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LAW REFORM IN VIETNAM: THE COMPLEX TRANSITION FROM SOCIALISM AND SOVIET MODELS IN LEGAL SCHOLARSHIP AND TRAINING

Mark Sidel†

I. INTRODUCTION

Vietnam, like the nations of the former Soviet Union and Eastern Europe, faces difficult and complex challenges as it moves toward a diversified economy and away from Soviet-inspired, centrally planned structures. Whole sectors of the economy have been and are continuing to undergo privatization; price controls have been lifted on most commodities; agricultural land is being decollectivized and then privatized or turned over to farmers on long-term leases; and private business is booming in southern Vietnam and beginning a rapid expansion in north and central Vietnam.¹

Encouraging and managing this change is a daunting task for the Vietnamese Communist Party, one of the few communist parties that has chosen to enact far-reaching reforms but has been able to remain in power while doing so. These challenges are perhaps no more daunting than in the legal system, which must be rapidly transformed from an instrument of Party political control into a framework for economic diversification and expansion within a very few years. Because the Communist Party is attempting to manage

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1. This article is based upon a consultancy report to the Ford Foundation. The report was completed after a consultancy visit to the Socialist Republic of Vietnam in January 1992 at the invitation of Ambassador Phan Hien, Minister of Justice. The full report, *Legal Education and Research and Law Reform in Vietnam (Report to the Ford Foundation, 1992)* is available from Mark Sidel (The Ford Foundation (Bangkok), 320 East 43rd Street, New York, New York 10017). Additional information for this article was gathered by the author in numerous visits to Vietnam in the fall of 1992.

Vietnam's economic reform effort and intends to retain firm political control, the legal system is being required to serve simultaneously as a means of market liberalization and as a continuing tool to maintain the political authority of the Party and the state apparatus it has created and reinforced.

The Vietnamese legal system cannot begin to fulfil the complex, challenging, and contradictory tasks set for it—and, perhaps more importantly, no meaningful debate on those challenges and contradictory goals can begin in Vietnam without a highly trained and sophisticated group of legal professionals and legal scholars. Legal training and research constitutes the base from which an effort to confront the challenges of economic liberalization and political stability and their contradictions must initially emanate, for without practitioners and scholars who can both understand and question the goals set for the legal system there can be little hope for significant progress in the legal sector.

It was to understand this key base for legal reform in Vietnam that the Ford Foundation requested a consultancy report in early 1992. The goal of the consultancy—with results described in this article—was to understand the current position and role of legal training and research facilities in Vietnam, to determine the status, training, and interests of faculty, and to study the prospects for reform and expansion of this sector as a precondition and contribution to broader reform of the legal system. That consultancy visit, and this report, constitute the first systematic study of the role of Vietnam's legal training and research sector in the Vietnamese legal reform process.²

2. In compiling the research for this report, the author visited the Ministry of Justice, Hanoi Law College, Hanoi University Faculty of Law, Supreme People's Court, Institute of State and Law under the National Center for the Social Sciences, Department of International Law and Treaties of the Ministry of Foreign Affairs, International Law Department of the Institute of International Relations, Department of State and Law at the Nguyen Ai Quoc Higher Party School, College of Foreign Trade, Vietnamese Lawyers Association, Vietnam Chamber of Commerce and Industry, individuals associated with the Internal and Administrative Affairs Group of the Central Committee of the Vietnamese Communist Party, the Law Commission of the National Assembly and the State Commission on Cooperation and Investment, and, in Ho Chi Minh City, Ministry of Justice Office No. 2, Ho Chi Minh City Branch College of the Hanoi Law College, Ho Chi Minh City Justice Department, Ho Chi Minh City University Faculty of Law, and other institutions and individuals.

Mark Sidel extends his gratitude to then-Minister of Justice Phan Hien, Director Ha Hung Cuong, Division Chief Nguyen Bich Ngoc, Office Deputy Director Cao Thi Thanh Thao (Ho Chi Minh City), and their colleagues, all of the Ministry of Justice, and to Ms. Nguyen Thanh Ha of the Americas Department of the Ministry of Foreign Affairs, for facilitating the consultancy visit. These dedicated officials and their colleagues in legal education and research institutions carefully explained their work and priorities and patiently answered numerous, sometimes extremely detailed questions.

The author also wishes to thank Catherine Thuy Hoa Savage, UNDP Resident Legal Adviser in the Vietnamese Ministry of Justice, for energetic interpretation and

II. THE CONTEXT OF VIETNAMESE LAW REFORM AND THE ROLE OF LEGAL TRAINING AND RESEARCH: HISTORY, STRUCTURE, DEMANDS, AND CONSTRAINTS

Structured and cautious legal reform emerged as a priority in Vietnam in the late 1980s, shortly after the Vietnamese Communist Party initiated its policy of *doi moi*, or renovation, in the economic sphere. The primary Party-inspired task for law in an era of economic reform has been to produce legislation to guide and manage the economic reform process. This is in itself an enormously complex and difficult task for Vietnam, which started virtually from the beginning in the formulation of economic legislation in 1987.

But "legal reform" has had another meaning in Vietnam as well. Vietnam's Party leaders are driven in the political sphere by two different and sometimes contradictory impulses. On the one hand, pluralism, greater discussion of social issues, and a broader range of increased personal freedoms must begin to enter the ordinary lives of Vietnamese citizens. Some members of the Party leadership acknowledge this heightened flexibility in personal and political affairs as necessary in order to promote economic diversification and liberalization. For others it may be something of a goal in itself.

But an additional consideration is also always present. The Vietnamese leadership appears united in its commitment to maintaining domestic political stability and has allowed that deep desire for stability to guide and sometimes limit the pace in which pluralism emerges. Law plays a significant role in both these tendencies. It has been called upon both to bring greater pluralism to Vietnamese society and to contain the political instability pluralism can bring. Thus the *doi moi* policy and the parallel process of debate over political reform has presented intense intellectual, political, and professional challenges to the Vietnamese legal community.

These challenges are extraordinarily complex, and they demand the involvement of knowledgeable and politically sophisticated individuals from the Party, government, legal practice, and academic institutions to have even a possibility of success. In a different era—immediately after a revolutionary victory, for example—such officials, intellectuals, and practitioners might have come

other assistance. Peter Geithner, Director of Asia Programs, commissioned the consultancy for the Foundation, and Ms. Sisamorn Plengsri in Bangkok also provided invaluable assistance. In the fall of 1992, Ms. Dao Tuyet Thanh and Mr. Tran Anh Dung of the Americas Department of the Vietnamese Ministry of Foreign Affairs provided exemplary assistance.

directly from the ranks of military and political leaders. But the passage of time has eliminated this source of leadership cadre for the nation's economic and political development. Today, four decades after the founding of the then-Democratic Republic of Vietnam and eighteen years after the absorption of the southern part of Vietnam into the reunified nation now known as the Socialist Republic of Vietnam, if such younger individuals are to emerge they will come almost entirely from research and training institutions. Therefore, what is happening in Vietnam's legal training and research facilities is crucially important to the future pace, scope, and sophistication of legal reform in Vietnam.

Recent history indicates that Vietnam's legal research and training facilities are ill-equipped to face these complex challenges.³ There was no formal tertiary academic legal education in Vietnam during the war years. The government institution with primary responsibility for legal affairs, the Ministry of Justice, had been closed in the 1960s as part of a war-time deemphasis on legal process. Those duties which were not eliminated, such as legal education, were taken over by internal security, police, and Party groups. It was only in 1976, the year after Saigon had fallen, that a small law faculty was established at Hanoi University under the Ministry of Education and Training. Several years later, initial efforts were made to strengthen the primary legal research facility, the Institute of State and Law in Hanoi; a small Judges Training School was established by the Supreme People's Court in 1979; and the State Law Commission (the predecessor to the Ministry of Justice) opened a small two-year legal training school.

In 1980 and 1981 these three institutions, the Hanoi University Faculty of Law, the Supreme People's Court's Judges Training School, and the two-year legal training school under the then-State Law Commission were merged to form the Hanoi Law College. In a move that hampered later institutional development, the Hanoi University Faculty of Law and the Judges Training School were closed as separate institutions. The new Hanoi Law College was situated (and is still headquartered) on the grounds of the former Judges Training School in southwest Hanoi. When the Ministry of Justice was formally reopened in 1981, twenty years after its dissolution, it took control of the new Hanoi Law College.

It became almost immediately apparent, even under the conservative policies prevailing during the time, that one legal training

3. Extensive information on the history of Vietnamese legal education and research was supplied by Professor Dao Tri Uc, Director, Institute of State and Law (Hanoi), Professor Ha Hung Cuong, Director, Department of International Law and Cooperation, Ministry of Justice (Hanoi), and numerous law faculty deans and teachers in January 1992 and on later visits during the fall of 1992 and in the spring and summer of 1993.

facility would be insufficient to meet Vietnam's burgeoning needs. Thus within a few years after the opening of the Hanoi Law College in 1981, the Ministry of Justice and the College opened a branch facility of the College in Ho Chi Minh City. In the late 1980s, when Party and state policies shifted toward economic reform, Hanoi University and the Ministry of Education and Training reestablished a law faculty within the University, while lamenting the agreement to merge the 1970s faculty, staff, and library into the Hanoi Law College. Finally, at the end of the 1980s, a group of attorneys trained at the pre-1975 Saigon University Law School and faculty at Ho Chi Minh City University opened a small and quite controversial reformist law faculty within the University.

Today Vietnam has several significant institutions of legal education and research. The Hanoi Law College and its Branch College in Ho Chi Minh City remain under the authority of the Ministry of Justice. The Hanoi University Faculty of Law and the Ho Chi Minh City University Faculty of Law operate under the Ministry of Education and Training. The Institute of State and Law in Hanoi, which focuses on research and graduate training, is a branch of the ministry-level National Center for the Social Sciences. The Institute of Legal Research serves the Ministry of Justice. The Vietnamese Communist Party School, originally known as the Nguyen Ai Quoc Academy after an early pseudonym of Ho Chi Minh and now formally called the Ho Chi Minh National Political Academy, has an influential Department of State and Law.⁴ While the number of institutions (or the fact that Vietnam conducts any formal legal training and research at all) may surprise foreign observers, it is also clear that the human and material resources available to these institutions are woefully inadequate to meet the intellectual and professional demands they face as Vietnam rejoins the modern world.

Vietnam's legal training and research institutions shoulder enormously heavy burdens in an era of economic "renovation" and legal reform. The quantitative needs are enormous. Law schools and institutes must train thousands of undergraduates to staff government offices, courts, prosecutors' offices, law firms, and companies throughout Vietnam; initiate training of graduate students as a core for the future of the legal education and research sector; and train and retrain thousands of in-service government officials throughout the country.

