the ACAs tend to pass the buck to avoid their responsibility rather than become involved in turf wars, as Quah claimed (see section 5.3.3).

(2). Quah underlined the need for good anti-corruption legislation. Vietnam has anti-corruption legislation which some other researchers considered comprehensive (Davidsen *et al*., 2009; Williams, 2013). However, the evidence of this research demonstrates it is not. In fact, there are many loopholes in the ACL which are highlighted in table 7 above (see also sections 5.5.1, 5.5.2, 5.5.3). The research finds the weaknesses of the ACL generate many difficulties for ACAs when it comes to dealing with corruption cases.

(3). Quah points out that a country needs an ACA with adequate staff and budget. The research findings are unable to confirm whether the ACAs in Vietnam are provided with adequate staff and funding since the research fails to get evidence on that. Nevertheless, the research shows that resources for ACAs are not considered as the main problem that impedes the ACL implementation (see sections 5.6.4, 5.5.5).

(4). Quah strongly emphasises that the ACL must be enforced impartially by an incorruptible ACA. However, the findings suggest that ACAs themselves are likely to be corrupt (see section 5.5.5). As a result, the findings demonstrate that ACL in Vietnam is not applied impartially (see section 5.5.4.1).

(5). Quah underlines the fact that government's commitment when it comes to fighting corruption is a crucial factor that will determine the degree of success of the anti-corruption strategy. Interestingly, the findings demonstrate that no matter whether the anti-corruption campaign is under government or CPV control, there is barely any effect on the scale of corruption on the ground. That demonstrates ineffectiveness, but it does not demonstrate a lack of commitment. In fact, this research finds the lack of commitment has to be shown by factors such as political interference, higher-ups delaying or obstructing necessary investigation or prosecution approvals (see section 5.3.2).

In short, considering Vietnamese circumstances, the findings of this research suggest that many of Quah's required institutional conditions are present in Vietnam. However, they are not present as a full package. Why is it so? The following section is a critical account of Quah's model and attempts to look further for the reasons for the failure of these conditions to be present in Vietnam.

7.3. "Political will" in fighting corruption in Vietnam.

The quintessence of Quah's framework is the "political will" which is considered to be a necessary condition for effective state action against corruption. Previous studies have shown that Vietnam has a very low level of political will when it comes to fighting corruption (see Painter, 2014 and Vuving, 2013). This research investigates further to assess how political will is in reality by presenting supporting evidence.

As regards the top-down approach of the political will, the research examines political will from two angles: the intentions of politicians indicated by the anti-corruption legal framework and how that political will is present in an implementation.

7.3.1. Vietnam's Anti-Corruption Law

Regardless of the complications and the lack of essential provisions of the Vietnamese legal system, the research finds the anti-corruption legal framework itself is not at all appropriate. For example, there is a mismatch between the Penal Code and ACL. Besides, the provisions of ACL are only for the public sector; not for the private sector; there is no legislation against illegal enrichment. More generally, the ACL has no sanctions such as specification of offences and penalties and means of enforcement (see section 5.5.2). Furthermore, some other drawbacks exist in the preventive measures such as a lenient asset

declarations mechanism and weak asset recovery instrument. Head office responsibilities are also inappropriate. A Code of conduct in government offices is not applied while gifts regulation is too formalistic. Furthermore, an information access rule is unclear, denunciation law is complicated, and there is no effective mechanism to protect whistle blowers (see section 5.5.3).

Arguably, in theory drafting appropriate law changes to correct these deficiencies would not be impossible. The question is: why does the NA not take fixing the law seriously? Among others, all party leaders including the CPV Secretary General, President, the Prime-Minister, ministers, and leaders of party and government organs are NA deputies. In fact, many top party officials are themselves main beneficiaries of a corrupt system, and they are also lawmakers. As a result, they are bound to be the most affected if the ACLs are amended. That seems to be a reason why the country deliberately avoids improving ACLs, especially important issues such as legislating against illegal enrichment or publishing asset declarations.

Furthermore, legally, the NA is supposed to have supervisory and monitoring powers when it comes to anti-corruption measures (see section 2.6.5). However, the research findings show the NA deputies have the minimal authority to carry out their job since their roles are restricted and unclear. A deputy can be both a lawmaker and a law enforcer. One of the most complicated factors is that most of the NA deputies, ACAs' leaders, and its members are Party members. Therefore, those people have a dual role. Under the Party doctrine, all Party members have to obey their Party organization. If there is a conflict between one's work and the benefit of Party organization then they have to listen to the Party (see section 5.5.6).

Although there are still some loopholes in the AC legislations as discussed above, the research findings indicate they are not the core issue in Vietnam when it comes to anti-corruption strategy; that is the ACAs' capability to implement the ACL. So, why have the laws been particularly ineffective? Why is it that corruption remains such a huge problem in Vietnam? These issues will be discussed in the following part.

