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Trends in
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MORE CHANGE AWAITS
VIETNAM'S POLITICAL ECONOMY

HA HOANG HOP



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INSTITUTE OF SOUTHEAST ASIAN STUDIES

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FOREWORD

The economic, political, strategic and cultural dynamism in Southeast Asia has gained added relevance in recent years with the spectacular rise of giant economies in East and South Asia. This has drawn greater attention to the region and to the enhanced role it now plays in international relations and global economics.

The sustained effort made by Southeast Asian nations since 1967 towards a peaceful and gradual integration of their economies has had indubitable success, and perhaps as a consequence of this, most of these countries are undergoing deep political and social changes domestically and are constructing innovative solutions to meet new international challenges. Big Power tensions continue to be played out in the neighbourhood despite the tradition of neutrality exercised by the Association of Southeast Asian Nations (ASEAN).

This series — now revamped and redesigned — acts as a platform for serious analyses by selected authors who are experts in their fields. It is aimed at encouraging policy makers and scholars to contemplate over the diversity and dynamism of this exciting region.

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More Change Awaits Vietnam's Political Economy

EXECUTIVE SUMMARY

- Vietnam embarked upon its economic renovation (*Doi Moi*) policy in 1986 out of economic necessity, and the reforms led to impressive economic growth until about 2000, after which it slowed down. The economy is now facing various problems.
- *Doi Moi* aimed for a mixed economy wherein the state would accept different forms of property right. However in reality state-owned enterprises have been favoured at the expense of private ones.
- Endemic corruption within the Communist Party of Vietnam (CPV) is endangering its legitimacy in the eyes of the public. Intra-party factionalism has also been on the rise and reforms attempted in recent years have not been effective.
- In the meantime, the National Assembly has gradually evolved to act more like a parliament in non-communist countries. In 2013 it carried out a survey among its members to determine their level of confidence in national leaders. The results were publicised.
- In recent years the CPV's traditional control and supervision of the government has weakened. Mass organisations play an important role in the system and are CPV-led.
- Traditional media are all government-owned, but there are a few blogs that reflect discontent and voice criticism. Factionalism within the party affects the media as its outlets take sides in factional rivalry, often through sensational reporting.
- Vietnam's foreign policy continues to emphasize independence, self-reliance, multilateralism and diversification of external relations.

More Change Awaits Vietnam's Political Economy

By Ha Hoang Hop¹

I. INTRODUCTION

For the larger part of the 20th century, Vietnam stood as a symbol of nationalist struggle against colonialism and hegemony. The period was marked by a mixture of wars and efforts to develop the economy under the command of Communist Party of Vietnam (CPV). The collapse of the socialist bloc in Eastern Europe and the deterioration of Vietnam-China relations after 1976 forced the country to reform itself in order to survive. It launched its economic renovation policy (*Doi Moi*) in 1986 and the economy grew rapidly until 2000 after which it slowed down. Today, State-owned conglomerates are inefficient while the use of land by the State has caused social and political divides that threaten the legitimacy of the CPV's rule. Current efforts to restructure the economy are marked by foot-dragging and institutional reform is proceeding very slowly.

This paper examines how institutional changes and policy implementation affect the economy, society at large and in turn, the way politics is played out in Vietnam. It will touch on the mixed economy the political rule of the CPV, societal responses, governance, rule of law, and the media.

The first section discusses the institutional changes required for the shift from command to market economy, made since 1986. The social

¹ The writer is Visiting Senior Fellow at ISEAS. He is indebted to Mr Daljit Singh of ISEAS for invaluable comments.

consequences of changes to political and economic institutions are examined. My premise is that the CPV took the lead in responding for jobs and a higher standard of living. One attribute of *Doi Moi* is economic 'pluralism', i.e. several types of property rights would be allowed. This does not include private ownership of land, however, and time, the advocacy and struggle for private property land ownership has grown strong.

The second section explores various aspects of the political system in Vietnam such as the CPV, the National Assembly, the Government, the Presidency, the Fatherland Front and Mass Organisations. It examines the effects of structural changes made within the CPV over time on the policy making process and on society at large. Debates on ideological changes are also looked at. In reviewing current problems and issues relating to the amendments to the 1992 Constitution it is argued that the broader participation in discussions about those amendments was an early exercise of democratic practice in Vietnam. However, CPV control made it difficult for the country as a whole to capitalize on the process.

The third section deals with institutional reforms, governance and the rule of law. The development of a legal system and subsequent judicial reforms in Vietnam are examined in relation to reforms carried out within the public administration.

The fourth section provides an analysis of the mass media, human rights issues and corruption.

Finally, the last section gives an overview of Vietnamese diplomacy vis-à-vis the US, China, and ASEAN. Disputes with China in the South China Sea are slowly but steadily changing the Vietnam-China relationship providing opportunities for improvements in the country's ties with the US. At the same, developments in US-China relations naturally have implications for Vietnam.

II. ECONOMIC DEVELOPMENT AND INSTITUTIONAL CHANGES

When war ended in 1975, the North Vietnam state model was introduced to the South while the former Soviet Union, due to its own difficulties, progressively reduced its support for Vietnam. Vietnam-China relations

deteriorated rapidly after China accused Vietnam of allying itself with the Soviet Union and after Hanoi sent troops to overthrow the China-supported Khmer Rouge regime in Phnom Penh. After faulty economic policies and practice brought extreme hardship to the Vietnamese people, the CPV found itself enjoying very low public trust. All these factors forced the CPV to reform the system. The Economic Renovation Policy (known as *Doi Moi* policy) that it began implementing in 1986 fostered a gradual shift away from the plan economy to a market economy. It has enabled a mixed economy to emerge in which various forms of property rights, including private ownership, were allowed.²

Between 1988 and 1999, the economy grew steadily, but from 2000 to the present, the growth rate has been declining. In 2000, Vietnam embarked upon three important processes of institutional reforms, namely judicial reform, legal system development and public administration reform. Although human resource development was prioritized in all cases, by 2012, the successes have not been impressive. The country suffers presently from a shortage of competent legal experts, judges, prosecutors, law enforcement officers and civil servants. At the national level, there is a scarcity of strategic and visionary leadership. Education and training have not delivered a high quality work force. No doubt, Vietnam has a better legal system today than before, but the overall awareness and understanding of legality and the rule of law are still weak.