Beyond quantitative training needs, scholars within Vietnam's legal education and research institutions must also work intensively to draft urgently needed economic and political legislation. Already

4. Some smaller, often more specialized legal education and research institutions also exist, and each is described briefly in the institution profiles below.

these individuals are frequently called upon to consult and advise on the increasingly complex lawsuits and contracts that have mushroomed in Vietnam's transitional economy.

But the most difficult responsibility faced by Vietnam's legal scholars and training and research institutions is not the admittedly daunting task of training nor the concurrent burdens in legislation and practice. On these intellectuals and institutions fall the even broader and more demanding job—determining the appropriate relationship between the competing areas of legal reform, economic reform, and political reform, and specifically, the role of law in Vietnam's transition to a more diversified economy and its function in enhancing political pluralism and stability. In confronting this immense challenge, Vietnam's legal scholars have little knowledge of how other societies handle similar issues, and no models upon which to rely.

Vietnam's legal education and research institutions and its legal scholars face difficult intellectual and physical constraints in attempting to meet these numerous heavy burdens. These constraints include, for example, enormous time pressure. Developing internally consistent legislation to serve the economic and political reform process, which (for reasons of pacing) might have been allowed to take five years in China, must be completed far more rapidly within Vietnam because of Vietnam's relatively late beginning on the reform process and the economic and demographic pressures the regime faces. Similar time pressures are evident in the training, advising, and other functions which face the law faculties, as well as the broader considerations of legal, economic, and political reform in which Vietnam's legal scholars must engage.

The relatively limited number of trained legal scholars, teachers, practitioners, and officials presents a more specific constraint. Because of the long duration of the wars with France and the United States and the deemphasis on law during those decades, Vietnam now has very few trained individuals over the age of fifty. The few senior individuals who are available to assist in these processes are either burdened by heavy responsibilities or have recently retired,⁵ or are reemerging from years of political criticism

5. These individuals include Ambassador Phan Hien, former Deputy Minister of Foreign Affairs, and Minister of Justice from 1981 to 1992, and Professor Phan Huu Chi, Advisor to the Ministry of Justice in the 1980s and now a senior attorney at the Ministry-sponsored law firm in Hanoi. Others are Professor Nguyen Ngoc Minh, who was a senior official in the State Law Commission (the predecessor organization to the Ministry of Justice) in the 1970s and the first Dean of the Hanoi University Faculty of Law; Professor Cuu Dinh Lo, who served as Director of the Department of General Law in the Ministry of Justice until his retirement; and Professor Pham Ngoc Tan, who was Director of the Department of Economic Law in the Ministry until his retirement. This older generation was trained almost entirely in France or at the French-sponsored and supported Indochina Law School in Hanoi during the 1930s and 1940s.

and/or imprisonment in reeducation camps.⁶ Practitioners, teachers, scholars, and officials in their thirties and forties (and a few in their fifties, now in key leadership positions)⁷ form the overburdened core of the system. They are far too few to meet demands, which are growing at exponential rates.

Furthermore, even among these limited numbers of trained scholars, teachers, officials, and practitioners, the constraint of limited knowledge and skills remains quite serious. This older generation was trained on French and American legal models in the early decades of the century and expresses forthright confusion and doubt about the relevancy of that training to Vietnam's present problems.

The core generation, now in their thirties and forties, was trained to a high level of specialization in the Soviet Union and Eastern Europe in the 1970s and 1980s, and as late as 1988 and 1989.⁸ Over the past several years this group has seen the systems and models they learned disintegrate, and some members now view the training they received in the former Soviet Union and Eastern Europe as becoming more and more irrelevant with each passing day of transition from socialism. These individuals are the core actors in a system whose complexity and activity is growing exponentially—and whose models for work have now all but disappeared.

A younger group of practitioners, intellectuals, and officials in their thirties, trained during the 1980s in Vietnam, while widely viewed as bright, is insufficiently trained to play a significant role in the training, legislative, and theoretical elements of the legal reform

6. One special figure in this group is Professor Nguyen Manh Tuong, who was educated in law and in literature in Paris in the 1920s, practiced and taught law in Hanoi in the 1930s, 1940s, and 1950s. In 1956, Professor Tuong chose to speak openly against the Communist Party's dictatorial policies, disregard for law and repressive land reform drive. Professor Tuong, now 87 and a respected literary scholar in Hanoi, has not participated in Vietnamese legal development since he was silenced in 1956, but he remains active in Hanoi intellectual circles and was partially rehabilitated in the late 1980s. Mark Sidel is currently writing a study of Professor Tuong and his work.

7. These current leaders, slightly younger than the older leadership group trained in France and in Vietnam, include Nguyen Dinh Loc, Minister of Justice since April 1992; Professor Nguyen Ngoc Hien, Rector of the Hanoi Law College and concurrently Vice Minister of Justice since early 1992; Professor Dao Tri Uc, Director of the Institute of State and Law in the National Center for the Social Sciences (Hanoi); Professor Nguyen Nien, Dean of the Faculty of Law at Hanoi University; and Professor Hoang Van Hao, Head of the Department of State and Law at the Ho Chi Minh National Political Academy (formerly the Nguyen Ai Quoc Higher Party School) in Hanoi. Rector Hien was trained in the 1960s and 1970s in East Germany; Professors Uc, Nien and Hao were trained during the same periods in Moscow.

8. There are many such individuals. A few who might be mentioned are Professor Ha Hung Cuong, Director of the Department of International Law and Cooperation in the Ministry of Justice (as of mid-1992), Vice Rector Le Hong Hanh of the Hanoi Law College, Rector Nguyen Van Luyen of the Ho Chi Minh City Branch of the Hanoi Law College, and Director Nguyen Qui Binh of the Department of International Law and Treaties in the Ministry of Foreign Affairs (Hanoi).

process. Yet they are the ones most likely to critically think about the various contradictory tasks set for law in the 1990s, especially the relationship between law and the Communist Party. This younger group of scholars and practitioners is perhaps the most problematic cohort among Vietnam's legal specialists since its members are likely to have the most imaginative and innovative ideas, but have the weakest foundation of training and experience upon which to base their energy.

As Vietnam's legal scholars, teachers, practitioners, and officials begin to try to understand developments in the rest of the world, language capacity emerges as another significant constraint on their ability to meet the challenges of rapid political, economic, and legal reform. Many members of the older generation can communicate in French, German, or Japanese. The core middle generation knows Russian and German, but little English, French, or Japanese. The emerging younger generation has very limited English and French language skills, and almost no knowledge of Japanese.

A scarcity of legal materials presents a further constraint. Only recently have any legal materials been published in Vietnam, and these are largely disjointed, uncoordinated statutes and explanatory materials.⁹ A few journals are published, of which only one is in any way scholarly in nature. Furthermore, even the quantum of translated material, from Russian, German, Japanese, and French, is quite small. This lack of materials, combined with the relatively high cost of the materials that are available, means that legal scholars in Vietnam looking for analytical, critical, or merely informative means to understand developments outside the country have little with which to work.

III. LEGAL RESEARCH AND TRAINING INSTITUTIONS

A. HANOI LAW COLLEGE¹⁰

1. *Organization and Programs*

Founded in 1979, the Hanoi Law College is primarily an un-

9. See Mark Sidel, *Sources of Law and Legal Information in Vietnam* (forthcoming, 1993) for more information on publication of statutes, legal texts, and legal periodicals in Vietnam.

10. An observer's first impression of the Hanoi Law College is that the institution, identified by many Vietnamese officials as the "most well developed law school in the country," is desperately poor. Housing appears small and enormously cramped, classrooms are dark and broken down, and virtually no books are in evidence. The evident poverty aside, the Hanoi Law College is Vietnam's flagship legal training facility and the key legal training institution under the Ministry of Justice.

During visits to the Hanoi Law College, the author spoke extensively with Rector Nguyen Ngoc Hien, the College's chief administrator and a specialist in economic law. Professor Nguyen Ngoc Hien is completing a doctoral (*tiên si*, or "TS") dissertation at

dergraduate institution. Undergraduate legal education is a five-year curriculum in Vietnam, and the College currently enrolls 2,000 regular students in Hanoi¹¹ and 800 regular students at the College's branch institute in Ho Chi Minh City.¹²

Undergraduate students complete general courses in the first two years, leading to a competency examination and a certificate. Most then continue in specialized courses for another three years. Concentrations in economic law (including civil law), international law, administrative law (including legal theory and constitutional law), and court work are available to undergraduate law students. The court work specialty trains students to work in the courts, the procuracy (state and local prosecutors' offices), and as lawyers and defense counsel.

Another 5,000 students—most serving as working officials in the court system, the procuracy, the police, or in various government departments—attend the College in workplaces or local justice bureaus throughout Vietnam on a part-time basis to upgrade their skills. College faculty travel to lecture in twenty-two such locations. As an indication of the growing burden on institutions like the College, the Ministry of Justice, the Ministry of Education and Training, and the Law College have begun joint planning to increase the number of working cadres who may receive retraining opportunities, either on site in Hanoi or through such distance programs.

In-service training programs for working officials also enroll participants on the College's main campus in Hanoi. For example, as part of a national focus on upgrading the skills and broadening the expertise of judges to meet the needs of a more diversified and complex economy and society, the College trains judges in a year-

the Economics University in Berlin on the economic and legal autonomy of state and private enterprises in transitional socialist economies. He is an advisor to the commercial law drafting group in the Council of Ministers (the equivalent of the cabinet in U.S. government) and has consulted on land law, state credit, bonds, accounting, advertising, and other legislation. In April 1992, Rector Nguyen was appointed to serve concurrently as Vice Minister of Justice.

11. The Hanoi Law College is located on two sites in Hanoi. The main campus is on Lang Trung Street in southwestern Hanoi, near such other tertiary education facilities as the Foreign Ministry's Institute of International Relations, the Procurators Training School, the Foreign Trade College, and the National School of Administration. Most faculty and all third, fourth, and fifth-year students live and work on the Lang Trung campus. The Lang Trung campus also serves as the site for all meetings with foreign visitors. Another campus is located fifteen kilometers south of Hanoi, on the site of the State Law Commission's earlier two-year training school. Assigned to the Commission just after the war in 1976, the campus had previously been used as the primary Hanoi "training center for southern cadres in the north." Today this southern campus is used to house and train first and second year law students, who move to the Lang Trung campus after their second year.

12. See *infra* part III.B for a discussion of the Ho Chi Minh City Branch College of the Hanoi Law College.

long program that includes courses in criminal, civil, administrative, and economic law. The College also trains officials to a certificate level for the Office of the Procurator-General in Hanoi and for other government institutions.¹³

As part of an effort to upgrade teaching and research skills at the College and to train more senior legal personnel, including law teachers and legal scholars, the College recently initiated a small, two-year graduate program. After completing entrance examinations, approximately thirty students were admitted to this graduate program in the spring of 1992. The graduate curriculum includes general courses in politics, philosophy, foreign languages, logic, and law in the first year, and courses in such fields as criminal, civil, economic, administrative, and international law in the second year.

