

Chapter 5

***Đổi Mới*, VNGOs and Prospects for a Vietnamese Civil Society**

In order to better appreciate the particularities of local Vietnamese NGOs and their operating environment, we need to know something about the socio-political conditions in which VNGOs find themselves. In this chapter I explore the complex social and political context of Vietnamese NGOs in four parts. The first part of this chapter emphasizes the importance of the *đổi mới* reforms in the formation of VNGOs. The second part discusses the Vietnamese state itself, including the problems that the concept of civil society poses in a Marxist-Leninist political system. In the third part, I will describe the problems VNGOs face in negotiating the ambiguous legal environment in Vietnam in order to register their organizations with the government. The problems of legal registration highlight the ambivalent attitude of the state toward VNGOs and the VNGO responses to their unstable environment. In the fourth part, I look at the interplay between international donors (who promote a more liberal environment for VNGOs and civil society in general) and the state (which is taking a slow, deliberate approach to allowing the VNGO sector to grow). Donors

interests are in part aligned with state interests and in part lead to contestation and negotiation over issues surrounding civil society.

Đổi Mới and the Renegotiation of State-society Relations

The watershed event in this narrative is the adoption of the *đổi mới* (“renovation”) reforms at the VIth Congress of the Vietnamese Communist Party in 1986.⁴³ The *đổi mới* policies called for the establishment of a market-based economy in Vietnam along with limited social and political reforms, while firmly retaining political power in the hands of the Vietnamese Communist Party. The arrival of large international donors and a very large number of international NGOs shortly thereafter established a political economy of aid that has had a huge impact on Vietnam’s development process, and, along with internal legal changes associated with *đổi mới*, made the emergence of VNGOs possible. The following graphs, based on data from a

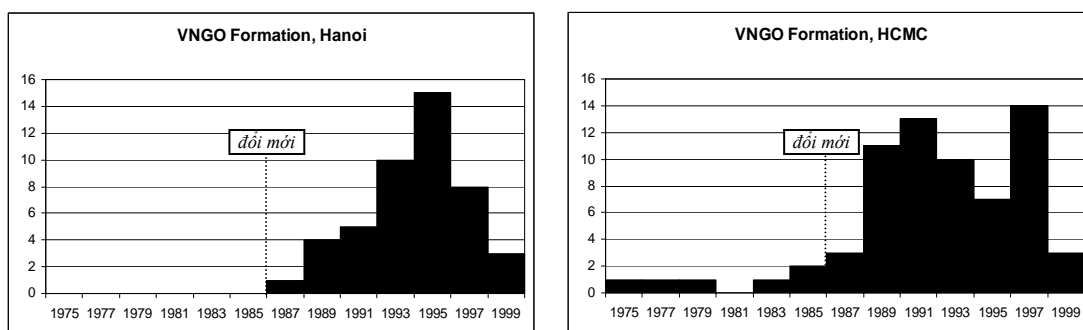


Figure 7: Dates of formation of VNGOs in Hanoi and Ho Chi Minh City, Vietnam (Graphs are based on those from Wischermann and Vinh, 2003.)

study of civic organizations in Hanoi and Ho Chi Minh City undertaken by the

Vietnam National Institute for Social Science in partnership with German scholars in

⁴³ Various reform measures predate and foreshadow the official adoption of *đổi mới* policies, but for the sake of simplicity – and because of the profound effects that *đổi mới* has had on VNGO formation – I will use the Party Congress as my historical marker.

2000 (see Wischermann, 2003), demonstrates the rapid rise of VNGOs after the 1986 Party Congress that ushered in the *đổi mới* reforms.

It is hard to overestimate the importance of the *đổi mới* market reform process in Vietnam, though its 20-year history has been uneven. *Đổi mới* experienced a euphoric beginning in through the latter half of the 1980s, followed by a clamp-down/withdrawal in the early-1990s, then periodic openings and closings through the end of the millennium. From the start, *đổi mới* has been as much about managing contradictions as it has been an economic program. For a start, its very goal of inserting a “small capitalism” within a “large socialism” is a fundamental contradiction, and this tension between capitalist accumulation and socialist management has been clear throughout its first two decades. The road has been bumpy as the State struggles to find the right balance of markets, social freedoms, and state controls. The only constant has been an unrelenting refrain of neo-liberal triumphalism. Very few writers, such as Kolko (1997) and Chossudovsky (1997)⁴⁴, can be found espousing a dissenting point of view.