One of the most important elements of *Doi Moi* was that the State accepted different forms of property rights. In fact, in subsequent years, the equality of different forms of property rights was codified in laws (e.g. the law on enterprises, the law on competition and other laws) and even written into the Constitution. But in reality, state-owned enterprises, especially the large conglomerates, enjoyed huge privileges on assets, finance, banking, investment, access to land, and political connections while private enterprises suffered from discrimination and hindrances. In 2010-2013, more than 80,000 out of more than 600,000 small and medium sized enterprises shut down while more than 300,000 others suspended operations for lack of access to finance.

² Launched by Nguyen Van Linh, CPV Secretary General (1986-1991).

The CPV and the State have not allowed private ownership of land. The 1959 Constitution stated that only public land ownership is constitutionally accepted, which means that only the State holds property right to land. Citizens can only have the transferable right to use land, not to own it. In numerous cases, land slots are given to the users in a manner that lacks transparency, resulting in great social tensions and divisions. There are hundreds of thousands demonstrations on land issues each year, occurring in every province.

Six years after becoming joining the World Trade Organisation (WTO), Vietnam's trade volume and economic efficiency have in fact declined. Vietnamese enterprises have difficulty learning to play by the WTO's numerous rules: the enterprises simply do not have enough internal resources and expertise to cope.

Vietnam's GDP in 2013 is expected to reach US\$110 billion, while the public debt is estimated at US\$112 billion.³ Increases in public debt have been occurring since 2001, and from 2007 it even accelerated. With inconsistent monetary and fiscal policies and the weak coordination between them, the huge public debt presents a high systemic risk for Vietnam's economy. Inflation went up suddenly in 2010 and then came down in 2012 in a deflationary trend. Excessive public expenditure, non-performing loans, wastefulness and corruption are the main causes of the high rate of public debt and inflation.

III. THE MAIN INSTITUTIONS

The Communist Party of Vietnam

The Communist Party of Vietnam, founded in 1930, is currently the ruling party in a one-party system. In the aftermath of its 11th Party Congress held in 2011, the CPV has been witnessing a loss of trust among the people and also among its own members. Its Secretary-General Nguyen Phu Trong failed in his efforts to position the public sector and State-owned enterprises at the forefront of the economy – the majority of members

³The debt of State-owned conglomerates is included in this figure.

of the CPV 11th Congress voted against this and decided to maintain the treatment of equality, at least in theory, for all forms of property rights. As inflation reached double digits in 2011, the CPV approved economic restructuring in the hope of curbing inflation and reducing public expenditure.

From early 2012, following a directive of the 4th Plenum, the CPV Politburo has prepared a new assault on corruption and the decline of good ethics on the part of 'not a small part of party members'. The unusually long 6th Plenum was taken up with assessing the top-down practice of criticism and self-criticism exercised by the Politburo and the Central Committee. In the context of this assessment the Politburo requested that 'one comrade in the Politburo' be disciplined.⁴ However, a majority in the Central Committee voted against this request, and gave room for the Politburo and the 'one comrade' to mend their ways.

For the first time in the 82 years of the CPV's existence, the Secretary General admitted during the 4th Plenum that there are factions in the CPV. In principle, the Party Statute does not allow factions,⁵ and all members of the CPV are required by the Statute to wholeheartedly embrace comradeship and solidarity. Ironically, all the memoranda of workshops on criticism and self-criticism at the central level between June 2012 and February 2013 unanimously state that there are no factions or interest groups in each organisation! This is because of the fear that open acknowledgement of factionalism would make factionalism appear "normal," which could strengthen incipient political pluralism that can potentially evolve into a future democratic reality.

For a communist party, of crucial importance is the principle of democratic centralism, by which members can democratically debate issues and then vote, with the minority subsequently abiding by the decision by the majority. There are two democratic elements in this principle: democratic debates, and the majority. From 1997, during the CPV's 8th Congress term, there have been several directives and projects passed for fostering better democratic practices within the CPV. These all

⁴ Prime Minister Nguyen Tan Dung.

⁵ He called factions "interest groups".

aimed to make real democratic debates happen, and real voting to take place. A different interpretation of democratic centralism would give the Politburo and the Secretariat more power than the Central Committee even though the Party Statute states that the Central Committee is the body with the supreme power between party congresses.

The current Politburo and Secretariat establish the rules and procedures for internal relations and coordination between Central Committee, Secretariat and Politburo; and also the sets of rules for coordination within the central party apparatus (i.e. the central commissions, central committee on discipline and control). It is feared that the absence of these rules and procedures would result in a decline in the quality of the political leadership.

The CPV has recognised since 1997 that corruption in Vietnam is rampant and epidemic. The first battle against corruption in 1998, following the 6th plenum (Session 2) of the 8th Congress failed when the CPV found virtually no corrupt leader. Instead it brought about a deep division within the Central Committee and Politburo. The Party has been experiencing factions since then. The Internet was used extensively to libel and slander several Party and State leaders, especially the Secretary General, Prime Minister and President. In 2012, Secretary-General Nguyen Phu Trong initiated and steered another big battle against corruption and ethical decadence. He also strongly defended the leading role of the CPV: in February 2013 he publicly described as ethically decadent all those who wanted to take out Article 4 on the leadership role of the CPV from the 1992 Constitution; those who wanted the separation of legislative, executive and judicial branches; and those who argued that the armed forces be loyal only to the nation and people and not to the Party. His words, broadcast on national TV, triggered significant debates among the people and among party members.

For years, the selection of the party leadership has clearly not been based on political competition. As factions within the Party become more explicit and public, they support their own members for leadership positions. There are different attributes of faction building and promotion: seniority; regional origin; membership in army, police and security forces; patronage of senior comrades; merit; political awareness; leadership capacity; and gender. At the 11th Congress, held in January 2009, cronyism

became a more important attribute for promotion than before. Seniority is viewed in a somewhat narrow sense: irrespective of how experienced you are, if you reach an age ceiling, you cannot be listed as a candidate for an immediate future position. Leadership capacity and merit would not be high priorities in the promotion prospects.

The 10th Congress (2006) had reshuffled the CPV apparatus to a basic organisational structure with six central commissions of which the Central Commission on Organisation and Personnel is the most powerful. This commission, relying on the instructions of the Politburo, is responsible for organisational design and for changes to the government and to all other players in the political system. It does the career planning for cadres from the rank of deputy minister to deputy prime ministers.