A significant number of these graduate students are expected to teach at the Law College, the Hanoi University Faculty of Law, the Procurators Training School, and other institutions. Others will conduct research in the Ministry of Justice and other government organizations, or work as senior prosecutors.

2. *Faculty and Faculty Training*

One hundred eighty-seven faculty (approximately forty percent of them female) are responsible for conducting all of these legal training activities.¹⁴ Faculty are divided into the ranks of Professor, Associate Professor, and Lecturer. Most faculty are younger instructors—approximately seventy percent of the faculty are in their thirties, ten percent in their twenties, and the remaining twenty percent range in age from forty to fifty-eight. Many of the few faculty in the oldest age bracket do not teach law but teach politics and philosophy.¹⁵

A large portion of the faculty (about seventy percent) received some training in the former Soviet Union and in Eastern Europe. About thirty percent were trained entirely in Vietnam. Surprisingly, given the size of the College and the importance attached to it by the Ministry of Justice, no faculty member has yet been trained in the United States or in Western Europe outside Germany. The ten faculty who were training abroad in January 1992 studied or

13. Procurators may also receive training at the Procurators Training School in Hanoi, a four-year undergraduate institution. See discussion *infra*.

14. One hundred forty-four of the faculty teach in the four specialized departments: 45 teach in the Faculty of Economic Law, 12 in the Faculty of International Law, 42 in the Faculty of Administrative Law, and 45 in the Courts Faculty. The remainder of the faculty, about 40 persons, teach foreign languages, philosophy, politics, and other core courses. The approximately 25 foreign language faculty teach French, English, German, and Russian (1992 statistics).

15. This group may lack even the minimal substantive legal training necessary to instruct undergraduate law students.

conducted research in the former Soviet Union, Germany, and Poland; when those opportunities are completed the College fears there will be few others.

3. *Development Goals and Conflicts*

Providing enhanced training opportunities for faculty and improving the College's poor library and teaching equipment are among the College's early goals. Improving research skills and output is a key priority; the College's profile in this area remains relatively low compared to the research-oriented Institute of State and Law in the National Center for the Social Sciences. The College does not publish any academic law journals, although it has plans to establish a journal when funds become available.

The College also operates a branch facility in Ho Chi Minh City ("Branch College"). Currently, there is debate over whether the Branch College should be upgraded into a full and thus more independent law school, and whether a law school should be built at Hue, in central Vietnam, expanding the foundations laid by the Law College's satellite training center there. There are groups and individuals within the Ministry of Justice in Hanoi who advocate both steps, perhaps with the institutional interests of the Ministry in mind, as well as the development of legal education.

Focussing on its own institutional interests, the Hanoi Law College takes a somewhat different approach. Although firm positions are hard to gauge, the Law College seems to prefer concentrating on strengthening the Branch College under its leadership rather than making that school an independent facility. Similarly in Hue, according to Rector Nguyen Ngoc Hien, the College's chief administrator, the Law College does not advocate the opening of an independent law school but instead hopes to explore an "alliance" with the University of Hue to build there a "regular legal education center."¹⁶ The University of Hue could teach the first two years of basic and common courses, then the Law College would take responsibility for specialty law training at Hue in the final three years, either within the University or at a different facility. The Rector notes (in a view not uniformly shared throughout the system) that the "trend is not to have more law schools, but to merge schools, as in the [proposed but unapproved] merger of the Procurators Training School into the Law College."¹⁷ It is clear that the Hanoi Law College is the Ministry's choice to lead Vietnamese legal education into the twenty-first century, a task assuredly welcomed by the Law College itself.

The Hanoi Law College faces enormous challenges over the

16. *See supra* note 10.

17. *Id.*

years ahead. The College's responsibilities for training thousands of mid-level practitioners leaves its faculty little time and resources for broader thinking about the role of law in Vietnamese society, or even for training graduate students. Thus, the legal education system may see more centralization, rather than an expansion of institutions and division of functions which could allow schools like the Hanoi Law College to play a key intellectual role within the system.

B. HANOI LAW COLLEGE, HO CHI MINH CITY BRANCH COLLEGE

1. *Organization and Programs*

The Ho Chi Minh City Branch College of the Hanoi Law College was established in December 1987, evolving from an existing intermediate legal training center run by the Supreme People's Court that had trained judges and court officials for the southern provinces. Now operated by the Hanoi Law College, the Branch College has absorbed the judicial training functions of the predecessor institution and has added programs to train lawyers, prosecutors, and government officials.¹⁸

Like the Law College in Hanoi, the Ho Chi Minh City Branch College concentrates on undergraduate legal training and on retraining of officials. Approximately 100 to 150 undergraduates have begun the five-year academic program each year since 1987, and there is now a total undergraduate student population of about 800. Specialization is available in economic law or in training to work in the court system, after an initial period of core courses.

The Branch College also operates a two-year in-service retraining program for government officials in the southern provinces. Basically a shortened version of the five-year undergraduate curriculum, the two-year program eliminates many of the undergraduate core courses in literature, philosophy, economics, foreign language, and politics, and shortens other courses. The Branch College also offers other shorter retraining programs.

2. *Faculty and Faculty Training*

The Ho Chi Minh City Branch College employs forty full-time

18. The Branch College was represented in discussions with the author by Rector Nguyen Van Luyen, a specialist in economic law who received training in international law at the Moscow Institute of International Relations from 1970 to 1976 and then returned to the Soviet Union for advanced training between 1984 and 1987. Rector Luyen's doctoral thesis focussed on joint enterprises in socialist countries, and he continues to work in the areas of civil law and international economic and trade law. Like many of his colleagues who studied in Moscow during times of tension between the United States and Vietnam, he has warm memories of brief, usually random encounters with individual Americans in Moscow.

faculty. Nine of the faculty teach in the economic law department, twelve teach in the courts training department, eight teach common courses in constitutional, administrative, and civil law, four teach foreign languages, and others teach philosophy, politics, Vietnamese literature, physical education, and other subjects. Because the full-time teaching staff is insufficient, the Branch College employs another twenty contract teachers each year.

In a pattern repeated around the country, most of the faculty are in their thirties and forties. As with the faculty of other legal training institutions in Vietnam, the Branch College's faculty are described as efficient and enthusiastic but inexperienced. Because the Branch College is located in Ho Chi Minh City, there is little contact with other legal training and research facilities around the country. Lack of proficiency in foreign languages also constrains opportunities for contact abroad. Training abroad has been concentrated in the former Soviet Union and East Germany, and thus about fifteen of the faculty can speak Russian or German, but few know English or French.

3. *Developmental Goals and Conflicts*

The Ho Chi Minh City Branch College is not a thriving institution—its physical condition and human resources appear inadequate to meet its enormous pressures. Located in Ho Chi Minh City, Vietnam's most open and accessible metropolis, the Branch College had entertained only one foreign visitor before the arrival of the author's Ford Foundation consultancy team.¹⁹ Ho Chi Minh City's rapid growth and economic sophistication places substantive demands on the institution, demands which are unknown, and indeed perhaps unimaginable, in Hanoi. Further, the Branch College is constantly monitored by the Hanoi Law College and the Ministry of Justice.

It is not surprising therefore, that some faculty and administrators at the Branch College support the formation of a Ho Chi Minh City Law College (under the Ministry of Justice) that does not report to the Hanoi Law College. They have also expressed frustration over the slow pace of contacts abroad, and have taken a great interest in facilitating contact with foreign academics and legal training institutions.

Whether the Branch College will be upgraded to a full-fledged law school under the Ministry of Justice appears to be the key structural issue facing the Branch College over the next several years. The Branch College and the Ministry of Justice's Office for the

19. Professor Jurgen Simon of the University of Luneberg law faculty in Germany visited the Branch College after assisting the Ministry of Justice in the drafting of economic law in 1991.

South in Ho Chi Minh City both seem to support the idea. The position taken by the Hanoi Law College toward this proposal was unclear in early 1992, although there were indications that the Law College hoped to retain a supervisory relationship over the Ho Chi Minh City Branch College.

C. HANOI UNIVERSITY FACULTY OF LAW

1. *Organization and Programs*

Hanoi University and its Faculty of Law are distinctly different from the stand-alone, specialized law schools in Hanoi and Ho Chi Minh City. At Hanoi University, the Faculty of Law is only one of more than a dozen departments. This organizational structure reflects a more comprehensive approach to scholarly planning and activity, and at the same time has resulted in serious budgetary shortages. The Faculty of Law has a checkered history, having been opened and closed on several occasions over the past fifteen years.²⁰

Hanoi University's predecessor university was founded by the French in the 1930s. The original, imposing building, now housing the chemistry department and a world-renowned Center for Natural Resources Management and Environmental Sciences, still stands in downtown Hanoi. The present Hanoi University was founded in 1956 and celebrated its thirty-fifth anniversary on December 25, 1991. The school has grown to comprise fifteen separate faculties and over 10,000 students.²¹

During its creation in 1956, the University had few faculties, and law was not among them. The Faculty of Law and Faculty of Philosophy began "joint activities" for several months in 1976, and separated later that year into two departments. Three classes of undergraduates had begun their training prior to 1979, the year when the Faculty of Law was merged into the Hanoi Law College. After this consolidation, many faculty moved over to the Law College.

At the end of 1986 and the beginning of 1987 the Vietnamese Ministry of Education and Training and the University reconsidered their earlier decision to merge the Faculty of Law in light of Vietnam's nascent opening to the world; they decided to reestablish the Faculty of Law. One motivation for this reopening was the perception that although the Hanoi Law College produced graduates for the Ministry of Justice and for law-related vocational and professional roles, there remained an unfilled need to recreate a basic

20. Associate Dean Nguyen Cuu Viet spoke for the Faculty of Law, joined by his colleagues Lecturer Dinh Thieu Son of the Legal Theory/Law of the State Section, and Ms. Nguyen Lan Nguyen, a teacher in the International Law Section.

21. The faculties of Hanoi University include literature, history, geography, foreign languages, mathematics, physics, chemistry, biology, and other academic disciplines.

legal education and research structure in a comprehensive university. The Faculty of Law was thus formally reestablished in May 1987 for the 1987-88 academic year to conduct a five-year undergraduate program.

The Faculty of Law is divided into four sections, which concentrate, respectively, on legal theory and constitutional law, "private law" (civil, criminal, and procedural law), economic law, and international law. Like most of Vietnam's other legal training institutions, the Faculty of Law now enrolls three types of students. In the five-year curriculum there are 350 regular undergraduate students, for whom the government pays tuition and living expenses and who take regular entrance examinations.