7.3.2. The Anti-Corruption Agencies' constraint to implementing the Anti-Corruption Law

Regarding the ACL implementation, the capacity of ACAs to deal with corruption cases impartially and independently is crucial. However, examining the current institutional structure of ACAs one wonders how the ACAs would work in that complex system. Evidence from the

research findings proves it is far from an easy task for the agencies to perform their job well since multiple factors impede their work (see sections 5.3.3, 5.5.4, see also Painter, 2014). Moreover, the independence of the ACAs is often called into question (see section 5.5.4.1). The findings indicate the government and the CPV often interfere with the decision-making of the ACAs themselves (see sections 5.4, 5.5.4). As a result, law enforcement is handicapped. In fact, when it comes to legal decision-making, the party directive system is considered to be of higher status than the legal system (for example the Directive No.15). Therefore, in corruption trials, especially when the case involved Party members, it seems that the decisions of the judges were based on the party decisions. *Án bỏ túi* (predetermined judgements) are very common, and the court case has little meaning in practice (see also MacLean, 2012).

The findings strongly suggest that it does not matter where the ACAs are located and who their directors are, since they are all under the Party's control or they are political appointments. Therefore, this research indicates that the location of the ACAs in Vietnam is not as important an issue as Quah suggests.

Quah believed the power of the directors of ACAs or its members should be clearly defined in the ACA legislations. However, this study finds that in Vietnam not only are the roles and functions of the ACAs unclear but also the power of the directors and ACA members is very vague. For example, the prevention of, and fighting corruption are the "responsibilities" stipulated as the functions of the whole society. Thus, there are many agencies involved, but it does not accurately identify which one is responsible particularly for anti-corruption (see section 5.5.4.1 and figure 4).

In fact, the ACA's work is impeded by multiple factors including the legal system, Party direction, and government control (see section 2.7 and figure 4). For instance, all state inspection agencies (including the GI, inspectorates of ministries and ministerial-level agencies, provincial-level inspectorates, inspectorates under provincial-level departments, and district-level inspectorates) have authority to conduct a specialized inspection, settle complaints and denunciations and fight corruption along with their other duties. Once inspectors discover a corruption case, it will be handed over to the Criminal Investigation of Corruption Branch in the Ministry of Public Security (known as C48) and the Prosecution and Procuracy for Corruption Cases (known as 1B) (see section 5.3.3).

Research findings indicate the investigation and prosecution of corruption cases sometimes seem to appear as a "black box" even within ACAs. The overlapping of functions of different institutions and poor cooperation between them lead to passing the buck among institutions (see section 5.5.4.1 and see also Painter *et al*. 2012).

Significantly, the findings show that Party's absolute control of all decision-making in the state apparatus creates a complicated and confusing system. It leads to manipulation of state powers, which undermines the ability of different institutions of the state. That in turn, severely restricts the ability of state systems to curb corruption (see sections, 5.3, 5.5.4.1, see also Painter, 2014). If there is a Party member involved in the case, the party will also do their investigation independently, or they may intervene in the investigation and all other legal processes (see section 5.3.3). This kind of interference makes it very complicated for the ACAs while dealing with corruption cases.

Recently, the CSCAC and Internal Affairs have been assigned the anti-corruption responsibilities, and these seem to have more authority than other ACAs. That gives rise to many debates. In fact, it is argued that basically, the whole process of dealing with corruption must be conducted under the Criminal Law and Criminal Procedure Law. However, the research shows the ACAs are directed by an even higher level such as the Party Secretary General, the Politburo, or the Party Central Secretariat Committee. Therefore, it is very hard for ACAs to perform their duty effectively (see sections 5.3, 5.5.4.1).

In general, the government must assess their capacity to implement an anti-corruption strategy to demonstrate their willingness and make a commitment. Indeed, a lack of political will can be connected to insufficient capacity of ACAs. The research reinforces Quah to reveal that the lack of enforcement of ACLs in Vietnam seems to have a strong connection to a lack of political will. That can be seen through the outcomes of ACA actions (see section 5.5.4).

The primary purpose of independence is to let the ACA deal with the corruption cases and take actions against the "big fish." Quah is concerned about whether the ACAs take action against "big fish," whether they conduct investigations into the activities of "big fish," and whether AC measures are used as a weapon against opposition. In fact, this research found that not all officials who are investigated for corruption offenses are convicted. Only those at middle level downward may get caught, but not the senior level government officials or politicians. Some selected candidates at middle level downward can be investigated and prosecuted but this also depends on political factors and the whole process is guided by the Party. The highest

level officials cannot be touched. The evidence shows that more often than not corrupt officials are dealt with internally such as by administrative discipline rather than as criminals (see section 5.4, 5.5.4).

In the last four years, Vietnam has held several high-profile corruption tribunals using severe punishments including capital sentencing. Several high-profile officials and business people who are intimately connected with the Prime Minister have already been prosecuted. However, it could be argued that fighting corruption in Vietnam is like choosing "unlucky candidates" rather than being driven by law. The research indicates the trials were part of an ongoing struggle among the country's top leaders (see section 5.4).