Đổi mới has had a huge effect on restructuring social and political relations in Vietnam as well. Through this process, State-society relations are being reinvented on

⁴⁴ In his chapter on Vietnam, anti-globalization activist Chossudovsky (1997) does not pull any punches in his assessment of *đổi mới* policies, e.g., “The stylised image portrayed by much of the Western media is that the free-market mechanism has propelled Vietnam into the status of a prospective ‘Asian tiger.’ Nothing could be further from the truth: the economic reforms launched in 1986 under the guidance of the Bretton Woods institutions have, in the war’s brutal aftermath, initiated a new historical phase of economic and social devastation. Macro-economic reform has led to the impoverishment of the Vietnamese people striking simultaneously at all sectors of economic activity” (p. 149)

a daily basis.⁴⁵ VNGOs find themselves at a nexus in this re-formation of Vietnamese society in a context of political tension. Through their daily practices, they must perform a complex dance between domestic and international ideas of development and civil society.

On one hand they are promoted by international development agencies, and they are recognized by the Vietnamese state as being able to provide important social services. On the other hand, they are under suspicion from a Marxist-Leninist political machine that finds it difficult to recognize the legitimacy of any form of social organization outside the VCP. In some sense, VNGOs are the canary in the coalmine; the State response to these organizations may prove the viability of future forms of civil society throughout Vietnamese society.

The idea of civil society in a Marxist-Leninist state is one of the basic contradictions that has been brought to the fore by the *đổi mới* process. The Vietnamese Communist Party, as a Marxist-Leninist party, has historically asserted a monopoly over “associational life” and group activity throughout Vietnamese society; gatherings not sanctioned by the party of government were not allowed. The Tocquevillian conception of civil society as people coming together to form voluntary associations (commonly promoted by international development agencies) is one that is antithetical to the Marxist-Leninist ideal of social organizations. And yet,

⁴⁵ For instance, Nguyen Trong Chuan, et. al. (2000) contend that among these changes the entire realm of “social policy” in Vietnam is being reconceived under *đổi mới* to be much broader. Social policy in Vietnam now must include not only state charity for those who were of service to the state (such as widows of veterans, etc.), but a much larger scope of activities for a greater number of beneficiaries.

mainstream international development theory/practice asserts that such comings-together are necessary. There is also evidence of pressure from the Vietnamese people for the ability to come together to form groups to address development problems. It is in this rapidly changing context that VNGOs are struggling to find a place.

This contradiction – the one between the Marxist-Leninist monopoly over associational life and the pressures both from outside agencies and from within the society to allow for civil society to form – is central to my study. If civil society (as promoted in part by development agencies and in part by an internal desire for Vietnamese to participate in their own national development) depends on the formation of independent voluntary associations and is positioned outside of the market and the state, and if it is (at least somewhat) in opposition to those two, then how can we explain the specific case of civil society in a Marxist-Leninist Vietnamese state with a growing capitalist market economy? This chapter attempts to address this question.

VNGOs, Civil Society and the Vietnamese State

Before moving on to more specific issues around VNGOs in Vietnam, it is important to understand certain aspects of the Vietnamese state, by which I mean both the Vietnamese government and the Vietnamese Communist Party (VCP). In this part I will first review several ways of characterizing the Vietnamese state, based on Kerkvliet's work. Then I will discuss the problems that civil society poses for Marxist-Leninist theory, including some thoughts on how VNGOs could be seen to undermine

the ideological legitimacy of the Vietnamese state. This background material will underpin later explanations of the context that is specific to Vietnam and VNGOs.

Characterizing the Vietnamese State and State Society Relations

There have been many attempts by political scientists and other Western scholars of Vietnam to characterize the Vietnamese state. In my opinion, these have mostly been incomplete, typically capturing one or a small number of important aspects, but leaving unexplained structures, processes, and relationships of the Vietnamese state that have important bearing on state-society relations. Perhaps it will always be the case, as with the blind men and the elephant, that something as complex and disparate as a “state” will remain at best partially undefined. That said, the overview of perspectives that follows will help frame this research.

Kerkvliet (2005) wrote an interesting and useful synopsis of Western scholars’ characterizations of the Vietnamese state, dividing them into four main types. The first and perhaps the most commonly held view in the recent past, characterizes the Vietnamese state as a monolithic entity, involved in and controlling every aspect of Vietnamese economy and society. This is the view taken by Porter (1993) in his book *Vietnam: The Politics of Bureaucratic Socialism*, and by Thayer (1995) in his article titled “Mono-organizational Socialism and the State,” as well as by others. This view holds that the Party, bureaucracy, security apparatus, and policy-making mechanisms are controlled by a small number of powerful people, enabling the state to impose its will over the citizens of the country. This view, bolstered by the Vietnamese state’s

own Leninist ideology, has relevance in looking at state resistance to ideas of civil society because it asserts that the Vietnamese state “is a vast and coordinated party-state which pre-empts alternative and autonomous societal organizations from the national center down to the grass-roots of the village and the workplace” (Womack, 1992, p. 180). In this model, there is no room – and no tolerance – for autonomous organizations outside the Party-government sphere. Civil society is not welcome.