Undergraduates in the five-year curriculum who pay their own tuition fees and living expenses constitute a second group, now numbering 600 students. These students, who have not taken university entrance examinations (although some may already have undergraduate degrees²²), study for six months and then must pass a "screening."

Officials in in-service training programs also study in the Faculty. In one arrangement, professors are assigned to the Office of the Council of Ministers to teach senior government officials. In another arrangement, professors are sent out to teach at a prominent trade and investment firm and at the State Science Committee. Faculty also teach in several other locations, but no examples were given of in-service training in the court or procuracy sectors (the Hanoi Law College may be conducting training directly in these areas). In total, in-service training students number about 400. The meager physical facilities are seriously overburdened, and the Library is by all accounts inadequate.

2. *Faculty and Faculty Training*

The Hanoi University Faculty of Law has a full-time faculty of only approximately fifteen to serve 1,300 students in three programs.²³ Only two or three of the faculty, including the Dean, are

22. The beginning of an undergraduate double-degree system (e.g., economics/law, science/law) is finding its way into Vietnam through the experimental, self-financing sector of the state educational system. In China the undergraduate double-degree structure culminating in a law degree, long favored by legal academics, was delayed until state funding and policy caught up with the views of university-based academics, and only later was established in the self-financing sector of the state system.

23. Professor Nguyen Ngoc Minh was the first Dean of the Faculty of Law, shifting from a senior position at the then-State Law Commission. Professor Nguyen Nien, 58, a specialist in economic and commercial law, is now Dean and a senior legal counselor to the Office of Ministers (Vietnam's cabinet). Trained in the former Soviet Union, he came to the Faculty as Associate Dean in 1976 after working in the Council of Ministers.

Associate Dean Nguyen Cuu Viet, 46, was educated in the former Soviet Union

senior staff in their fifties. The great majority, between seventy and eighty percent, are between thirty-five and forty-five years old. These individuals generally hold the Cand. Dr. (PTS) degree from institutions in the former Soviet Union or East Germany, and each has about ten years of teaching experience. Three or four of the faculty are under age thirty-five, of whom the majority were trained in Vietnam.

Hanoi University's special status in the firmament of Vietnamese higher education, the high profile of the Ministry of Education and Training (which directs the University), and the Faculty of Law's own efforts have combined to give the Faculty more foreign contact than its relative importance within Vietnam might otherwise suggest, and considerably more than the Hanoi Law College. The Faculty participates in an agreement between Hanoi University and the University of British Columbia, under which Vancouver-based faculty have made several visits to the campus. Faculty members also participate in collaborative research on environmental and water law with Professor George Radosevich of Colorado State University and individuals from the Hanoi University of Water Resources and the Mekong Committee. One faculty member obtained an LL.M. from Harvard Law School in 1992-93. There has been sporadic contact with individuals and institutions from a wide variety of other countries and regions, including France, Australia, Germany, Italy, and Poland. The Faculty of Law thus enjoys a cumulative record of interaction with the outside world that the Hanoi Law College cannot presently hope to match.

3. Developmental Goals and Conflicts

At first glance the Hanoi University Faculty of Law might appear to represent a possible intellectual core for critical thinking about the role of law in the transitional Vietnamese economy and society. The Faculty seems to have some substantive contact with the outside world and with critical actors within Vietnam. Further, although it must teach large numbers of students, the Faculty appears less overburdened than the Hanoi Law College.

Yet the constraints faced by the Faculty of Law are enormous. The institution's faculty are quite small in number, and there are

between 1975 and 1985 (with several multi-year periods back in Vietnam). He received the Cand. Dr. (PTS) degree from the Institute of State and Law in Moscow and is a specialist in constitutional and administrative law.

Lecturer Dinh Thieu Son, 40, studied in the former Soviet Union from 1974 to 1980. He received the Cand. Dr. (PTS) degree from the Institute of State and Law in Moscow and is a specialist in constitutional and administrative law. Ms. Nguyen Lan Nguyen, 27, graduated from the Hanoi Law College in 1986 with an undergraduate specialty in international law and now teaches in the Faculty's International Law Section.

virtually no research or teaching materials on campus. In late 1992 there was increasing discussion of re-merging the Faculty of Law with the Hanoi Law College so that both the Ministry of Justice and the Ministry of Education and Training would not have responsibility for building a modern legal education center in Hanoi. The Hanoi University Faculty of Law is at a crossroad—the future could bring its development into an intellectual center for legal scholarship, or its eclipse through submergence into the Hanoi Law College.

D. HO CHI MINH CITY UNIVERSITY FACULTY OF LAW

1. *Organization and Programs*

This controversial institution opened in 1990 as a starkly reformist school, with the primary objective of challenging Soviet-inspired, Ministry of Justice-led models in legal education. A guiding force behind the Ho Chi Minh City University (“HCMC”) Faculty of Law is a group of Saigon attorneys who practiced in the city before 1975. Many of these individuals were subjected to “reeducation” or other forms of severe criticism for their role in South Vietnamese society. Their leader in January 1992, Trieu Quoc Manh, also serves as Acting Dean of the Faculty of Law and is a founding member of the HCMC Faculty.²⁴ According to Acting Dean Manh, the HCMC Faculty of Law is approved by the Ministry of Education and Training in Hanoi and operates under the aegis and with the assistance of Ho Chi Minh City University’s Faculty of Philosophy.²⁵

The HCMC Faculty of Law offers a four-year undergraduate law course. This shorter program poses a challenge to the five-year programs offered by other institutions. Approximately 1,200 individuals from Ho Chi Minh City and other areas competed for 750 places in the first cohort, which entered the University in October 1991. In October 1992 another 300 students entered the Faculty. In another sharp difference from other legal training institutions, all students at the HCMC Faculty of Law pay tuition, and most live at home.

Requiring students to pay for their university training is part of a series of reforms in Vietnamese education known as the “open system.” Under the previous regime, a “single system” provided

24. A graduate of the disbanded Saigon University Law School, Trieu Quoc Manh serves both as Chairman of the Bar Association (*Doan Luat Su*) of Ho Chi Minh City and as Chairman of the Legislative Department of the Ho Chi Minh City Municipal Council.

25. In January 1992 Vice Dean Nguyen Van Dien of the Faculty of Philosophy was responsible for the administration and management of the HCMC Faculty of Law. The term *nhanh*, or branch, is officially used to describe the Faculty in Vietnamese, a reflection of its present official status as a branch of the Faculty of Philosophy.

tuition, materials, and housing for all university students, including law students. However, the government continues to fund the education of most undergraduate students in law schools under the supervision of the Ministry of Justice. Some students who receive state support also benefit from government assistance in obtaining jobs after graduation, although such intervention is by no means prevalent.

Because the state cannot by itself finance the training of large numbers of personnel, what Faculty officials term a "system B" has emerged in which students pay for at least part of their education. Such students, including all those enrolled in the HCMC Faculty of Law, will not have the assistance of state educational authorities in finding employment upon graduation.

For reformers at the HCMC Faculty of Law, the institution's shortened, four-year program is an element in their attempt to create "new forms" of legal education suited to a socialist economy in transition to a market system. Substantive changes within the curriculum reveal the reformers' goals even more clearly.

In their first year of training at the HCMC Faculty, students complete a series of core courses. These include constitutional law, civil law, ancient Vietnamese law, foreign legal history, economics, philosophy,²⁶ family law, and international law. Elements of the constitutional law, family law, and international law courses have been revamped to reflect the needs of law students in a transitional economy and in an open, commercial city such as Ho Chi Minh City.

The second-year curriculum includes civil law (contracts and obligations), commercial law (mortgages, insurance, and related topics), administrative law, criminal law, criminal procedure, economics, administrative law (primarily government liability issues), logic, and ancient Eastern philosophy.

At the beginning of their third year, students choose a specialty from among three offerings: (1) business law, (2) international trade and investment law, and (3) "private law," which appears to focus upon family law, inheritance, and criminal representation. The range of available concentrations clearly indicates the HCMC Faculty's view of the types of lawyers that Ho Chi Minh City and southern Vietnam will need into the twenty-first century.

Third-year students study company law, investment law, financial law, public finance, property, and other subjects, partly in common courses and partly divided by specialty. In the fourth year the curriculum includes public international law and comparative law

26. A faculty leader explained that the University and the Ministry of Education and Training require the teaching of the philosophy course, which is the traditional course in politics for university students.

(including comparative constitutional and criminal law), and courses in business law, international commercial law, European Community law, and international arbitration. These subjects again are taught partly in common courses and partly divided by specialty. Foreign language proficiency equivalent to two years of undergraduate study is also required, with classes offered in English and French. The Faculty wishes to offer Japanese, but a severe lack of Japanese language teachers throughout Ho Chi Minh City has so far frustrated those plans. Classes are held in large lecture halls on the campus of the University. Library facilities, which the Ford Foundation consultancy team did not visit, are reportedly extremely poor.

2. *Faculty and Faculty Training*

In a mixture of defiance and necessity, the HCMC Faculty retains the Saigon University Faculty of Law's reliance on adjunct faculty from practice and government agencies to teach most law courses. In general, one attorney or government official teaches each subject—a significantly leaner staffing pattern than at the other institutions. In support of its policy, the HCMC Faculty holds that most university-based law teachers would be excessively isolated from the enormous changes in the business environment and in legal practice that are taking place in Ho Chi Minh City. Perhaps an equally important motivation is the Faculty's strong desire to operate its curriculum as freely as possible from interference by Hanoi-based government ministries or by Ho Chi Minh City University.²⁷

The Faculty of Law at Saigon University, which resonates so strongly in the new school, was abolished in 1975 after the Vietcong and the North Vietnamese army entered Saigon. Originally established in Hanoi in 1930 by a French law professor (and with test papers sent to Paris for grading), the Faculty was annexed to Saigon University when North and South Vietnam separated in 1954. Trieu Quoc Manh, like many of his colleagues, graduated from the Saigon University Faculty of Law during the 1960s. This affiliation of faculty is evident in the goals and aspirations that have been set for the new HCMC Faculty of Law and has placed the HCMC Faculty into sharp conflict with northern forces represented by the Ministry of Justice in Ho Chi Minh City and Hanoi.

27. For example, Dean Manh teaches civil law to first-year students, and an official in the Foreign Affairs Office of Ho Chi Minh City with a doctoral degree from a Swiss university teaches public international law. In another resonance of the former Faculty of Law at Saigon University, the new HCMC Faculty had intended to invite former professors at the Saigon Faculty to staff the new school. However, reportedly, many of these individuals have left the country, and the rest are now very old.