The CPV Central Office is assigned all strategic, administrative and financial tasks. The Central Commission on Discipline and Control is the watchdog and whistle blower on all matters related to the party's statute. The Central Commission on Propaganda and Education is the CPV ideology watchdog that keeps an eye on the press, communications, publishing and propaganda. The other two central commissions – Central Commission on People Mobilisation and the Central Commission on External Relations – are not considered as very significant.

In the 11th congress term, the Central Commission on Political Internal Affairs was re-established for anti-corruption tasks besides other internal affairs (e.g. cadre screening, pre-promotion procedures, judicial reform, oversights on procuracy,⁶ courts and public security), making it the seventh Central Commission. It also has the task of coordinating with the Central Steering Committee on Fighting Corruption, which was shifted from the leadership of the Prime Minister to the hands of the CPV Secretary General. However this seventh central commission has not been very effective. During the 7th plenum in 2013, Secretary-General Nguyen Phu Trong tried but failed to secure a Politburo position for its head. The strengthening of factions has tended to lower the prestige and power of the Secretary-General.

⁶The Vietnamese version of prosecution.

During each congress term of five years, there are fifteen or so plenums of the Central Committee. Each plenum deals with a set of issues for example personnel and leadership, organisation, political internal affairs, corruption, socio-economic development.

When the CPV came to power in 1945, it had only five thousand party members. Today, it has more than two and a half million. The Party has its ways in a one-party system to build trust between the party and the people. Corruption, low living standards, poor economic performance are some of the things that have been eroding this trust. To its credit, the CPV recognises the need to reform itself in order to recover this trust.

The National Assembly

More than 98 per cent of members of the National Assembly are Party members, while 100 per cent of members of the Standing Committee of the National Assembly (the caucus) and leaders of the committees are Party members. Every five years, a general election is held that elects the 500 members of the National Assembly. The National Assembly elects the caucus, the State President, People's Supreme Procurer and People's Supreme Judge. Then the National Assembly votes for the selection of the Prime Minister based on the proposal submitted by the State President. The newly selected Prime Minister then submits the list of Deputy Prime Ministers and Ministers for election by the National Assembly.

A year or so before the general election, the CPV Central Committee forms an Election Board that is led by a member of the Politburo. The Central Commission on Organisation and Personnel, the most powerful central apparatus unit under the Central Committee, coordinates the National Fatherland Front, the CPV central apparatus, ministerial Party apparatus and provincial Party organisations to form the list of candidates based on the framework of National Assembly Composition. The election campaign for each candidate is formally held several months prior to the election at his or her constituency. Independent candidates must go through a very rigorous screening process.⁷

⁷ The screening is by the CPV Central Commission on Organisation and Personnel, National Fatherland Front, Ministry of Home Affairs, Ministry of Public Security, local party and mass organisations.

During the last ten years, the National Assembly has gradually become more like a parliament in non-communist countries: deputies learn basic lessons of politics, learn to share information and debate, meet with and listen to what voters have to say, learn how to carry out better Question and Answer sessions, supervise the work of the government and the judiciary and acquaint themselves with international trends. Each deputy will soon be getting an individual office to improve work efficiency and serve the voters better.

The State's Audit is supposed to be an independent body that reports to the National Assembly on its audit of the work of the State. Yet in 2009-2013, the State's Audit did not uncover any major fault in the management of the national economy and the activities of the government: the high public debt was acknowledged late, the debts and poor management of State-owned enterprises, especially State-owned conglomerates, were not presented in the yearly auditing books. So the State's Audit needs to improve its capacity and integrity to deliver higher quality auditing work.

The first confidence vote for all deputies who currently held elected or approved positions in June 2013 was the first effort toward more professionalism for the National Assembly. Its deputies represent voters, and so reaching higher quality of representativeness is the ultimate goal.⁸

The Presidency

According to the 1992 Constitution, the State President is the Head of State who is given a set of ceremonial tasks. There are proposals to give the President more power over the military, diplomacy and finances in the current process of making amendments to 1992 Constitution. Other proposals call for giving him more detailed tasks and concrete responsibilities, instead of more power. There are internal debates on restructuring the National Council on Defence and Security whose head is the President. If the Council is given more political and executive power,

⁸ In principle, the deputies of the National Assembly represent voters, and not the CPV.

the President could also benefit. The Presidential Office has now better quality officials and civil servants than in the past, but the President's scope of responsibilities is still limited compared that of the Prime Minister. While the President is the Head of State, the Prime Minister is the head of the national executive branch.

The CPV delegates the steering power on judicial reform to the State President. As the Head of the Central Steering Committee on Judicial Reform, the State President steers all the reforms in all levels of procuracy, courts, justice system, and police. The Central Steering Committee on Judicial Reform coordinates with the recently re-established Central Commission on Political Internal Affairs on all issues relating to judicial reform.

The Government

The government holds executive power, and is therefore the most potent in the whole political system in Vietnam. It also leads, manages and controls all provinces and the largest cities. It is also involved in the day-by-day politics of the CPV through its socio-economic development policies that have been approved by the National Assembly for the period 2011-2015. The choice of the current Prime Minister for the second term was made by the Politburo of the previous congress (10th) term. Thus he was the only candidate officially put up for the premiership to the National Assembly by the President on behalf of the Politburo of the 11th congress term. The prime minister does not have the right to choose or dismiss any minister or any deputy prime minister. Hence leading a cabinet is always one of the most difficult tasks for the prime minister.

A Minister must be a member of the CPV Central Committee. The Defence Minister and the Public Security Minister are members of the Politburo. In the government, the most important ministry is that for National Defence. The Ministry of Foreign Affairs is officially ranked third, behind the Ministry of Public Security. However, the current Foreign Minister did not get elected as a member of the Politburo, which shows that the Ministry of Foreign Affairs in reality is positioned at a

lower rank than third. This is a disadvantage for Vietnam at a time when regional disputes and conflicts are becoming more complicated. Defence diplomacy, while increasing in importance, cannot be used as a substitute for national foreign affairs in peace time. In the government term 2001-2006, when the foreign minister was not a member of the Politburo, the CPV appointed a deputy prime minister to whom the foreign minister was required to report. But this relationship did not work out well. At present there is no deputy prime minister overseeing the foreign minister: instead, the foreign minister reports directly to the prime minister.