Indeed, most of the corruption in Vietnam is corporate, interdependent corruption that involved a group of officials. Thus corrupt acts are often protected especially when it involved Party members (see section 5.4, 5.5.4 and see also Gillespie, 2002 and Gainsborough, 2003). As has been shown, Party members are protected in many ways. Therefore, ACAs have to follow a political stance rather than the law enforcement and all cases relating to Party members have to be approved and guided by the Party (under the Directive 15). If the ACAs want to prosecute someone who is a Party member they must consult and ask for permission from the Party Committee in that person's organisation or the higher level. When proposing an investigation of a senior or high-ranking official, any decision to proceed is always made by the CPV's top leader (see sections 5.5.4). Thus, any anti-corruption proceedings involving Party members are taken out of the general legal system and managed as a party process with decisions being made as much according to the status of the Party official under investigation as to any evidence of an offence under ACL. More often than not, the CPV advises errant members to moderate their behaviour rather than approve an inquiry.

Quah observed in his "political will indicators" that ACA's efforts must be sustained, and the government must monitor their impact. However, the evidence in this study shows that the CSCAC was taken over by the government because the party wants to take over the government's power. The performance of the government in anti-corruption efforts had proven to be ineffective. Nevertheless, the research finds out that no matter whether the anti-corruption measures are monitored by the VCP or the government it is unlikely to work since the whole system is corrupt and the country's top leaders seem to benefit the most from a corrupt system (see section 5.2). Although, the country's leaders are aware of the problem, the findings reveal that they are likely to retain the current institutions. From the findings, we can thus infer that

Vietnamese leaders would not be willing to improve ACA capacity or strengthen ACA legal frameworks (see sections 5.3.2, 5.4 and see also Vuving 2013).

7.3.3. The appropriateness of Quah's model in the case of Vietnam

Quah proposed five necessary elements for an effective AC strategy, as listed in table 7. They all emphasise institutional anti-corruption approaches that focus on legal and administrative processes, threats of penalties, and well-built systems designed to expose and punish corrupt activities. However, it is argued here that these elements are unlikely to be adequate to deal with corruption in Vietnam.

Since Quah's institutional framework has been proven to be successful in Hong Kong and Singapore because it led to the elimination of corruption, he argues the same features must also be present in other countries, if corruption is to be controlled. One could argue that Quah's predominantly institutional approach might be necessary for Vietnam. The advantages of having a single ACA are listed earlier in table 3. Even though there might still be a problem of political independence being almost meaningless in such a one-party-state. Nevertheless, were it to be established and adequately resourced then it might be able to be at least marginally effective. It could then attract more popular support and become an influential agency in its own right, even developing some degree of relative autonomy within the governmental system.

This research leads to the view that a single independent ACA has to be formed along Quah's lines, to take the lead in developing an AC strategy and in implementing it, rather than being controlled or being embroiled in power struggles among other institutions. The most serious question here is whether the CPV wants to establish it. It would be possible if one of the party leaders attempts to lead the ACA role and wants to enhance their power by this means. However, considering the Vietnamese current political situation, it is highly unlikely that the conditions for Quah's framework can be put in place (particularly an independent and transparent legal apparatus from investigation to prosecution, and punishment). If that single ACA were established it might not make much of a difference to corruption in Vietnam. How could autonomy and independence be achieved in a one-party state without political checks and balances in the governmental system? Is it feasible? Would "relative autonomy" suffice? Or would it have to be full independence, or nothing? Where should such an ACA be located in the Vietnamese governmental system?

Notwithstanding, the success of single-agency approaches - such as independent ACAs in Korea, Thailand - depends on circumstances that are unlikely to repeat the success of ICAC and CPIB (see also Meagher, 2004). It could infer that, even though Quah's necessary conditions are consistently connected with success, they are not necessarily sufficient. Even if all these necessary conditions are present, the levels of corruption might overwhelm an ACA that can address corrupt areas but not the effects of unsound governance environments. Other conditions also need to be present to ensure the success of an ACA, including public order, political stability, macroeconomic stability, and more importantly the existence of the rule of law. Those important factors, however, are absent in Vietnam.

Perhaps two crucial institutional design factors should be taken into account when establishing ACAs in Vietnam. For example, (1) their focus, accountabilities, and level of independence; (2) the strength and foundations of their power. However, the most successful ACAs are likely to work because the systems are characterised by effective laws, judiciary system, and financial governance. In other words, ACAs are not effective if these factors are not present. More importantly, the most crucial need for an ACA is a strongly-established rule of law.

So, what conditions need to be applied for Vietnam to be governed by the rule of law or, in Quah's language, a particular type of "political will" binding political elites to follow the rules? Why are elites in a corrupt country like Vietnam not bound in this way? Quah's argument is that elites need to be "accountable" in the sense of being at risk of losing their elite status or being punished. A basic question to ask is what, in the first place, creates the will of governments; what incentives lead political actors to attack problems of corruption or to behave less corruptly? This research finds a counterfeit "political will", which undermines the anti-corruption measures in Vietnam. It shows the political will from top-down is merely window-dressing. On the surface, the whole anti-corruption system seems to be relatively inclusive, but when it comes to enforcement there are many obstacles which inhibit its effectiveness.