3. *Development Goals and Conflicts*

The Ho Chi Minh City University Faculty of Law appears to lack outside friends and benefactors. Ministry of Justice personnel in Ho Chi Minh City and Hanoi dispute the legal basis for the HCMC Faculty of Law. This conflict threatens to obstruct the Faculty's graduates from obtaining certification to practice as attorneys. For its part, the HCMC Faculty derides the Ministry and its legal training institutions as hidebound, conservative relics of Vietnam's Soviet past. It even criticizes—relatively openly—its administrative partner at the University, the Faculty of Philosophy, and its accreditor, the Ministry of Education and Training in Hanoi, as less than useful products of a bygone era.

In its conflicts and defiance, the Ho Chi Minh City University's uneasy relationship with the Ministry of Justice and other institutions reflects the economic and political discord between northern and southern Vietnam, which was only heightened by the north's conquest of the south in 1975. This conflict has returned to the core of legal training in step with Vietnam's rapidly increasing economic diversification. Southerners, and their role in building a market economy, have returned to the fore, though under northern political rule. Given Vietnam's history since 1945, there is no sign these conflicts will be resolved at any time soon.

Defiance and necessity coalesce to create a certain ambivalence within the HCMC Faculty of Law toward socioeconomic and political development. The Faculty strongly desires increased contact with the outside world. However, the type of increased interaction within the Vietnamese system that might lead to the availability of more books and materials from Hanoi, for example, is viewed with both suspicion and longing. No such ambivalence is evident with regard to contact with foreign legal scholars and practitioners. While Dean Manh and his colleagues view contact with other Vietnamese legal scholars and practitioners with suspicion or derision, they identify the lack of contact with the outside world as a key constraint on development. The Faculty has hosted short-term visitors from Australia²⁸ and the United States,²⁹ and looks to expand such contacts.

Eventually the new HCMC University Faculty of Law wants to build a faculty both by hiring professors and inviting outside professors to teach. The problem of forming a faculty when cur-

28. Australian visitors have included Professor Malcolm Smith and Ms. Veronica Taylor of the Melbourne University Faculty of Law. Professor Smith is Director of the University's Asian Law Center.

29. American visitors have included Timothy Gelatt of the New York University School of Law and a Ford Foundation consultant. Timothy Gelatt, *NYU Law Professor Lectures in Ho Chi Minh City*, INDOCHINA INTERCHANGE, Mar. 1993, at 13.

rently there is virtually no full-time faculty is particularly vexing to Manh and his colleagues. However, ambivalence over the bureaucratic complexities of full-time faculty, as compared with the relative simplicity of an adjunct staff, remains.

4. *Critical Views of the HCMC Faculty of Law*

The Ho Chi Minh City University Faculty of Law is a deeply controversial institution, and the Ho Chi Minh City office of the central Ministry of Justice is resolved to explicitly and critically "clarify the differences between the Ho Chi Minh City Branch College of the Hanoi Law College and Ho Chi Minh City University, and to explain Ministry of Justice supervision with respect to [the new law faculty at] HCMC University."³⁰

According to the Ministry of Justice office in Ho Chi Minh City, the HCMC Branch College of the Hanoi Law College meets the criteria set by the government for accreditation. The institution has a recognized faculty, an approved curriculum, and "regular" students and thus qualifies as an accredited school. The HCMC Branch College also has an "open system" for students who pay their own tuition, but (as opposed to HCMC University Faculty of Law) this is also "approved by the government and open to government officials who are working and who need legal enhancement programs."³¹

In contrast, according to the Deputy Director of Ministry of Justice, the Faculty of Law at Ho Chi Minh City University has a law faculty and a curriculum that are not fixed. Nothing is fixed for the students or the teachers; they don't know how many teachers they are going to have. All is in a state of flux. The curriculum is set out by lawyers from the Bar Association, and the faculty comes from the Bar Association and is not accredited by the government. Nor are the students accredited. They are not [admitted by] exam, and they are not recognized by the government. [The Faculty of Law] does not respond to the needs of legal education. [In terms of] criteria for the curriculum, faculty, and students, their degrees will not be recognized by the government.

The Ministry of Justice has a mandate to supervise legal education. . . . Ho Chi Minh City University [law] courses do not fall within the competence of the Bar Association and they are not the Bar Association's responsibility. Ho Chi Minh City University should have a law faculty. But when the Ministry of Education and Training granted the license to establish the law faculty, there was no coordination with the Ministry of Justice.

30. These comments were made by a senior member of the Ministry of Justice Office Number Two (Ho Chi Minh City) in January 1992, and reflect the Ministry and Office's view of the situation at that time.

31. *Id.*

[Then-Minister] Phan Hien has sent a letter complaining [that there was] no coordination. [To receive] a license their curriculum needs to meet the criteria, [and there must be] some unified way of control. [They are merely] created by the Bar Association, and don't meet the criteria. [This is a] result of economic development, not education. [It is] not part of the responsibility of the Bar Association to educate people.

E. THE INSTITUTE OF STATE AND LAW IN HANOI

If there is an institution of legal research and training in Vietnam which stands poised to meet the intellectual challenges facing Vietnamese law over the next several decades, it may well be the Institute of State and Law in the National Committee for the Social Sciences. The Institute possesses some academic strength and is not burdened by the crushing training obligation which threatens to overwhelm other legal training and research institutions. At the same time, the Institute is among the few law schools and legal research centers best connected to policy debates underway within the Communist Party.

1. *Organization and Programs*

The Institute's great advantage is that its duties, unlike those of the four legal training facilities described above, are concentrated largely on research and not on training many thousands of undergraduate law students and running in-service courses for officials. The Institute's work is "primarily theoretical," a distinction frequently and proudly drawn by Institute Director Professor Dao Tri Uc, a specialist in constitutional and economic law.³²

Professor Uc cited the problem of organizing the state apparatus and state personnel as an example of the Institute's research function. The Institute's work on that issue focuses on thinking broadly about the structure of the state apparatus and the relationship between center and locality. Other entities, such as the Ministry of Justice, are in charge of legislative drafting. "We are not directly concerned about drafting concrete laws," noted Professor Uc, "but we think about the conception and the ideas over a four or five-year period."

Institute researchers report their work through the Institute journal *Nha Nuoc va Phap Luat (State and Law)*, which is Vietnam's sole academic law journal. They also participate in inter-agency Party and government task forces and research committees,

32. Professor Uc was trained in Moscow in the 1960s and appears to serve as a consultant to the powerful Internal and Administrative Affairs Committee (*Ban Noi Chinh*) of the Central Committee of the Vietnamese Communist Party. He was one of five Vietnamese representatives to a conference on law in Indochina and educational exchanges sponsored by The Asia Foundation in September 1992.

and present research work through a complex report and document process within the Party and government.

2. *Graduate Curriculum*

The Institute does not train undergraduates, but it does operate a small training program for postgraduates. The Institute has two training programs for postgraduate legal researchers, a three-year master's program and a four to five-year candidate doctor (PTS) program.

Sixty graduate students are resident in Hanoi and one hundred are in Ho Chi Minh City, with a few master's students in other locations as well. About 120 of the graduate students are working toward three year master's degrees, and about forty toward candidate doctor (PTS) degrees.

Of the approximately forty candidate doctor (PTS) students at the Institute, about thirty study and conduct research full time at the Institute. The other group of about ten work in external organizations and study part-time, coming to the Institute once or twice a month to meet with their tutors. Of the forty doctoral candidates, about twenty will become researchers or teachers at the Institute, the Ministry of Justice, the Hanoi Law College, or the Hanoi University Faculty of Law, and about twenty will join or rejoin other organizations, including other ministries or local governments.

The HCMC component of the graduate program is taught by faculty from the Institute who travel to HCMC, along with researchers from the small, affiliated law group in the HCMC branch of the National Center for the Social Sciences.

Most graduates of the masters program will work as professors, research fellows, or as cadres in economic organizations in Hanoi or HCMC. Most of the HCMC graduate students currently work for their government or corporate employers; after finishing their studies these students will return to their institutions as full-time employees. Most graduate students' organizations pay for the students' studies, however, a few students pay education costs themselves. In general, the Institute's graduate students join government research centers rather than government ministries.

3. *Research Staff and Staff Training*

The Institute has about sixty full-time professional research staff, and another thirty part-time cooperating researchers from other institutions. Approximately five researchers work in a "law group" affiliated with the Institute, which is part of the branch Center for the Social Sciences in Ho Chi Minh City.

Approximately fifty of the Institute's staff have been trained abroad. About two-thirds of those were trained in the former So-

viet Union and in Eastern Europe, especially the former German Democratic Republic. The Institute of State and Law has had a long, now weakening relationship with the key legal research institutes in Moscow, Leningrad, and Kiev, including the powerful Institute of State and Law in Moscow and the Moscow State University Faculty of Law.³³

Professor Dao Tri Uc, Director of the Institute of State and Law, in some senses represents the second generation of Vietnamese legal officials and scholars who are now heading legal structures throughout Vietnam. Professor Uc was trained in law at Moscow State University from 1962 to 1966, and then completed the candidate doctor (PTS) degree program at the Institute of State and Law in the Soviet Academy of Sciences between 1977 and 1980. He then returned to the Soviet Union and completed the doctor of science (TS) degree program after several years of study during the 1980s at the Institute of State and Law. He is now the only such degree holder in law in Vietnam.

About one-third of the Institute's staff were trained primarily in Vietnam. Only a few have been trained in ASEAN countries.³⁴

4. *Foreign Cooperation*

The Institute's foreign contacts are extensive and growing. For example, in May 1993, The Asia Foundation sponsored a seminar on issues facing law and society at the Institute, where legal specialists from the United States, Japan, and Thailand were invited, and numerous Vietnamese scholars attended. The Institute also maintains memberships in a Paris-based international comparative law association, a comparative politics association, and an international and comparative criminal law group. In addition to these relationships, Professor Uc described two other, quite different sets of contacts. The first, in his terms, is with institutions and individuals from socialist countries. The second is the recently established cooperation with non-socialist countries, especially the United States, France, Japan, and the ASEAN countries. An agreement has recently been signed with Japan to train young Institute staff at the University of Tokyo Law School and the law school at Nagoya.

33. At present, four Institute students remain in the former Soviet Union; all are candidate doctor (PTS) students at the Institute of State and Law in Moscow. Three PTS students remain in Berlin.

34. The only example given was of three short-term traineeships in Bangkok, two in economic law, and one in criminal law. Several of those personnel are at the Institute's affiliated "law group" of about five in Ho Chi Minh City. Several members of the Institute—perhaps of the HCMC law group—appear to have studied in Bangkok before 1975, including at the Law Faculty at Chulalongkorn University. One Institute staff member in Ho Chi Minh City received a Ph.D. in management at an American university before 1975.

Personnel would study either as visiting scholars for two terms or as degree-seeking graduate students ("doctoral candidates") for two-year periods.