The next two most important ministries are the Ministry of Finance and the Ministry of Investment and Planning.

Prior to 1986, the CPV exercised full control and supervision over the government. Between 1991 and 1997, as a result of the leadership style and charisma of then Premier Minister Vo Van Kiet, the CPV loosened its control over the government. From 2006 to date, the CPV has exercised weak supervision over government activities. One reason could be that in the absence of an applicable and enforceable set of rules for the CPV to exercise leadership over the government, when the Party's unity weakens and factions strengthen, the party's Central Commission on Control and Discipline finds itself in a more passive situation.

Almost all cabinet ministers are deputies of the National Assembly and the government is under the supervision of the National Assembly. There has been progress in the exercise of this supervision over the government. Ministers go through a short training course on how to relate to the National Assembly, how to answer the questions of the deputies, and how to help fulfil their tasks.

In terms of structure, the government of Vietnam has not changed much since 1991. The Office of the Government plays the role of a super-ministry supervising and coordinating ministries and provinces. In 2006, there was a notion to restructure the Office of the Government into a streamlined and more efficient office of the prime minister, but the idea was not accepted by the Politburo of the CPV 10th congress term. From 2011, the Office of the Government has been trying to serve the prime minister better by setting clear rules for delivering services to him while keeping its relevant oversight of the ministries, provinces and largest cities.

The State Bank of Vietnam, which in effect is the central bank, is simply a government agency⁹ and does not enjoy any independence. The monetary policy of the Bank is not clearly defined. If the governor of the Bank were a proper central banker, or a politician, the Bank could have performed more effectively. Likewise, If the Minister for Finance had been a politician and not an accountant, the fiscal policy and its implementation could have been better. Relations between Ministry of Finance and the State Bank have also not been clearly defined. Monetary policy goes its own way, while fiscal policy is often made without looking at the monetary side.

The economic restructuring policy launched two years ago has not said much about personnel restructuring. Since the capacity to make changes in the leadership is not high, restructuring has not been implemented smoothly. From 2½ million or so party members in the whole country, the CPV selects a Central Committee of 175 members and its standing body, the Politburo, then makes a list of candidates for cabinet ministers. The prime minister must be a member of the Politburo, but it is the Politburo that prepares the list of candidates for cabinet ministers and deputy prime ministers. If during his tenure the prime minister wants to make someone a minister, he has to propose it to the Politburo and the Secretariat for approval. And when this approval is given, the prime minister will request the National Assembly to approve the appointment. The dismissal of a minister or change of portfolio for a minister may go through more complex procedures in which the Standing Member to the Secretariat, the Secretariat, the Politburo and the whole Central Committee must be involved.

The existence of factions makes these procedures more cumbersome. Factions play their part in the government composition and the choices and changes of ministers. In reality, if one faction sends a member to the post of central bank governor, another faction will send a member to the post of finance minister. Interactions among factions are complex; they negatively affect the system of relations within the government.

⁹The governor is a cabinet minister approved by the National Assembly.

Economic restructuring has been stalled when some factions have supported a course of action, while other factions have resisted it.

The Central Government and the Provinces

Chairmen of the People's Committees¹⁰ of all provinces and largest cities report to the Prime Minister. Within the provinces and largest cities, power is concentrated in the CPV Provincial Secretaries, who are members of the CPV Central Committee.¹¹ At the provincial level, the solidarity is high: the chairman of the People's Committee always reports to the CPV Provincial Secretary and in many cases, the CPV Provincial Secretary makes the most important decisions for the province. If there are problems that cannot be resolved within the province, the government and the Politburo will intervene. If cooperation between the Provincial People's Committee and the CPV Provincial Committee is less than desired, the Politburo will decide to replace the CPV Provincial Secretary or the Chairman of the People's Committee or both.

The CPV Provincial Secretaries thus have close working relations with both the Prime Minister and the Party Secretary General. However, their relations with the Prime Minister are more intensive and concrete as he supervises and decides on all executive matters concerning the provinces. In view of this, the Prime Minister seems to get support from a larger proportion of those members in the CPV Central Committee who are provincial CPV Secretaries, though there are several provincial CPV secretaries who may not support the Prime Minister for factional reasons – he may be a member of a different faction.

¹⁰ Provincial People's Committee is the provincial administration. Its Chairman is in effect the provincial governor. In Vietnam, the chairman of a People's Committee is of the same rank as a deputy minister. The chairmen of the people's committees of the two largest cities, Hanoi and Ho Chi Minh City, are of ministerial rank and both are members of the CPV Central Committee.

¹¹ CPV Secretaries of Hanoi and Ho Chi Minh City are members of the Politburo.

The Government and the National Assembly

In June 2013, the National Assembly undertook a confidence vote on 47 positions that included the State President, the Prime Minister, the Speaker of the National Assembly, and cabinet ministers.¹² The State Bank's governor received the least number of confidence votes while the Prime Minister received medium level confidence. Within one day, the results were publicly released and provided a clear picture of the confidence level within the National Assembly for each leadership position in the government and National Assembly. This exercise was significantly different from the CPV's one-year exercise of criticism and self-criticism, which provided no public disclosure of the assessment on each CPV leader. This was the first such vote in the history of the National Assembly. It will now be carried out every year, and those who get low confidence votes for two consecutive years will have to resign or face dismissal. It is an encouraging step in the institutional reform of the National Assembly, making it a more genuine parliamentary institution.

The Government's Day-by-Day Relations with the CPV Secretariat

The government's daily activities must be reported to the CPV leadership through the Standing Member of the CPV Secretariat who is a member of the Politburo. In practice almost all requests going through this channel are approved by this Member, or by the Politburo and the Secretariat. It seems that in practice this channel does not carry out major oversight tasks, even though these tasks are within the scope of tasks for this Member.¹³

¹² Held on 10 June 2013, the vote questionnaire had three categories: high confidence, confidence and low confidence.

¹³ The Standing Member receives daily reports and requests for permission not only from the government, but from all other branches of the political system – from CPV central commissions, judiciary, National Assembly, National Fatherland Front and mass organisations. This Standing Member to the Secretariat has an office to assist in the administrative works.