Here there is a necessary awareness that political will may not only flow from the top-down but also from the bottom-up (see also Brinkerhoff, 2010). Accordingly, anti-corruption activities may derive from civil servants at grassroots levels, strongly dedicated to prevent, control, and expose waste, abuse, and fraud. For example, in some cases in Vietnam, these people are found outside the state system, including groups of citizens, and the private sector. The willingness of these players to attack corruption problems, to participate in

whistleblowing, to express demands and concerns, and to apply pressure to government officials is a well-recognized contributor to reinforcing political will and sustaining reform. Similarly, any anti-corruption reform comprising only top-down approaches with some supply-side interferences will prove insufficient. Bottom-up, demand-driven contributions are vital to success. Therefore, it is crucial for Vietnam to strengthen all components in the spectrum that comprise political will.

7.4. Conclusion

Comparing Vietnamese anti-corruption framework to Quah's criteria to answer the question of to what extent the institutional anti-corruption arrangements in Vietnam embody the requirements that Quah argues are necessary to combat corruption in other Asian countries, this research has uncovered further insights into Vietnamese ACL and its implementation. The findings provide a better understanding of the relative lack of success so far of ACL. In fact, some of Quah's necessary elements are present in Vietnam, for example, Vietnam has anti-corruption legislation which is implemented by some ACAs. However, not all the necessary conditions which Quah highlights a country needs to reduce corruption are present in Vietnam. It, therefore, can be assumed the institutional approach or top-down political will alone is unlikely to be successful in the Vietnamese context. Indeed, corruption continues to be rampant in the country.

The current research suggests the failure of the anti-corruption measures is mainly because of the implementation. In other words, the ACAs' capacity to control corruption is unlikely to get enough attention. In Vietnam, the policy makers seem to forget the role of implementation. In fact, having anti-corruption legislation without systemic ability to implement effectively has no value whatsoever. Thus, it is vital to improve the capacity of ACAs to get a better result in fighting corruption.

Besides, in the broader sense, the capacity of ACAs can also mean the ability of the anti-corruption institutions to investigate, prosecute and convict those guilty of corruption under the law. "Capacity" here could also mean that ACAs have a favourable environment in society as a whole: for example media attention, whistle blowers, complaints, and changing social attitudes to support their investigations particularly and also to hold the political elites accountable. However, those crucial elements seem to be absent in Vietnam.

In the case of Vietnam, merely examining the role of such institutions alone is not enough to get to the bottom of the corruption although it may bring to light certain factors. Therefore, the answer for research sub-question two is Quah's framework seems to be impossible to get the full picture of the persistence of corruption in the country.

The last chapter will present the conclusions, the limitations and the findings of the study. Moreover, this section will provide some implications for future research about corruption in general and in Vietnam. Further, it will give some suggestions for public policy on how the current state of Vietnamese society reinforce political will which in turn would give the ACAs the resources, formal legal powers and efficient system-wide support for effective action.

CHAPTER 8: TOWARD A MORE EFFECTIVE ANTI-CORRUPTION STRATEGY IN VIETNAM

8.1. Summaries of the research findings

The primary purposes of this study were to (1) provide a better understanding of the persistence of corruption in the public sector in Vietnam, and (2) explain why anti-corruption measures in Vietnam have been unsuccessful with particular reference to Jon Quah's anti-corruption framework. The research addressed two main angles: the institutional anti-corruption framework and non-institutional factors. One of the primary expectations of the research was to explore participants' views on anti-corruption policies and their implementation in Vietnam, to understand the story behind anti-corruption and the actual anti-corruption effort of the country. Likewise, the research illuminates some factors identified in the literature that must be better understood when dealing with corruption. Those factors might contribute to or influence persistent corruption, or they might affect the outcome of implementing anti-corruption measures in Vietnam.

A significant contribution of this research is to fill the gaps in the previous literature on the political dimensions of anti-corruption strategies, especially the independence of ACAs and political will from both top-down and bottom-up approaches in controlling corruption. Another primary contribution of the research is to capture lived experience of corruption in Vietnamese society. The study gives a clear explanation of what government officials and ordinary citizens think about corruption and how they explain corrupt behaviours. Furthermore, the research drew a picture of ACA working systems from insiders' perspectives, especially the weaknesses of the ACL and its implementation procedure.

The research provides an understanding of the persistence of corruption in the public sector. It makes several associations amongst academic disciplines and subdisciplines concerning the everyday practice of corruption, and about anti-corruption legislation implementation in Vietnam. There seems to be a general assumption that, once appropriate institutional reform has been carried out, the problems of corruption will be solved. However, this research argues that the anti-corruption programme designed to develop institutionalist capacities is by no means sufficient.