5. *Developmental Priorities and Conflicts*

The Institute's key identified priorities, closely related to its core research function, are obtaining foreign legal materials and training staff. But over both the short and long term, the Institute will be under external pressure to develop theory that justifies the use of law to gradually free the economy and to contain political change. Like China, there will be internal pressures within these institutions to think through that contradiction, a process of thought and research which could eventually lead Institute staff into conflict with political authorities.

IV. SPECIALIZED LEGAL RESEARCH AND TRAINING INSTITUTIONS

A. MINISTRY OF FOREIGN AFFAIRS, DEPARTMENT OF INTERNATIONAL LAW AND TREATIES

1. *Organization and Staffing*

The Department of International Law and Treaties in the Vietnamese Ministry of Foreign Affairs plays a central role in research and policy formulation in international law and is the intellectual leader of international law studies in Vietnam.³⁵ Founded in 1977, when the international law and treaties section of the Foreign Ministry's International Organizations Department was made a separate department, the Department of International Law and Treaties presently has a staff of about twenty-five.³⁶ Several staffers

35. At various times, the author was briefed on the Department's work and functions by Mr. Le Van Thinh, Deputy Director, and Mr. Nguyen Qui Binh, Acting Director, and by others in the Department.

36. The Department is usually headed by a Director. In January 1992 the previous Director, Ambassador Ta Ngoc Ngan, had been posted abroad as Ambassador to Mongolia. In 1993, Acting Director Nguyen Qui Binh was in day-to-day charge of the Department.

Acting Director Nguyen Qui Binh, 45, received his early legal training in the law section of the Foreign Trade College in Hanoi and at the Foreign Ministry's Institute of International Relations. He then studied public international law at The Hague in 1980 and 1981, the first staff member in the Department to do so. In early 1992 Binh finished a year at Harvard hosted by the Harvard Institute of International Development, receiving an LL.M. degree from the Law School and completing additional coursework in public finance and project evaluation and appraisal at Harvard's Kennedy School of Government.

Deputy Director Le Van Thinh, 44, also provides an example of the breadth of training opportunities many Department staffers have had. He studied at the Institute of International Relations in Hanoi and then studied international law for two years at

are usually abroad for study,³⁷ and Department staffers are posted at the Vietnamese Mission to the United Nations in New York, at the Vietnamese Mission in Geneva, and in several foreign capitals.³⁸

The Department has four primary fields of work and is divided into four sections to handle those tasks. The first section handles territorial, boundary and frontier issues (both land and sea), and the law of the sea. The second section deals with security issues and treaty law: "war and peace," interstate cooperation, state relations, state recognition, state succession, and property issues.³⁹ A third section is responsible for issues of international economic law, and the fourth handles issues of international organizations, human rights, diplomatic immunity and other diplomatic law matters, and consular affairs. The Department also offers opinions on draft laws, often on a section-by-section basis. Each of the four sections may participate in such drafting and review, depending on the subject matter of the law or regulation. On certain legislation the Department may take a lead drafting role. Whether it is engaged in drafting or review, the Department (and the Foreign Ministry) seems intent on retaining what one staffer refers to as a "strong voice" in legislation relating to foreign affairs.

2. *Training and Foreign Cooperation*

Eighty percent of the Department's staff have had formal legal education in Vietnam or legal training abroad. Many of those trained abroad studied in the former Soviet Union or Eastern Europe, but a surprising number have also been trained in Western Europe (including numerous courses at The Hague) and the United States. The Department's international training opportunities already surpass those of virtually any other legal institution in the country. Existing mid-level staff are now required to learn, and new staff required to know, English or French before they enter the Department.⁴⁰ Other advanced, in-service training takes place within

the Swiss Institute of International Affairs on a fellowship provided to the Ministry by the Swiss government. He also studied for three years in the former Soviet Union.

37. In January 1992, for example, one staffer was conducting research at New York University School of Law (hosted by Professor Jerome Alan Cohen), and another was studying at Harvard Law School and the Kennedy School of Government (hosted by the Harvard Institute for International Development).

38. However, a Department staff position at the Vietnamese Embassy in Moscow was recently eliminated when the Moscow Embassy underwent significant downsizing.

39. According to one Department staffer, for example, the Department "helps domestic ministries accede to treaties." He gave as an example the Vietnamese government's accession to a nuclear non-proliferation treaty, stating, "the Foreign Ministry struggled for that."

40. Foreign language proficiency for legal professionals is a significant problem. One Department staffer said that there are only three locations in Vietnam where competent foreign language training is available for legal professionals: the Foreign Ministry's Institute of International Relations in Hanoi, the Foreign Trade College in Hanoi,

the Department itself, for there does not seem to be any other group with the level of substantive knowledge and resources available in Hanoi or elsewhere in Vietnam to assist the Department in training its junior staffers.

3. *Links to Domestic Institutions*

The Department's closest link to a domestic legal education and research organization is with the Department of International Law in the Institute of International Relations. The Department of International Law and Treaties provides training and some resources to the small staff of teachers of international law at the Institute. Given the strength of the Ministry Department and the relative weakness of the Institute staff, there does not appear to be much the Institute can offer in return.

The relationship between the Department and Vietnam's law schools and legal research facilities also seems quite unbalanced. Department staff often teach international law in the schools, but there is relatively little in the way of legal research or advice that the law schools can offer the Department. The Department of International Law and Treaties appears significantly stronger in its specialty field than any of the legal training and research institutions that surround it in Hanoi or Ho Chi Minh City.⁴¹

and perhaps one site in Ho Chi Minh City. The law schools do not offer effective nor extensive foreign language training.

41. One Department staffer provided a starker interpretation of the somewhat more gentle analysis offered by the Department in official meetings. This staffer described the law schools as providing poor training, desperately lacking in useful legal materials, and possessing extremely poor infrastructure.

In this staffer's view the law faculties begin with the "professional problem" that virtually all of the most competent staff have Soviet and East European training and degrees, and what they studied has become outmoded almost as soon as they learned it. "They are caught in old theory, with no chance to update."

In international law, the Department can provide some of the modern professional training needed by recruits. That is largely because of Department colleagues have enjoyed additional opportunities to study international law in the West and because their Soviet training in international law has remained more relevant than their Soviet training in other legal disciplines. Virtually no other legal organization can provide such specialty training to junior staff, and thus upgrading and modernizing the type and quality of training provided by the law faculties is a key priority.

The international law group at the Institute of International Relations, headed by Professor Pham Ngoc Chi, is a small group supplemented by three retired ambassadors. According to the staffer, the Institute group relies heavily upon the Department for coordination of curriculum and teaching materials, and for substantive information on international law. The Institute group would prefer to be formally integrated into the Department for greater access abroad and to international law materials. But the Ministry's Department of International Law and Treaties anticipates a growing rather than reduced need in the years ahead for a separate international law teaching and research group within the primary training ground for the Ministry, the Institute of International Relations, and has resisted formal merger.

The staffer, who is familiar with international law activities throughout the coun-

4. *Priority Needs and Development Goals and Conflicts*

The Department's two primary needs are continued advanced staff training abroad and up-to-date materials in international law. The Department is now at a stage where training abroad can focus on subspecialty topical areas of law of special concern to the Department. In January 1992, these included boundary and territorial law, state succession and related property issues, international economic law (including settlement of disputes), foreign claims, and the relationship between private contracts and state property. In many of these fields, the key problem is that Department staffers have been trained almost entirely in public international law; and, as one staffer stated, "[w]hen the country shifts to economic cooperation, our participation in the process is narrowed." Much of the training now needs to focus on international economic law.

Coordination between the Department and the Ministry on the one hand and other ministries and commissions throughout the government on the other, remains a significant problem. The Department is not always consulted before legal documents or agreements are adopted by other government agencies, and no effective mechanism exists to facilitate such consultations.

B. MINISTRY OF FOREIGN AFFAIRS, INTERNATIONAL ORGANIZATIONS DEPARTMENT

Apart from the Ministry's Department of International Law and Treaties, numerous issues relating to public international law are also the responsibility of the Foreign Ministry's International Organizations Department. Headed by the French and British-trained Ms. Ton nu Thi Ninh, the Department's approximately twenty staffers are responsible for Vietnam's relations with the

try, could think of no truly prominent scholars or teachers in international law at either the Hanoi Law College or the Hanoi University Faculty of Law. However, he stated that it would be important to develop core groups at each institution. Several researchers at the Institute of State and Law work on international law, he indicated, but they are very few, their work is very general, and there is little contact between the Department and the Institute of State and Law. In more general terms, the Hanoi Law College is substantially stronger in domestic law than in international issues; the College deemphasized foreign language training when it was directed to produce judges and lawyers for the domestic system. Now that foreign languages and economic law have become important, the Hanoi Law College is ill equipped to meet that challenge. A key priority for the Law College, according to this staffer, is retraining and enhancing the skills of younger faculty between 35 and 40 years old who were trained originally in East Europe and the former Soviet Union.

According to this staffer, the Hanoi University Faculty of Law has only five to seven teachers in international law (but hundreds of students) and extremely poor facilities. The Dean of the Faculty spends much of his time working on legal affairs in the Council of Ministers. One or two staff from the Faculty have already gone abroad for training, including one woman to the Fletcher School of Public Policy and to Harvard Law School, but there is little the Faculty can do to assist the Department.

United Nations, specialized United Nations agencies, and other international organizations.

This Department's primary responsibility within the Ministry is human rights policy. In 1993 the Department assigned several staffers to work on human rights research and policy, attend international meetings discussing human rights, and receive foreign visitors in the field. In Spring 1993, for example, the Department hosted a delegation from Asia Watch.⁴² In June 1993 Director Ninh and several staffers accompanied Vietnamese Deputy Foreign Minister Le Mai to comprise the official Vietnamese governmental delegation to the 1993 Vienna World Conference on Human Rights.⁴³

C. DEPARTMENT OF INTERNATIONAL LAW, HANOI ACADEMY OF INTERNATIONAL RELATIONS

The Foreign Ministry's Academy of International Relations⁴⁴ (the "Academy") prepares undergraduates for service as diplomats and analysts in the Vietnamese Foreign Ministry and other government and Party agencies. The Academy has a small Department of International Law (the "Department") which interacts closely with the Foreign Ministry's Department of International Law and Treaties.⁴⁵

Recruitment of new students into the Academy was temporarily halted several years ago so that the institution could be restructured and its faculty retrained. In-service training is also provided to working Foreign Ministry cadres and other government officials, and the Academy conducts research on international relations and foreign policy.

42. The Asia Watch delegation included Executive Director Sidney Jones, human rights specialist Dinah PoKempner, and Bill Herod from the Washington-based Indochina Project of the Vietnam Veterans of America Foundation.

43. Several human rights policy researchers from other government organizations accompanied the delegation with support from the Ford Foundation.

44. This institution was previously termed the Institute of International Relations. The name was changed in the fall of 1992 to reflect its broader role in diplomatic and international affairs training.