Depending on the personal relations between the Standing Member and the Prime Minister, who is also a member of the Politburo, the government's daily activities are approved, or not approved at a fast or slow pace. Prior to 1986, the Standing Member had no oversight tasks over the government. Between 1986 and 1991, he was given the primary task of overseeing government activities and a comprehensive set of tasks was formulated from 1997 as the CPV leadership agreed to give more space to government 'autonomy'. Beside the relations between the Standing Member and the Secretariat, the government's relations with other members to the Secretariat are also important. For example, relations with the Head of the Central Commission on Organisation and Personnel are vital – this commission is in charge of all national organisational and personnel matters, and it can make proposals for establishing new ministries and agencies, planning, training and promotions from the rank of deputy minister up to deputy prime minister. The Office of the Government has working relations with the CPV Central Office whose head is a member to the Secretariat. Relations with the Head of the Central Commission on Discipline are not intensive and reflect the low capability of this central commission to supervise government activities.

The Government and the Central Committee

All cabinet ministers are members of the CPV Central Committee. They report to the Prime Minister on all government activities and to the Politburo and party Secretariat on political matters relating to the government's activities. The deputy prime minister in charge of political internal affairs¹⁴ cooperates with and reports to the Head of the CPV Central Commission on Discipline and Control and the Head of CPV Central Commission on Political Internal Affairs.¹⁵ The latter was recently re-established to

¹⁴ Political Internal Affairs in the government include: law drafting, personnel and home affairs, inspection and inspectorate, armed forces, civil service, justice, reform of the administrative procedures, anti-corruption work, integrity.

¹⁵ Political Internal Affairs in the CPV include much broader areas and tasks: judiciary, law-making, judicial reform, legal system development, personnel oversight, armed forces, integrity and transparency, anti-corruption work, political system's security issues, mass organisations, Fatherland Front, National Assembly.

improve supervision of the government's internal affairs and anti-corruption efforts. However, since its head failed to get membership to the Politburo, it is difficult to see how the relations between the government and this commission will work, since only a member of the Politburo can possess the necessary power. The Politburo also decided to re-establish the Central Commission on Economic Affairs that would supervise and advise the government on socio-economic policy development and implementation. The head of this commission also failed to get a seat in the Politburo and thus it would likely be no more effective than the Central Commission on Political Internal Affairs.

Party-led Mass Organisations

The basic Leninist model of the party's mass-organisations consists of the Fatherland Front, Trade Unions, Women's Union, and the Communist Youth League. In the Vietnamese model, more was added to the list, for example: Association of Peasants, Union of Science and Technology Unions, Federation of Youth Associations, Association of Veterans.

These mass organisations have been mainly under the oversight of the CPV Central Commission on People's Mobilisation. The CPV Central Commission on Organisation and Personnel approves all organisational and personnel matters relating to these mass organisations. And the government also provides all financial support to them. The CPV presents these Party-led, Government-funded organisations as "civil society organisations" and Non-governmental organisations (NGOs). The most important mass organisation is the Fatherland Front, which has its affiliates at all levels of the national administrative system. In theory, the communist party is a member of the Fatherland Front. However, in practice, Fatherland Front is CPV-led.

IV. INSTITUTIONAL REFORM, GOVERNANCE AND THE RULE OF LAW

The guiding principles of institutional reform in Vietnam are first, to construct the legal basis for the operation of the socialist-oriented

market economy and second, to build a government based on “socialist rule-of-law”. The scope of the reform agenda covers legal, political and constitutional aspects of the institutions of government. However, the implementation of this agenda embodies tensions and ambiguities that are potentially counter productive.¹⁶ In the context of *Doi Moi*, creating favourable conditions for the development of market-based economic activities – that is the meshing of institutional reform with economic reform – is a top priority. One principal reason for developing the concept of “socialist rule of law” was modify the legal system to suit market mechanisms.

When Ho Chi Minh set out his three “principles of good government”, the first was “rule of law”:

“There is a serious confusion between rights and power... So, the general rule should be promulgated, to include those with power that they must comply with the laws... In judging the person in charge and applying the criminal code, it is a must that the court be absolutely free and independent from the upper court and the Party.”¹⁷

The second principle was “separation between operations of the Party and those of the state”:

“No one has an idea other than the Party as to how it leads the state. However, the operations of these two bodies should be separated and the separation should be clear along the borderline... One body cannot hold the two leading functions.”¹⁸

¹⁶ Martin Painter, Ha Hoang Hop and Chu Quang Khoi. *Institutional Reform for Public Administration in Contemporary Vietnam*. UNDP, Ha Noi. 2009.

¹⁷ Quotations from a discussion between Professor Nguyen Manh Tuong and President Ho Chi Minh, Spring 1952, the Magazine of History (*Tạp chí Xưa và Nay*), 286, June 2007. In Vietnam, to date, courts are based on administrative levels: district court, provincial court, supreme court. Thus, for example, provincial court is called district court’s upper court.

¹⁸ *Ibid.*

In practice, however, there is no divide between the operations of the CPV and those of the state. The CPV sets overall guidelines for each arm of the state to follow and intervenes in their management and decision-making.

The third principle was self-awareness of the party's capacities and its need for the support of the people.

Conventional analysis of communist states depicts the dominant view of constitutionalism as "instrumental," the constitution being solely an instrument of rule and not in any meaningful sense a constraint on rule. Constitutional debates in Vietnam have increasingly raised questions about such a notion. In debates in 2001-2002 and in discussions leading up to the 10th CPV Congress (2005), issues such as the following were raised: How far should institutional reform departed from traditional socialist legality? How should a law-based state regulate the party, if at all? Should there be an "independent judiciary" to protect individual legal rights and if so, what form should it take? In what form should constitutional reviews be institutionalised? How should human rights, especially civil and political rights, be respected? Should there be a modification of Article 4 of the 1992 Constitution?¹⁹ Should there be a modification of the notion of "socialist rule of law"?²⁰

The 2013 debates on the amendments to the 1992 Constitution to be approved in November 2013 by the National Assembly, have revived the above questions, and added some others: Should there be a change in the name of the Socialist Republic of Vietnam? Should the army be independent of the CPV?

To recap, the institutional reform proposals in Vietnam contain fundamental ambiguous elements. On the one hand there is a clear

¹⁹ Article 4 reads: "The Communist Party of Vietnam, the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people, and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the force leading the State and society". The statement "[the Party] is the force leading the State and society" is interpreted to justify the monopoly of power of the CPV and the prohibition of political dissent.