Kerkvliet’s second category of descriptions of the Vietnamese state includes those authors that “allow for societal influences but only in a corporatist fashion.” (Kerkvliet cites William Turley [e.g. Turley1993] for this characterization, p. 34.) These societal influences are only allowed through mechanisms and organizations set up by the state. Mass organizations, predominantly designed for mobilizing the population toward goals set by the state, can also function to channel concerns and needs from the population to the centralized state authorities. In this characterization, citizens have the capacity to participate in governance, but only through the severely constrained “formal institutions dominated by the single Leninist party” (Kerkvliet, 2005, p. 66). Turley recognizes a modicum of civil society-like activity in this process, but states that it is “still weakly developed” (1993, p. 260-264).

The third category of writings on the Vietnamese state describes a system that has far less power to control its citizenry than the two characterizations above. This perspective emphasizes that historically, through the years of war and after reunification, the state has not had the resources or the administrative capacity to

intervene on a micro scale in *every* aspect of citizens' lives. There is a discrepancy between "what the state claims and what actually occurs" (Kerkvliet, 2005). This can be seen in the prevalence of black markets during the (pre-*đổi mới*) period of centralized planning⁴⁶, and is reflected in the common usage in modern-day Vietnam of the ancient saying, "The emperor's edict bows to village custom."⁴⁷ This view allows for a certain amount of organization outside of the state purview, however it must be informal and not impinge upon state authority.

The fourth characterization of the Vietnamese state that Kerkvliet writes about, and the one he himself adopts, "makes room for social pressures and demands on the state, particularly from among peasants and workers..." Even though these pressures usually come through official channels, there is evidence that other forms of social expression also occur, including petitions, complaints through personal contacts within the bureaucracy, and even illegal protests. Kerkvliet believes that the "everyday politics" of bending or modifying official policy, foot-dragging, monkey-wrenching, and other forms of "surreptitious, nonconfrontational, and basically unorganized" (p. 24) resistance to unpopular laws and regulations multiplied throughout society, may gain enough cumulative effect to cause policy change. In this view the population

⁴⁶ My wife's cousin tells an amusing story about eating black-market *phở* (rice noodle soup) as a teenager in Hanoi during the American War. As he was slurping down this forbidden treat, far tastier than the authorized version sold at the state shops, the back-alley restaurant was raided by police. Chairs toppled, tables crashed and beef broth splashed all over everything as patrons dashed to the exits (reminiscent of a raid on a Prohibition-era speakeasy). My wife's cousin escaped the raid by hopping out a window and tearing down a connecting alley. He, far more concerned about what his staunch Communist parents would say if he were caught than what the police might do to him!

⁴⁷ "*Phép vua thua lệ làng.*" Often alternatively translated as "The emperor's law stops at the village gate," this may be the most-quoted Vietnamese saying among foreign scholars, aid workers and diplomats in Vietnam, in recognition that local authorities can frequently "get around" an inconvenient law or regulation.

actively promotes its interests *vis-à-vis* the state, albeit there is no formal, legal mechanism for civil society organizations to form and be recognized by the state.

The usefulness and accuracy of these four characterizations of the state seem dependent on the researcher's interests and scale of analysis. In this study, I believe that all have some usefulness in explaining the rise of VNGOs and the concern with civil society in Vietnam. Taken together, the first two characterizations represent the Vietnamese state as a homogeneous Marxist-Leninist body. In the upper reaches of Vietnam's political life there certainly is an adherence to Leninist principles, including opposition to non-state organizations. This political atmosphere makes the concept of civil society and the reality of VNGOs uncomfortable and suspect among Vietnamese decision makers. Many would like to believe in the primacy and omnipotence of the state, as well as its power to perceive and react to the needs of its citizens (or the imperative to adopt such a posture). From this dogmatic perspective, civil society is redundant to state organs such as the mass organizations, and any new, extra-state forms of civil society are suspected of embodying hidden (anti-state) agendas. Referring to the 1958 Law on Associations that created and formalized the mass organizations, Vasavakul (1999) notes that in Marxist-Leninist Vietnam, "all civil society was brought under state control..." (p.59), and that prior to *đổi mới*, "no independent space existed for social organizations independent of the state" (Vasavakul 1999; see also Vasavakul 2001). I think that this is the perception of the state espoused by most Vietnamese decision makers at least part of the time, embodying as it does an almost idealized notion of Marxist-Leninism never fully

realized in Vietnam. Characterizing the state in this way – as a monolithic entity that retains legitimacy of organizations as its own exclusive province – provides insight into Vietnamese Communist Party and central government officials’ cautious or negative reactions both to the support of international donors for civil society and to VNGOs’ work in the development field.