Prior to 1985 there were two international relations training and research institutions under the Foreign Ministry in Hanoi. One, an Institute of International Relations, focussed on research. The other was a College of Foreign Affairs (also translated as Diplomatic College or Academy), also under the Foreign Ministry, which trained diplomats and foreign affairs officials. The two institutions were merged in 1985 to create the Institute of International Relations.

45. The Department of International Law is headed by Professor Phan Ngoc Chi, who spent the 1991-92 academic year in the United States engaged in research at the New York University School of Law (hosted by Professor Jerome Alan Cohen). Lecturer Hoan Van Truong, the Acting Head of the International Law Department, and Ms. Nguyen Thi Bang, another lecturer in the Department, spoke for the Department in January 1992 discussions with the Ford Foundation.

The Department is divided into a Research Division and a Training Division. The Research Division has groups working on strategic studies (the "great powers") and on Asian-Pacific studies. The Training Division has departments for international law, international relations, international economic relations, and foreign languages (English and French).

The Institute of International Relations' charge to the Department of International Law requires the Department to teach the basic concepts of international law to undergraduate students who are studying international relations and diplomacy. The teaching focusses on public international law and general concepts of international law. A year-long general course on public international law (taught in the third or fourth year of the five-year undergraduate curriculum) includes the law of treaties, diplomatic and consular law, humanitarian law, laws of war, conventions, human rights, law of the sea, international organizations, and other international legal concepts.

The Department also teaches "private international law" as a survey course with the "most general objectives" in one semester to third- or fourth-year students. That course includes the study of foreign legal systems, conflicts of laws and disputes, the application of foreign law, and issues of property abroad.

Because of its broad array of course offerings, the Department has limited teaching time in any one area to give its students. Even while studying the two-semester public international law course and the one semester private course during the third and fourth years, students are studying other disciplines as well. The Department hopes to admit graduate students in 1993, although their specialties are yet unclear.

According to Department leaders, for the past several years the Department concentrated on its teaching role and "has not done much outstanding research." Present needs require the Department to expand its training function while rapidly increasing its capacity to conduct both theoretical and practical research.

1. Faculty and Faculty Training

There are two generations of faculty within the Department: those trained during the French regime who are now retiring, and younger faculty, in their thirties and forties, who were trained "more systematically" in the former Soviet Union, Eastern Europe, or Vietnam. There are only seven members on the teaching "list" of the Department. An average of about five people are present and teaching at any one time. Three of the seven were abroad in early

1992.⁴⁶

Professional, training, and research links with (and dependence on) the Foreign Ministry's Department of International Law and Treaties are central to the Department's work. It will be difficult for the Department to develop independent expertise and capacity to analyze developments in international law. However, signs that it can begin to do so—even in individual subfields of international law—will be important signals of the qualitative development of the Department.

2. *Development Goals and Conflicts*

The Department needs to retrain its present small core of faculty, and the Department is not training further undergraduates until the rest of its faculty has had some opportunity to be retrained. And, as at every other legal research and training institution surveyed, there is great need for legal materials. At present, its faculty relies upon the resources of the library of the Foreign Ministry's Department of International Law and Treaties for virtually all its research in international law.

D. DEPARTMENT OF STATE AND LAW, NGUYEN AI QUOC ACADEMY (HIGHER PARTY SCHOOL) (HANOI)

The Nguyen Ai Quoc Academy in Hanoi and its branch institutes in Danang and Ho Chi Minh City are central training and research facilities for the Vietnamese Communist Party.⁴⁷ The existence of a Department of State and Law in the main Nguyen Ai Quoc Institute in Hanoi and of law sections in the other Party schools was initially indicated by authors' references in *Nha Nuoc va Phap Luat (State and Law)*, the journal of the Institute of State and Law in Hanoi.⁴⁸ Inquiries in Hanoi confirmed the existence of an active legal research group at the Academy in Hanoi, and law

46. The Department chair, Professor Pham Ngoc Chi, was in New York for a year of research and coursework at the New York University School of Law. A young lecturer was in a six-month training program on public international law in The Hague, and another faculty member was studying public and private international law, as well as international relations and international economic relations, at the Institute of International Relations in Moscow for two years.

47. Nguyen Ai Quoc is among the more well-known of one of Ho Chi Minh's many pseudonyms. Nguyen is perhaps the most common of Vietnamese surnames, and Ai Quoc means "patriotic."

48. See Hoang Van Hao, *On the Leading Role of the Vietnamese Communist Party and its Acknowledgement in the New Constitution*, NHA NUOC VA PHAP LUAT [hereinafter STATE AND LAW], Issue 2, at 3-6 (1991). The author's affiliation is listed as Department of State and Law, Nguyen Ai Quoc Academy. Professor Hao is also separately listed as a member of the Editorial Board of *State and Law*. See also Chu Van Thanh, *Some Problems Concerning the Relationship Between the People and the Socialist State in Our Country*, STATE AND LAW, Issue 1, at 53-56 (1991) (author's

groups at both of the branch academies as well. In the fall of 1992, the author met with Professor Hoang Van Hao, Head of the Department of State and Law at the Nguyen Ai Quoc Academy, who confirmed the existence of the Department and offered insights regarding its role.

With about twenty staff members, the Department of State and Law offers law courses to senior Party officials who are undertaking short and long-term training at the Party School. It also engages in research on the relationship between law and the Vietnamese political system in order to assist Party policy development. For example, Professor Hao concurrently serves as a director of a national research project on "human rights and civil rights during the period of renovation (*doi moi*) of [Vietnamese] society." Project findings will be reported to the Party's Central Committee as Vietnam struggles with human rights issues in the coming years.

E. INSTITUTE OF LEGAL RESEARCH, MINISTRY OF JUSTICE

The Institute of Legal Research in the Ministry of Justice conducts legislative and policy research. In 1993, the Institute became more prominent and began increasing cooperation with foreign institutions, including a law development project sponsored by the Swedish International Development Agency and implemented by the University of Umea. Furthermore, the Institute has published several volumes on criminal law and shows promise of becoming an even more important legal research facility in the years ahead.

F. HUE UNIVERSITY FACULTY OF LAW

A small law department was recently established at Hue University in central Vietnam. It had less than a dozen teachers in early 1993 (including part-time faculty), and relies upon visiting lecturers from the Hanoi Law College and other institutions in Hanoi and Ho Chi Minh City. The dean is reportedly a senior official at the local public prosecutor's office. The faculty is the only such

affiliation listed as Researcher, Department of State and Law, Nguyen Ai Quoc Academy).

There are other institutional references to the Nguyen Ai Quoc Academy in the author's affiliation notes to *State and Law*. See, e.g., Tran Ngoc Duong, *The Conception of Human Rights in the Renovation and Perfection of the Law System in Our Country*, STATE AND LAW, Issue 1, at 23-26 (1991) (author's affiliation listed as Nguyen Ai Quoc Academy); Pham Ngoc Quang, *To Overcome "State Socialism" - An Aspect in the Struggle for Human Rights in Socialism*, STATE AND LAW, Issue 1, at 27-31 (1991) (author's affiliation given as Nguyen Ai Quoc Academy); Ho Tan Sang, *Some Problems Concerning the Implementation of Political Democracy in Our Country at Present*, STATE AND LAW, Issue 2, at 53-55 (1991) (author's affiliation listed as Nguyen Ai Quoc Academy III - Danang); Pham Ngoc Quang, *Democracy and Monolism*, STATE AND LAW, Issue 3, at 18-22 (1991) (author's affiliation listed as Nguyen Ai Quoc Academy).

group in central Vietnam, and Hue University expects it to grow considerably in the next five to ten years.

G. LAW SECTION, FOREIGN TRADE COLLEGE (HANOI)

The Foreign Trade College in Hanoi is the primary training center for the Ministry of Trade and Tourism, and also serves import-export corporations and other trade-related groups. A very small staff at the College teaches foreign trade law to undergraduates, and provides in-service training courses to officials.

H. PROCURATORS TRAINING SCHOOL (HANOI)

The Procurators Training School trains prosecutors for service throughout the country under the Office of the Procurator-General. The School is located near the Hanoi Law College in southwest Hanoi. The school has a branch in Ho Chi Minh City to train prosecutors for the southern provinces.

In the past, faculty and staff at the Procurators Training School have requested that the School be merged into the Law College, in order to give faculty and staff access to the better facilities and opportunities available at the College. To date this request has not been approved.

I. POLICE TRAINING INSTITUTIONS

There appears to be at least one school responsible for providing police and security training at the four-year undergraduate level and providing in-service training to police and security cadres. One police and security training facility specifically mentioned is located in Hanoi and provides training in police and security procedure and administration, conflict and dispute resolution, and other subjects.

J. JUDICIAL TRAINING INSTITUTIONS

Judicial training is a particularly knotty issue for a socialist society in transition, one that is undergoing rapid legal development with declining state budgets and in which there is fierce conflict among legal institutions. The Vietnamese Ministry of Justice and the Supreme People's Court, in independent meetings, outlined the history of and current conflicts over this difficult problem in legal development.⁴⁹

According to the Court's Deputy Chief Justice, prior to 1976, Vietnam had virtually no judicial training because of the absence of law schools. The majority of lawyers and judges were educated

49. According to the Supreme Court, its meeting with the author in January 1992 was the first such discussion between the Vietnamese Court and American attorneys in several decades.

abroad, primarily in the former Soviet Union and Eastern Europe. However, in 1976 a special training school under the Supreme People's Court and headed by a Deputy Chief Justice was established to conduct short-term courses for judges. The founding of the Hanoi Law College in 1979, and the 1981 reopening of the Ministry of Justice coupled with the decision to transfer some judicial control functions to the Ministry, resulted in the transfer of the Supreme People's Court's judicial training school from the Supreme People's Court to the Ministry of Justice. That school was merged with the Hanoi University Faculty of Law to form the Hanoi Law College, which came under the control of the Ministry of Justice. After 1981, the special school to train judges was abolished, and jurists currently receive training at the Hanoi Law College and, to some degree, at the Hanoi University Faculty of Law.

The pre-1981 judicial training school under the Supreme Court conducted training programs of six months, one year, and two years. After the 1981 merger of the judicial training school and the Hanoi University Faculty of Law to form the Hanoi Law College, judges continue to be trained in programs of six months, one year, and two years in the Law College's "Department for Court." The Department for Court teaches basic law courses to judges but does not provide specialized training.

Therein lies the emerging problem. At a time when law is almost entirely ignored and judges seemingly lack even the possibility of assuming significant authority within the system, there is little reason to place significant emphasis on judicial training. However, because the number and complexity of cases brought to the court system has rapidly increased since the early 1990s, judges have been instructed to exercise at least some authority over economic and civil matters. Consequently, judicial training has now assumed a position of greater priority.