²⁰ It reads: "The socialist rule of law is of the people, by the people and for the people, deployed with the leadership of the Communist Party of Vietnam".

statement of the need for a “socialist rule of law state” that strictly separates the leading role of the party from the day-to-day operations of the state in the administrative and judicial spheres; on the other hand, the separation is clearly restricted.

A key component in the rule of law is an “independent” judicial system. This has a number of key elements. For example, there are distinctions between institutional and decisional independence: the first involves various mechanisms to guarantee that the judiciary is a separate institution from other arms of the state and is not subject to their control; the second relates to the ability of judges to make decisions without being coerced or interfered with, including by politicians and bureaucrats. Most of these conditions of institutional and decisional independence do not exist in Vietnam’s institutions. Moreover, proposals for reform have not yet fully embraced this concept. For example, Resolution 49 on Judicial Reform issued by the Politburo in 2005 pointed to a wide agenda of reforms needed to improve the efficiency, professionalism and quality of the judicial process and judicial officers. As the statement of “basic principles” made clear, “modernisation” would be on a “step-by-step” basis “under the leadership of the Party” as well as to “ensure the unified power of the state, along with the distribution and collaboration between state bodies in the exercise of legislative, executive and judicial powers”²¹

Vietnam’s institutional reform proposal recognises the importance of developing professionalism and specialisation within the state, including the institutionalisation of legality, but not the separation of these activities from continuous involvement by the CPV. The lower courts in reality are not really independent of higher courts; investigation police officers, procurors (prosecutors) and court judges often sit down together to fix sentences before the trial is held. Trials of political dissidents are generally not publicly held. To be sure, court statistics are not accurate and the

²¹ On the leadership mechanism of the CPV, the Resolution states: “The Party guides judicial work and the operation of judicial organs closely, in terms of their political, organisational and personnel aspects. There is a need to prevent situations in which Party units neglect their lead role, or improperly intervene, in judicial activities.”

supervision of the National Assembly over the judiciary has not been very strict.

Public Administration Reform

The ten-year public administration reform programme (2000-2010) included: firstly, improving the quality and responsiveness of the law-making process through reform in the producing, scrutinising and authorising of legal documents, including clarifying who has authority to issue subordinate legal document; secondly, streamlining the mechanisms for exercising the law by removing duplications, overlaps and delays, including abolishing unnecessary regulations; and thirdly, refining mechanisms of direct accountability of public administrators to citizens, so that officials are responsive and public services are more "customer-oriented". The evaluations of this programme have however reported many shortcomings.

Quality has remained a serious problem; coordination between the different agencies involved in the production of the legal documents has been weak; the one-stop mechanism had been implemented "only in a formalistic way" in some places; administrative procedures have not always been simplified: new types of "sub-licenses" reappeared subsequent to administrative procedures reform; lack of awareness of the reform programme and its aims; "compartmentalism" in the system of administration, leading to selfish behaviour and resistance; delays in key components of the planning and implementation process; lack of determination on the part of some administrative leaders; lack of clarity in administrative mandates leading to evasion of responsibility for reform outcomes.

Since 2011, the public administration reform has been reduced solely to public procedure reform; and judicial reform has been shifted to the Central Steering Committee on Judicial Reform that is placed under the state president. The work on public administration reform was also moved from the Office of the Government to the Ministry of Justice.

In Vietnam, some "small steps" can trigger big change, while a "grand design" can fail. Earlier stages of *Doi Moi* did indeed demonstrate that breakthroughs can be achieved by "small steps"; while the "grand

design” of the 2000-2010 Public Administration Reform Programme, due to internal ambiguities, brought very humble achievements.

The Law on Cadres and Civil Servants states that cadres and civil servants must be loyal to the CPV and abide by the law. There are ambiguities in the implementation of this law.²² Furthermore, if the selection and promotion of civil servants are not on the basis of merit, the public administration system will face problems.

V. MEDIA, HUMAN RIGHTS AND CORRUPTION

Media

There are currently 812 Party-led, State-owned media organisations such as newspapers, magazines, publishers, TV stations and radio stations in Vietnam.²³ Privately-owned media organisations do not yet exist, and few blogs that express discontent and criticism, and, more often, political infighting. The State media spend huge amounts of public money to help communicate and justify the policies and actions of the CPV and the state. Although there is recognition of the importance of developing professionalism, specialisation, and ethics, the censorship exercised by the CPV Central Commission on Propaganda and Political Education and by the Ministry of Information and Communication limits the freedom of expression and the freedom of information.

Blogs do try to convey critical views to readers, but some of them tend to resort to offensive language to slander individuals and organisations and so trap themselves in difficult situations. Without professionalism and ethics, blogs can hardly contribute to enlightening readers with accurate information or reflect on real issues of public discontent. To be fair, while the CPV represses political dissent in the media, constructive criticism seems to be more tolerated.

²² If cadres are at the same time political officials and civil servants, ambiguities are to be expected.

²³ The CPV calls them “revolutionary press and media”.

It is worth noting though that the number of imprisonments for differing political thinking has not decreased in the last five years. Factionalism in politics affects both Party-led, State-owned media and parts of the Vietnamese “social media” as well, resulting in sensational reports on this or that faction’s activities and coarse slandering of individuals. The risks of incurring repression are higher for bloggers who show such tendencies. In that sense, one can say that factionalism prevents the media from attaining higher standards of professionalism, ethics and independence.

Human Rights

Vietnam has started the ground work for building its first human rights institutions which will help establish the underlying principle that human rights are universal, interdependent and interrelated. Over the past few years the Government has increased its engagement with international human rights mechanisms which are tasked to monitor human rights around the world, including the compliance of Governments to core human rights treaties. In 2009 Vietnam subjected itself to the Human Rights Council Universal Periodic Review (UPR). This is a peer-reviewed process in which a country undergoes a review of its human rights situation by other countries.