This project situated Vietnam's anti-corruption strategy within Quah's framework, which identifies elements needed for an effective anti-corruption strategy in any country. Those

elements include a set of formal legal and organisational instruments and the need for political will as a required package for a workable anti-corruption strategy.

Other significant factors - historical, cultural, economic, and political - are facilitating, if not directly causing, widespread corruption in Vietnam. All are explored in the research which presents primary data from interviews conducted with a range of politicians, government officials, academics and officials of international organisations, as well as NGOs, journalists, and the general public in Vietnam. Given all that this study has scrutinised, it would be useful to highlight some primary findings:

Primary Finding 1: Vietnam's corruption is the product of a complex mix of state institutions, elite political behaviour, social, cultural, economic and management factors. These are the root of the corruption problem in the country, but they have not been seriously addressed. The research evidence shows a chicken and egg situation. In general, individuals, even insiders, do not believe the system has changed or will change, so they do what they have always done: they abuse public power for private gain, even when their personal beliefs and preferences might otherwise lead them not to do so. The whole system has a reinforcing dynamism, which tends to undermine all attempts at reform. The persistence of corruption in the public sector can be described by an old Vietnamese saying: *thượng bất chính hạ tắc loạn*, or "the fish rots from the head."

Alongside the culture, the fundamental reason for corruption in the public sector is the inappropriate structure of the government that leads to weak accountability among government agencies. The state directly controls too many areas, not only the critical economic sectors and public service delivery but also social organisations. However, the management mechanisms have proven to be inadequate. Thus, the state machine leads to inefficiency, overstaffing and corruption.

Primary Finding 2: An institutional anti-corruption framework itself, while necessary, cannot adequately deal with the multi-factor causes of corruption in Vietnam.

Quah underscored the importance of the institutional framework in curbing corruption. The researcher finds that in Vietnam there are several elements of what Quah recommends are essential institutional elements present in the Vietnamese system. For example, Vietnam has an ACL and ACL enforcement. Why are the anti-corruption institutions not effective in reality? The main reasons include:

- In Vietnam, "everything can be bought at the right price." This means the extent of corruption is extremely significant, both in term of scale and forms. It happens everywhere in the governmental system, even among the ACAs.
- To address this national calamity, the country enacted an ACL in 2005 and established some ACAs. However, many factors hindered their efforts. The current ACL has many loopholes, including a vaguely-stated mission and no jurisdiction in the private sector. Corruption and corrupt acts are not clearly defined; the ACLs and the Penal Code do not match. Besides, regulations for anti-corruption work are relatively weak.
- The existing anti-corruption institutional framework was not designed to allow ACAs to function well. There are too many agencies involved, with poor coordination among them, and buck-passing which greatly weakens overall effectiveness.

Primary finding 3: Political will is not only about providing ACAs with enough resources, nor about their institutional arrangements, it is also about politicians being willing to support the institutions they have created and to reinforce their effectiveness by making hard and unpalatable political decisions.

Quah considers political will to be the most critical factor for controlling corruption. He claims an institutional framework needs to express this political will. Vietnam has some level of political will since it has an ACL and ACAs. In fact, this study finds a spurious, ersatz political will which undermines the anti-corruption measures in Vietnam. The CPV and the government attempt to tick the box to make the whole anti-corruption system look good, but they are not keen to prepared it or let it do its job impartially and without fear of retribution.

The research finds a significant gap between laws and their actual implementation. By law, ACAs need only obey laws but in practice, they are under the guidance and direction of the CPV. In other words, the ACL is not enforced impartially and independently, since the CPV itself controls the whole anti-corruption system. The CPV does it best to protect its members rather than genuinely trying to control corruption.

Primary finding 4: The essential elements of political will in fighting corruption involve not only the institutional framework (the top-down approach) but also society as a whole (the bottom-up approach).

The research has examined Quah's idea of political will to see what it means in practice in Vietnam. It finds that not all his essential components are present in Vietnam. The CPV and

the government manipulate a corrupt system for their own benefit. Therefore, the capacity of the ACAs to control corruption does not get enough attention from the governing authorities.

The research confirmed that corruption in Vietnam is endemic, systemic and extremely political; it is unlikely the current political, constitutional and institutional structure will change in the foreseeable future. Too many Vietnamese officials continue to benefit from the corrupt system, and anti-corruption measures remain ineffective. Therefore, a largely institutional approach, based on the top-down political will, is unlikely to be successful in Vietnam.

To improve the situation only strong pressure from citizens could force the CPV and the government to make an effective effort to control corruption. However, the research finds that Vietnam's lack of CSOs strongly impedes any efforts to control corruption. The weakness of CSOs in advocacy, and the absence of legal advice to help citizens in engaging in anti-corruption activities, also make bottom-up political will relatively weak at this stage.

Thus, to ensure the effectiveness of anti-corruption measures, it is necessary to have not only a high level of political will from the top-down but also from the bottom-up. This research proposes that CSOs should be an integral part of any anti-corruption model in Vietnam. Active participation from civil society, and the mass media would create pressure on the government and the Party and significantly increase the effectiveness of the anti-corruption strategy.