A newly recognized need to expand and improve judicial training and to incorporate specialized training is complicated by ongoing questions of control over the lower courts. In early 1992 the Supreme People's Court and the Ministry of Justice struggled for control of management and staffing of provincial and lower courts in the drafting of a law on the organization of the courts. The draft submitted by the Supreme People's Court, for example, mandated the transfer of management and staffing functions for courts at the provincial level and below to the Supreme People's Court from the Ministry of Justice. The final draft adopted by the National Assembly in Spring 1992 adopted a middle-ground position in the battle for control between the Court and the Ministry of Justice.

After the partial victory of the Supreme Court in taking back some control of certain judicial functions from the Ministry of Justice, it is unclear whether the Court will now be able, as it had

hoped, to move directly to reopen a special school for judicial training. But enhanced and specialized judicial training, either through a new judicial training institute or by upgrading the Department for Courts at the Hanoi Law College, is clearly on the agenda in the coming years.⁵⁰

V. THE VIETNAMESE VIEW REGARDING PROBLEMS FACING VIETNAM'S LEGAL EDUCATION AND RESEARCH SECTOR

There is a concurrence of opinion within Vietnam, even among scholars and officials who disagree on the future direction of the legal system, that the country's legal education and research sector must be improved.

The top priority at virtually every institution and in the Ministry of Justice is short-term training for law school faculty and legal officials in Vietnam. Numerous institutions would like to host or assign faculty to study in training courses taught by foreign scholars and practitioners. Fields of study most often mentioned were economic law subjects, including contracts and commercial law, civil and corporate law issues, trade and investment law, and banking and labor law. Other fields mentioned included administrative law and the regulation of judges, lawyers, and notaries. Recommended lengths of course study periods ranged from two weeks to two months. While institutions and the Ministry of Justice recognize the limitations of the in-country, short-term training approach, they regard it as an indispensable step in the training of knowledgeable faculty and officials.

Officials at Vietnamese institutions agree that short-term training programs must be carefully targeted as to subject, institutions, and level of the participating individuals. In most cases involvement of government agencies and of legal education and research facilities is necessary in order to obtain appropriate coverage. There is little discussion of foreign-sponsored, long-term, in-country law training by Vietnamese law schools and the Ministry of Justice, largely because that is not a model Vietnam is familiar with. Moreover, such long-term, in-country training is expensive.⁵¹

50. The Deputy Chief Justice and his colleagues asked the author detailed questions about the role and structure of the Chinese Training Center for Senior Judges under the Chinese Supreme People's Court in Beijing and about the Ford Foundation's work with the Center, and seemed very interested in China's efforts to train judges.

51. A one year market economics training program supported by the Ford Foundation for university teachers and policy researchers in economics opened in September 1992 at the National Economics University in Hanoi. This program sparked interest in long-term, in-country, foreign-supported training among the international affairs and law communities in Hanoi. See Catherine Lasswell, *Market Economics Training Begins at National Economics University*, VIETNAM NEWS, Sept. 20, 1992, at 1.

A second goal is advanced training abroad. Virtually every institution and the Ministry of Justice is interested in sending personnel from the core Soviet and Eastern European-trained group of faculty in their thirties and forties, for six months to two years of advanced training in specialty disciplines abroad. In general, longer training is envisioned for younger personnel; and, three to six months of short-term training for certain younger and other faculty and officials in their forties and fifties. The Ministry of Justice recommended a small number of students be included in this category (but most institutions did not so recommend), however, even the Ministry's focus was clearly on faculty.

There appears to be more enthusiasm for training outside the region (in the United States, England, or France, for example) than in Thailand or Singapore. There is interest in training in Hong Kong and Japan, but Vietnamese and host nation capacity to train students in those areas is likely to be extremely limited. Vietnamese legal training and research institutions recognize the expense involved in training abroad, especially outside the region, and there is general agreement that Vietnamese institutions will find it extremely difficult to find external funding sources to share costs. Foreign language facility is also viewed as a significant problem, both for advanced training abroad and more generally for the development of Vietnam's legal sector. Whether young faculty or graduate students will choose to subsequently return to Vietnam does not seem to be a significant concern to Vietnamese legal institutions.

Another priority within the legal education and research sector is foreign language training. Each legal research and training institution and the Ministry of Justice recognize the importance of foreign language proficiency and the limitations of present language competence (largely Russian and German) among scholars and officials. Provision of language teachers, teaching materials, and equipment are recognized as important to improve foreign language competence. It is clear that language teachers and materials could effectively be utilized in each of the five primary legal education and research facilities visited, as well as in the Ministry of Justice.

A fourth priority is obtaining legal information and materials. The law collections (given their limited nature, Vietnamese scholars and officials regard referring to them as "libraries" as an inappropriate characterization) at the Hanoi Law College, the Hanoi University Faculty of Law, the Institute of State and Law, and the Branch College in Ho Chi Minh City are very small and extremely deficient in foreign materials. The Ministry of Justice wants to establish a national law library; however, it identifies the Institute of State and Law as already possessing "a serious library," a view which most observers regard as incorrect. Possible providers of legal materials need to work carefully in this field—they must not

merely ship materials to Vietnam but should work closely with Vietnamese institutions to formulate strategies that encourage domestic investment in the area, and build capacity, status, and community by and among law library personnel.

Another critical goal is infrastructure development.⁵² This is a visible and pressing need at each legal training and research facility, but officials recognize that foreign institutions (other than, perhaps, international financial institutions) are generally unlikely to be able to arrange for bricks and mortar projects for Vietnam's legal education and research institutions.

By mid-1993 foreign cooperation with the Vietnamese legal sector was beginning to take shape. That cooperation illustrates the diversity of actors interested in working with Vietnamese efforts to reform the legal system, and indicates the various models which Vietnam will face in the years ahead. For example, in 1992 the United Nations Development Program ("UNDP") initiated a program to support Vietnamese legal development, primarily in economic law. Under that program a Vietnamese-American attorney, Catherine Thuy Hoa Savage, served as Resident Legal Adviser in the Ministry of Justice. This virtually unprecedented degree of flexibility for a justice ministry in a socialist state allowed the Adviser to maintain an office in the Ministry, to consult with and advise senior Ministry officials on a regular basis, and to teach within the Ministry. UNDP has also sponsored seminars in various aspects of economic law, has assisted Vietnamese agencies in seeking foreign assistance in legislative drafting, and has provided legal materials to the Vietnamese government and legislative institutions.

The Swedish International Development Agency ("SIDA") has also supported a legal development project in which scholars from the University of Umea in Sweden worked with several institutions in Vietnam, including the Hanoi Law College. Visiting lecturers visited Hanoi, legal materials were provided, and some overseas study opportunities were made available. Part of this work focussed on human rights law.

Furthermore, the French government and the French bar have identified law as a key area for French interest and assistance in Vietnam. In May 1993 a Vietnamese-French "house of law" was reestablished in Hanoi. The French government has provided substantial assistance for legislative drafting and legal materials.

52. A fifth priority, specifically mentioned by the Ministry of Justice but not by other institutions, is study visits abroad in key, specialized areas of law. The Ministry wishes to provide its middle tier and senior officials with some perspective on key issues in law and in legal and judicial administration through visits lasting up to three months. The International Visitors Program of the United States government constitutes a model for such activities. When the International Visitors Program is available in Vietnam the Ministry will be a source of appropriate personnel for such opportunities.

The Canadian government, through the Canadian International Development Agency ("CIDA"), also supports legal reform studies and training in Vietnam, through a series of seminars and by providing consultants to the Ministry of Justice and other agencies. Some of this work was carried out by the University of British Columbia Faculty of Law's specialists in Asian law, economic law, and other fields.

Additionally, The Asia Foundation, a U.S. government financed organization, has supported economic law development by providing lecturers and materials to several Vietnamese institutions, including the Chamber of Commerce and Industry, arbitral and mediation groups, and the Institute of State and Law in the National Center for the Social Sciences. In May 1993 The Asia Foundation sponsored a law and society workshop at the Institute of State and Law, where legal specialists from the United States, Japan, and Thailand were invited, and which numerous Vietnamese scholars attended.

Finally, the Ford Foundation, as part of its work to strengthen analytic and reflective capacity in international affairs, supports research and training on human rights at the Ministry of Foreign Affairs and several other research and government institutions. The Ford Foundation also supports overseas training in human rights law and policy in the United States and in France and sponsored several Vietnamese human rights researchers to attend the 1993 Vienna World Conference on Human Rights. The Foundation plans to support several workshops on human rights concepts and policy in Vietnam and to provide research materials on human rights to research and government institutions.

VI. LEGAL TRAINING AND SCHOLARSHIP TO WHAT GOAL? CONCLUDING THOUGHTS

Vietnam's law schools and legal research institutions face the difficult task of building rational and creative structures for intellectual thought and policy formulation under conditions of extreme pressure and poverty. The pressure results from the many, often contradictory tasks that legal training and research institutions face in an era of rapidly developing market structures and slow political reform. The poverty, a product of war and the deemphasis of law over many decades, functions as a strong constraint against rapid social development.

Despite these difficulties, development of the legal training and research sector remains possible. Extensive assistance has begun to filter into different facets of the system, and more is likely to arrive over the next three to five years. As the legal training and research

sector begins to develop, many problems will emerge, and only a few can be mentioned here.

One problem is the conflict between immediate and long-term needs. Law faculty, researchers, and practitioners are under intense pressure from government and other sectors to spend significant time preparing the legal infrastructure for market reforms and Vietnam's opening to the world, primarily in legislative drafting and legal consulting. They have an important role to play in this immediate arena. At the same time, however, lies a danger that little or no attention will be given to more knotty and long-term structural problems—both political and economic—which plague Vietnam, and in which legal scholars as scholars (rather than as legislative drafters) may be able to play a significant intellectual role. The role of law teachers and legal scholars as immediate builders, and their role as the intellectuals and creative, long-term strategists of political and economic change, have already come into conflict in Hanoi and Ho Chi Minh City. That conflict is likely to intensify.

Institutional conflicts, and the continuing legacy of poverty in a time of rapid economic and political change, will continue to play an important role in the development of Vietnam's legal training and research institutions. Institutional conflicts among the institutions can be fierce and insoluble, reflecting a need for resources and a desire for social influence. Work within the Vietnamese legal education and research community must take these factors closely into account at each stage of activity.

Vietnam's legal scholars and officials are eager to see a rapid expansion of contact with grantmakers, law schools, law firms, and other legal personnel outside Vietnam. They are prepared to be flexible in discussing program priorities and specific projects, and will be candid about specific institutional interests, conflicts within the system, and the enormous problems Vietnam faces in economic, political, and legal reform. If these problems and caveats are taken into account, work with this sector can be rewarding to Vietnamese law schools, legal research institutions, and legal scholars, and to those who would work with them outside Vietnam in the years ahead.