Vietnam has accepted as many as 93 out of a total of 123 recommendations made by other countries for the improvement of its human rights situation. Currently the Government is preparing for the second review to take place at the beginning of 2014, and has already ratified five out of the nine core UN human rights treaties. These are the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention against all Forms of Racial Discrimination and the Convention on the Rights of the Child. In the past two years, the Government submitted reports to four of the five treaty bodies tasked to monitor compliance with these treaties. It also prepares a periodic report on the fifth, the Covenant on Civil and Political Rights. This report provides a baseline on the implementation of civil and political rights in Vietnam which can be used to revise several important laws on civil and

political rights, such as the law on referendum and the law on access to information.²⁴

However, political dissidents in Vietnam arrested and sentenced to prison terms are still called criminals by the CPV and the State rather than political dissidents even when they had express their views in a peaceful manner. Also, the CPV and the State do not permit any expression of support for political pluralism and multiparty politics.

Corruption

During the Vietnam War, no major corruption cases were uncovered and prosecuted. Since 1986, corruption has steadily and rapidly become endemic. In 1998, the CPV admitted for the first time that “corruption is rampant and threatening the survival of the Party.” The fight against corruption was then started but the results have been very limited and, like a malignant tumour, corrupt practices have spread to all organs of the state. Corruption makes policies unpredictable and lowers sustainability of economic development. When found in the judiciary, it has undermined basic achievements of the rule of law reform. Factionalism and interest groups also undermines the fight against corruption. On the whole, the desire to limit corruption remains rather strong, but the transformation of this into effective action is still a “work in progress”

VI. FOREIGN RELATIONS

At present Vietnam’s government follows a foreign policy to maintain peace, enhance respect, friendship and develop cooperation with all countries. It is one that prioritizes independence, self-reliance, multi-lateralisation and diversification of external relations. Vietnam has entered into strategic partnerships with a dozen countries, including three of the permanent members of the UN Security Council – China, Russia and

²⁴ Vietnam makes various efforts in promoting human rights, <<http://www.un.org.vn/en/un-in-the-news9/160-general/2553-viet-nam-makes-efforts-in-promoting-and-protecting-human-rights.html>>.

United Kingdom, and hopes to build strategic partnerships with the remaining two namely, France and the United States. Emerging from a long history of suffering in wars, it is very much in Vietnam's interests to contribute to developmental cooperation in the region and the world, and even welcome the contributions of external powers, including the United States, to the development and security of the region.

From 1945 to 1947, foreign relations were led by Ho Chi Minh, who tried to avoid war with the French. From 1948 to 1954, he and other leaders of the Vietnamese communist movement with support from the Chinese communists carried out the resistance against the colonial masters. During the peace negotiations held in Paris in the 1970s, the Party also had a stronger influence on foreign relations than the state owing to the manipulations of Le Duc Tho, a powerful member of the Politburo then.

There is thus a twin process in the exercise of Vietnam's foreign policy: the CPV's external relations and the Government's foreign diplomacy. Procedurally, the CPV congress lays down the direction for the country's foreign policy, and it is the job of the government to handle concrete elements of foreign policy stemming from that chosen direction. In truth, the CPV Central Commission on External Relations picks the direction for the Party. The Party then assigns a member of the Politburo as foreign minister, and furnishes him with the authority for leading this twin process. Were a foreign minister not a member to the Politburo, he would hardly have a role to play either in influencing the party's external relations; or the government's foreign policy.

While CPV diplomacy and the government's foreign policy have some common areas and issues, in general, the former is often not as broad in scope as the latter. Currently, CPV diplomacy focuses on the relation of the CPV to other communist parties all over the world; and from 1991, the CPV added to this diplomacy its relation to all ruling parties and non-communist parties (with priority given to social democratic parties).

Relations with ASEAN

A united and strong ASEAN is a top priority in Vietnam's foreign policy. The country became the seventh member of ASEAN in July 1995, bringing

into it a different political system, disputes in the South China Sea and difficulties in economic development

Relations with China

In Vietnam-China relations, there is currently a twin process of party-to-party relations and state-to-state relations. After the intrusion into Vietnam of Chinese armed forces in 1979, normalisation of relations between the two countries in 1990 has been based mainly on party-to-party relations – with the two ruling communist parties agreeing on normalisation to build solidarity and mutual cooperation. State-to-state relations then developed to culminate in the 2008 announcement by CPV Secretary General Nong Duc Manh of the “comprehensive cooperative strategic partnership” with China.

Vietnam has more than 2000 years of relations with China with many ups and downs. From 1949 to 1954, communist China helped Vietnam to end French colonialism. However, at the 1954 Geneva Conference, Zhou Enlai fatefully agreed with the US to divide Vietnam at the 17th parallel, a division that led to the bloody Vietnam War, which lasted a decade.²⁵ From 1956 to 1970, China supported Vietnam logistically to fight the American involvement in Vietnam. But in 1972, at the Paris Peace Conference, Zhou Enlai agreed with Henry Kissinger to maintain the division of Vietnam. Relations went from bad to worse after that. In 1974, the Chinese Navy attacked and seized the Paracels (Hoang Sa). In 1979, Chinese ground forces attacked several of Vietnam’s border provinces. And in 1988, the Chinese navy seized Gac Ma islands in the Spratlys from Vietnam. Currently, notwithstanding the “comprehensive strategic cooperative partnership” between the two countries China continues actively to strengthen its claims in the South China Sea.

²⁵ Andre Fontaine. *Histoire de la Guerre Froide*. Paris: Fayard. 1965 and 1966.

While official relations remain good on the surface,²⁶ the Vietnamese people have accumulated great discontent over these Chinese intrusions into the South China Sea. However the government has not allowed public demonstrations on these matters and anti-China demonstrators and protestors have been arrested and some have been sentenced to prison terms.²⁷ Generally Vietnam follows the policy of peaceful resolution of disputes, based on international law, especially UNCLOS 1982. Where Party-to-Party relations are concerned, the Communist Party of China (CPC) does not want to see the CPV collapse or change its basic ideology for fear of repercussions on China itself. Nevertheless the disputes in the South China Sea have resulted in a deterioration of relations.²⁸ A majority of Vietnam's leaders and the Vietnamese public today see China as exercising power politics in the South China Sea. China's behaviour has divided Vietnam's leaders, and some fear that there are factions in China who hope to turn Vietnam into China's satellite or quasi-satellite state.