Toward a more effective anti-corruption strategy in Vietnam, in the final sections, the limitations of the research, implications for future study and policy implications will be presented.

8.2. Limitations and implications of the research

8.2.1. The research limitations

Considering the fact that Vietnam is a one-party Communist state where the party dominates society, corruption is an extremely sensitive and delicate topic. Corruption information is tightly controlled by the government, which means information available to the news media and other published sources might not reflect the real extent of corruption in the country. The government tends to be less reliable in documenting relevant primary and secondary data on corruption. Even if it is documented, the documentation was difficult to access. Although the researcher managed to get a considerable amount of data from her research subjects and gained reasonable access to primary and secondary data, this study does

not claim the research is deep enough to say everything important about corruption and anti-corruption in Vietnam. Despite these comprehensive results, there are some notable limitations.

The research presented in this thesis remains at the exploratory level. It makes a contribution but it cannot in itself truly inform discussion of what Vietnam should or should not do to reduce corruption. The study also was limited by a lack of information in establishing the relationship between market socialism, the structure of government and corruption.

Evidence presented in this research sheds light on some of the key factors which lead to widespread corruption in Vietnam. However, more research is needed, especially on how the participation of civil society and the news and social media could contribute to controlling corruption in more effective ways. Social media has not been discussed in this research. However, it will in the future research become an increasingly significant factor in public discourse as it often attracts hostile government reaction.

8.2.2. Implications for future research

There are several areas where further research is needed. These include the choice of methods for corruption research and the possibility of action research, involving Vietnamese people in the development of more effective AC practices. Likewise, future research on expanding the institutional framework model is needed such as research on the notion of political will, the establishment of a single independent ACA, and on the capacity of the ACAs. Further study is needed on the nature and operation of market socialism, the structure of government, politics, administration, management and service delivery. More study needs to be done on the asking-giving mechanism, the Party's control over economic development, SOE governance and role in the market economy, and their relationship to corruption. Moreover, the relationship between the state and society, institutions of Vietnamese society, the role of civil society, and cooperation between the media and civil society in relationship to corruption, all require much more investigation. In the following paragraphs, each of these points will be discussed in detail.

There is not enough primary data readily available about corruption in Vietnam. Therefore, continuing attempts to generate additional interviews, surveys, case histories, ethnographic or another cultural research are needed. There should be more access to the use of existing primary data, such as official information and records. Because there is a shortage of secondary data on corruption, it would be ideal for a research community, not just to generate

more information (and analysis) on corruption but also to share it in debate and discussion with other researchers to test the evidence and associated arguments. Furthermore, using different methodologies to find different approaches is bound to yield different kinds of data, which in turn could lead to groundbreaking research findings.

A cross-disciplinary approach is critical for corruption research. This study extended the model of drivers and enablers of corruption, drawing on several disciplines. A single perspective can provide only an incomplete picture of the persistence of corruption, and the failure of anti-corruption measures. This study takes into account different ways of studying corruption. They include conceptual, institutional, historical, political and management approaches. A multidimensional research approach is necessary for future studies of corruption in Vietnam (and elsewhere).

Participant research is needed to involve Vietnamese people in the development of more effective anti-corruption practices. There should be a greater interaction among Vietnamese academics from disciplines such as political science, economics, sociology and public administration. This could enable better cross-disciplinary policy responses to emerge. If Vietnamese academics were to focus more on corruption as a topic for public debate and research, it would help to raise public consciousness of the country's corruption problem. The academics should involve the CPV leaders and politicians in this research and discussion (although it seems likely that many politicians would not wish to participate, given their own involvement in corrupt practices).

Quah's model is a very useful starting place to explain corruption and anti-corruption in Vietnam. However, this research suggests that it is both necessary and appropriate to take into account a wider range of factors and relationships than Quah does. Context is important: Vietnam is not Singapore or Hong Kong (or China, or the Philippines). However, the limitations of Quah's framework for explaining and understanding the Vietnamese case suggest a researcher using any particular framework should adopt it with caution. Models abstracted from reality, and contexts differ from country to country. Moreover, what is important might change over time.

Quah's primary lens on corruption, leaving aside the political will, focuses on formal institutions. An institutional analysis alone is unlikely to provide an adequate explanation of the drivers of corruption, or effective anti-corruption activity, in any one country. Further work is required on the notion of political will in Vietnam to develop this concept theoretically and

understand it in practice. A full picture of political will, covering both top-down and bottom-up approaches, is required. Another key point for further research is the design of formal institutions, which while not sufficient for policy effectiveness are nevertheless necessary conditions, as Quah argues.

Further research should be undertaken to investigate whether the establishment of a single independent anti-corruption agency is indeed such a critical element in controlling corruption in Vietnam, or elsewhere. Whether a specific anti-corruption agency is necessary at all (many clean countries do not have any IACA; for example, New Zealand, and Denmark). Furthermore, more needs to be done to assess the success or failure of ACAs internationally.

The research investigates the capacity of ACAs to investigate, prosecute and convict those guilty of corruption under the law. However, several questions remain unanswered at present. For example, further research should be undertaken to investigate the capacity of the ACAs. They have the staff and budget and the formal legal powers to carry out their functions but need the backing of the wider system to enable them to use their organisational capacity efficiently and effectively.

The Vietnamese system is a marriage of socialist ideology and the market economy called market socialism or Market Leninism. This research shows that translating socialist ideas into implementable economic policy remains a challenge for Vietnam. Research questions that could be raised: Is there any evidence to show how far the ideology of the Party is changing or has changed? Has the Party rhetoric changed, and, if so, why? Has rhetoric become more closely matched to actual practice? How does market socialism raise the risk of corruption?

The existing structure of the Vietnamese government lacks accountability and transparency. This leads to ineffectiveness and corruption in the public sector, and points to another area for future research: How far do the existing structures create corruption opportunities? That is, do the systems and processes of accountability actually facilitate the continuation of corruption, and if so, how?

To improve the quality of public management in Vietnam, it is necessary to distinguish clearly between politics and administration, between management and service delivery. More research on this topic needs to be undertaken for the association between politics and administration to be more clearly understood.

The asking-giving culture provides many different opportunities for corrupt activity in governmental administration. These stem from the tight political-business relationships in the

country's economic management, from which government officials gain direct benefits. Related to these economic factors, further research should be undertaken to investigate CPV control over economic development, and associated opportunities for corruption. There are still many unanswered questions about the sources and uses of capital in SOEs, or about SOE governance practices that lead to corruption. Economic inequality between the SOEs and the private sector gives rise to corruption, and this too needs much closer examination. Would reducing SOEs' roles reduce corruption opportunities? This question requires further research.

The research agenda also needs to address how the informal institutions of Vietnamese society might be changing (under the pressure of economic, social and demographic change, or exposure to globalisation), and how this might affect the drivers of corruption. Can a sort of tipping point be reached, which will generate decisive political and social action against corruption?

Certainly, a principal question for future research is how the relationship between state and society (both ways) can reinforce or impede effective action against official corruption. Evidence from this research shows that, from time to time, some significant figures respond to popular anger over corruption. Vietnam's long history has shown that people do not remain passive. When citizens are extremely angry they will rebel en masse against authority. Partial improvements in anti-corruption effectiveness are better than no improvements. Even if the Party does not allow discussion or prosecution of some types of (probably grand) corruption, some anti-corruption activity can still make improvements in the day-to-day relations between citizens and officials. So part of corruption research is continuing to gather the metrics: is people's experience with corruption changing, and if so, how and why?

In the anti-corruption campaign, the roles of the news and social media watchdogs, and the civil society, in Vietnam are critical. A possible solution for strengthening the role and influence of civil society is to establish an environment where whistle blowers, including investigative journalists, are not scared to speak out. Therefore, more research on this topic needs to be undertaken to understand what a supportive legal environment looks like, how it can be created, and by whom.

Close cooperation between the media and civil society would not only expose corruption in the short term but could also help Vietnam build a culture of transparency and accountability in the longer run. A research question that could be asked is: what are the ways of identifying the reporting of civil society activity in the media or the use of social media by civil society?

Further research should be undertaken to investigate how the news and social media can influence the norms the society is built on, by changing people's perceptions of what is right and what is wrong. Changing people's attitudes could initiate changes in people's behaviour, which in turn could lead to less tolerance for corruption, more robust vigilance, and more social contribution to anti-corruption efforts.

8.2.3. Implications for public policy

Since the existing structure of the state constitutes a major factor in facilitating widespread corruption in Vietnam this research suggests that the institutional reform needs to be taken seriously. The size of the state apparatus needs to be reduced and made less complex. Moreover, from the research findings we can infer that Vietnamese government agencies need to be rendered more accountable and transparent, to enhance the efficiency and effectiveness of the public sector.

The findings of this research clearly indicate an urgent need to reform the anti-corruption institutional system in Vietnam, so it becomes much more effective. It is of paramount importance that the roles and functions of each ACA are clearly defined to avoid wasteful overlapping and inter-agency conflict. Instead, cooperation among ACAs needs to be greatly strengthened. Corruption investigation, prosecution and trial procedures need to be more credible and publicly accountable. The anti-corruption strategy and processes must comply with the legal system, meaning the operation of ACAs should be impartial and free from political interference.

The research shows that fighting corruption in Vietnam mostly depends on how far the deep-rooted cultural factors, which breed corruption, can be transformed. Even though anti-corruption legal frameworks and other watchdogs are in place, the actual means of change seem to reside in the hearts and minds of the Vietnamese people. That means the bottom-up political will of the people needs to be robust enough to put pressure on the government to make a real improvement in controlling corruption. If people were to become culturally more resistant to paying bribes, the government might react by putting more pressure on officials not to demand them; this would, in turn, encourage people further to resist the requirements of the bribers. Policy attention, therefore, needs to move on to the design of effective incentives for the populace to resist succumbing to bribe demands. Secondly, there is a possibility that this citizen resistance will, in fact, make governments more accountable for taking effective action against corruption. That will be an effective counter to both grand and petty corruption.