Relations with the United States

Twenty years after the end of the Vietnam War, in 1995, the normalisation of US-Vietnam relations was formalized between US President Bill Clinton and Vietnam President Le Duc Anh, a war veteran. Today, the United States is the top investor in Vietnam. Further development of US relations with Vietnam appears to depend on the improvement of human

²⁶ The official statement: "To reiterate the Vietnamese Party, State and people's basic consistent and long-standing policy of treasuring the friendly neighbourliness and comprehensive cooperation with China. The Vietnamese Party, State and peoples are willing to make efforts together with Chinese Party, State and people to lift the Vietnamese-Chinese comprehensive strategic cooperative partnership to a new height."

²⁷ CPV and the government rely on a by-law document to forbid demonstration. The absence of a law on demonstrations is another reason for forbidding demonstrations and protests. The Communist Party of China and its government have requested the CPV and the Vietnam government to prevent anti-China demonstrations.

²⁸ In public statements the CPC described the visit by the CPV Secretary General to Beijing in 2012 as an "official visit", omitting the term "friendly".

rights in Vietnam. In 2013, Vietnam publicly welcomed the involvement of the United States in maintaining security in the Asia Pacific, especially the freedom of navigation and maritime security in the Asia Pacific and the South China Sea.²⁹ In July 2013 Vietnam and the US agreed on a mutual comprehensive partnership that is equal to a strategic partnership.

Although the CPC did help strengthen the CPV to avoid a collapse, it would not be in China's interest for Vietnam to have closer ties with the US. While some leaders in Vietnam may want to use relations with the US as a counterbalance to China, it is most unlikely that Vietnam's comprehensive partnership with the US will negatively affect Vietnam-China relations.

Conclusion

The CPV restructured itself from 1948 to 1975 for the purpose of removing the French and re-unifying the country. It reformed itself in 1986 to respond to the economic needs the common Vietnamese. After more than twenty years of economic renovation, clear demands have been raised for governance reform, rule of law, public administration reforms and the removal of corruption. These are given the highest priorities for the CPV, but unfortunately, in the last twelve years, reforms have not been effective. The lack of social-economic progress continues to generate widespread public discontent.

There are several possible development scenarios for Vietnam at this time: First, the CPV continues to keep to its current path, decline to undertake more radical political and governance reforms, and stay away from the practice of political pluralism. Corruption could then become much more rampant and damaging, and more factionalism and interest groups would bring more harm. Such a development would result in the total loss of CPV legitimacy. Second, the CPV keeps the one-party

²⁹ Keynote Speech of Vietnam Prime Minister Nguyen Tan Dung at the 12th Shangri-la Dialogue, Singapore, 31 May 2013.

system at all costs, and carries out only non-political reforms. In such a situation, the time till the loss of legitimacy may be prolonged – and Vietnam would become some kind of police state. Third it proceeds towards political pluralism without any comprehensive reforms, in which case Vietnam's development would be less predictable and more chaotic. Fourth, fundamental political and economic reforms based on public hope for democracy are carried out, maximizing the chances for Vietnam to achieve peace and stability.

State capitalism put in place after the 1986 launch of *Doi Moi* helped loosen up the dictatorship of the proletariat. This led however to factionalism, cronyism and the absence of good governance and rule of law. Factions and interest groups have not achieved consensus on development policies and this has weakened social cohesion and internal solidarity within the CPV and the state. In other words, these groups do not interact in a transparent manner; and many policies do not reflect the compromises they made and the interests they represent. They also interpret and implement policies in different ways, often resulting in slowdowns and, at worst, non-performance of policy measures.

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APPENDIX – Vietnamese Names

Le Duc Anh, in Vietnamese: Lê Đức Anh, senior colonel general and a statesman, born in Thừa Thiên province in 1920. He was State President from 1992 to 1997.

Nguyen Tan Dung, in Vietnamese, Nguyễn Tấn Dũng, Vietnam's Prime Minister (2006-), soldier, politician and statesman.

Nguyen Van Linh, in Vietnamese: Nguyễn Văn Linh, born in Ha Noi on 1 July 1915, revolutionary and politician, Secretary General of the CPV (1986-1991). Died on 27 April 1988.

Nguyen Phu Trong, in Vietnamese: Nguyễn Phú Trọng, professor in political science (specialties: party building), Secretary General (February 2011-), Communist Party of Vietnam.

Le Duc Tho, in Vietnamese, Lê Đức Thọ, born Phan Đình Khải in Nam Dinh (Nam Định) province on 14 October 1911, was a Vietnamese revolutionary, general, diplomat, and politician. He was awarded the Nobel Peace Prize jointly with United States Secretary of State Henry Kissinger in 1973, but he declined it. He died on 13 October 1990.

Tran Dinh Hoan, in Vietnamese, Trần Đình Hoàn (1939-2010), Professor in Economics, a politician. He was Head of CPV Central Commission on Organisation and Personnel, member to CPV Politburo (2001-2006). Mr Hoan led the Programme KX-10 on "Reform of the Political System in Vietnam" that proposed substantial political reforms for Vietnam.

Vo Van Kiet, in Vietnamese, Võ Văn Kiệt, born Phan Văn Hòa in Vĩnh Long province on 23 November 1922. He was a politician and statesman. He was Prime Minister in 1991-1997. He died on 11 June 2008.

Nguyen Manh Tuong, in Vietnamese, Nguyễn Mạnh Tường, prominent law professor, born in Ha Noi in 1909, survived the hardest time of repression in Ha Noi. Died in 1997.

Dao Xuan Sam, in Vietnamese: Đào Xuân Sâm, born 1922, a former economic assistant to Truong-Chinh (born Đặng Xuân Khu) – two-time Secretary General of the CPV. Mr Sam and Mr Tuan (see below) are editors of an important book on Vietnam’s economic renovation (*Doi Moi*).

Vu Quoc Tuan, in Vietnamese: Vũ Quốc Tuấn, born 1927, Chief Assistant to prime minister Vo Van Kiet for ten years, from 1984 to 1994. Mr Tuan is a co-editor of an important book on economic renovation (*Doi Moi*). See in the Reference below.

Hoang Sa, in Vietnamese: Hoàng Sa, Paracels archipelagos.

Gac Ma, in Vietnamese: Gạc Ma, a small group of islands of Vietnam in the Spratlys.

Pham Ba Khiem, in Vietnamese: Phạm Bá Khiêm, a lawyer, former high-rank legal expert to the Vietnam Government, co-author of the book on financial crimes and corruption with Ha Hoang Hop (Hà Hoàng Hợp). See in the Reference below.

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