CONCLUDING REMARKS

In general, corruption remains a very delicate topic everywhere in the world. In a one-party, authoritarian, communist state like Vietnam, where corruption is systemic and endemic, it is not easy for research on corruption to be conducted by Vietnamese citizens and academics. The Vietnamese authorities not only strictly control information but they also control the academics' work. Critical analysis by scholars is largely silenced in Vietnam, as corruption is considered by the CPV to be one of the most sensitive topics. As a result, those who conduct their research on corruption in the country can face threats. That kind of fear and intimidation might lead to a watered-down version or abandonment of their research. To persevere against this culture requires commitment, dedication, and a willingness to take personal risks.

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Appendix 1: Guiding questions for interviews

These are primary and guiding questions that may be changed to suit the participant and context.

Category 1: People's lived experience of corruption

- Have you ever had to bribe a police officer (or a teacher, a doctor, etc.) or known someone who has done so? If so, how is it done? How do you feel about it?

Category 2: The anti-corruption legal framework

- Have you ever come across the ACL of the Vietnamese government? If so, could you please tell us your experience?
- Do you think ACL are necessary for Vietnam? Could you please state the reasons?
- What are the key reasons or factors which led the Vietnamese government to formulate such a policy?
- Would you please consider the ACL a good one? Could you highlight some of the benefits of the policy in Vietnam?
- What do you think are the key limitations of the policy?

Category 3: The implementation of anti-corruption law

- Could you please explain how the policy is implemented? Who would you consider the key stakeholders? What role do they play when it comes to the implementation process?
- Are you aware of the main challenges or problems that one faces during the process of implementation? Could you please state some of the challenges and problems which hamper the implementation?
- How does your organisation cope with those difficulties?
- What do you think are the major limitations to the successful implementation of this policy?
- Do you think the policy has been implemented effectively? How would you evaluate the success of the policy?

Category 4: The drivers of corruption

There are some factors that are identified in the literature which need to be understood fully when we deal with corruption since they may contribute to persistent corruption or influence of corruption or affect the outcome of implementing anti-corruption measures.

1. What would you consider the major influential factors? (Ask specific questions on these factors when it is necessary).

2. Historical and cultural factors – traditional and customs

- How far do you think that the gift-giving tradition comes into conflict with the ACL?
- Do you think that the ACL is too weak to override the traditional customs which promote and justify corruption in Vietnam?
- Would you like to see more teeth to the ACL so that they can crack down on the traditional customs like gift-giving?
- Would you still go along with the traditional customs like gift-giving though it breeds corruption or would you like to see a change in the form of implementation of ACL?

3. Economic factors—public sector capacity

- What would you consider the major issues in the public sector which lead to corruption?
- Would you agree with a section of people, who believe that the lower wages give rise to corruption, hence the ACL are unsuccessful?
- Would you say that a hike in the salary of civil servants will help the implementation of ACL?
- What are the other economic factors that hamper the implementation of ACL?
- Political factors—leadership: capacity, accountability and political culture
- What are the political factors which influence the ACL?
- How far do you think that the political interference comes in the way of implementation of ACL? Could you please state any specific incident or event which you have come across?

Category 5: The role of civil society in controlling corruption

- What do you think is the composition of the civil society in Vietnam? What are their roles in controlling corruption? What effect do their roles have on the anti-corruption campaign?
- Are you aware of the main challenges or problems that the civil society faces when participating in anti-corruption activities? Could you please state some of the challenges and problems which impede their engagement? How do they cope with those difficulties?

Category 6: The role of the news media in fighting corruption

- What do you think is the composition of the news media in Vietnam? What are their roles in controlling corruption? What effect do their roles have on the anti-corruption campaign?

- Are you aware of the main challenges that the news media faces when covering the anti-corruption campaign?

Appendix 2: List of participants

No	Group
Group 1: National Assembly Deputy	
1	1.1
2	1.2.
Group 2: Senior managers in government offices	
3	2.1.
4	2.2.
5	2.3.
6	2.4.
7	2.5.
8	2.6.
9	2.7.
Group 3: International organisations, NGOs	
10	3.1.
11	3.2.
12	3.3.
13	3.4.
Group 4: Senior managers in party offices	
14	4.1.
Group 5: Academics	
15	5.1.
16	5.2.

17	5.3.
18	5.4.
Group 6: Investigation Departments	
19	6.1.
20	6.2.
21	6.3.
22	6.4.
Group 7: Mass media	
23	7.1.
24	7.2.
25	7.3.
Group 8: Citizens	
26	8.1.
27	8.2.
28	8.3.
29	8.4
30	8.5