The second two characterizations view state-society relations from the bottom up, maintaining there is room for public resistance to and pressure on the state. Foreigners living in Vietnam often comment on Vietnamese citizens’ ability to sidestep the authorities to “get things done.” Donors see a potential for a classic civil society to make headway toward democracy (always vaguely defined) precisely because of these visible chinks in the state’s monolithic façade. Though this potential seems to exist, my research convinced me that the VNGOs do not approach their work in terms of finding the “spaces of resistance” that these two characterizations of the state highlight.

Koh (2006) lists 3 “schools of thought” on the structure of the Vietnamese state and state-society relations, calling them the “accommodating state school,” the “structural dominance” school” and the bureaucratic socialism school.” This nomenclature is very similar to Kerkvliet’s, and Koh uses it to emphasize differing views on “the extent of party-state dominance of [Vietnamese] society” (p.2). He notes, however, that though there are some differences between these schools of thought, they all “agree that the Vietnamese party-state tolerates neither alternative

political parties nor social movements outside its structure of political management” (p. 2). He notes however, that in reality, “basic level policy failures” open spaces within this party-state dominance for mediation and negotiation of central policies (p.3). As can be seen in the lack of uniformity in VNGO registration procedures and the creative ways VNGOs register their operations (discussed later in this chapter) there is merit to this outlook.

Perhaps the most glaring problem with all of these characterizations of the Vietnamese state is that they describe a *homogenous* state. The state in Vietnam, as any state, anywhere, is made up of many competing and allied interests. Although Koh explicitly recognizes the vast managerial and administrative problems local government faces in implementing central government edicts, neither he nor most other authors on the Vietnamese state fully take into account conflict and contestation *within* the state at all levels of administration. It is true that the Vietnamese government inevitably adopts the public persona of a unified mind and dissention among state officials is rarely seen in public. Historically, policy debates and discussions have taken place behind closed doors, followed by public pronouncements – complete with smiling officials, hand shaking, ribbon-cutting, and the many other forms of ritual surrounding political agreements – only after some form of consensus has been reached.⁴⁸ However, this “unified front” camouflages a normally contentious

⁴⁸ With the advent of the *đổi mới* reforms, public debates in government are somewhat more common. The occasional televised arguments in the National Assembly or in local People’s Committees are cases in point. One of the more interesting developments in this vein is the unexpected and very contentious debate about the new Law on Associations introduced to the National Assembly as this dissertation is being written. Opponents to the new Law, which would directly affect VNGOs and the formation of

political process, in which debates may be heated and where stakes are high. Although it is sometimes useful to characterize the state in simplified terms (as I do frequently in this dissertation), it is important to realize the complex political reality that those simplified terms mask.

VNGOs and Civil Society under Marxist-Leninism: Can space be made?

Before the Party Congress of 1986 that launched the *đổi mới* reforms, it was almost inconceivable that ordinary people could come together under the regime in Hanoi to form associations to promote their own collective interests. There were a very small number of exceptions to this blanket generalization,⁴⁹ but by and large, social and political space for any form of social organization outside the auspices of the VCP did not exist. In part this situation arose from the Leninist ideological underpinnings of the VCP, and in part it came from a deep distrust of its population, particularly in the recently conquered southern portion of the country. Allowing the spontaneous formation of organizations would open competition with Party-sponsored

civil society in Vietnam, went so far in their public opposition as to introduce a competing bill, the first time this has happened in the history of this regime. (The new law is being studied extensively by Dr. Mark Sidel at the University of Iowa School of Law. Much of my information on this topic comes through personal communication with Dr. Sidel, 2003-2006. See also, Sidel and Vasavakul, 2006; Ủy ban Pháp Luật (Committee on the Law, Vietnam National Assembly), 2006; Sidel, forthcoming 2007.)

⁴⁹ Perhaps the first of these exceptions was the Vietnamese Gardeners Association, known as *VACVINA*. It promoted a sustainable, intensive gardening technique that was important in the pre-*đổi mới* days in alleviating hunger in local areas, and perhaps more importantly, in paving the way for family garden plots and the dissolution of the village cooperative system. By far the more famous exception was the *Association of Former Resistance Fighters*. This group brought together veterans of the American war who fought for the southern guerilla forces and who were subsequently politically disenfranchised by the northern political and military mainstream at the end of the war. Their organization was closed down after about two years of very vocal demands for government recognition and support (Abuza, 2001).

associations, and could allow venues for disaffected citizens to give voice to oppositional views.

a. State Legitimacy and State Ambivalence toward Vietnamese NGOs

From its formal establishment in 1945 through the 1980s, the legitimacy of the Vietnamese state rested on 3 pillars:

1. a Marxism-based pro-poor foundation;
2. the historical success in resisting foreigner intervention; and
3. political stability within the country.

The VCP has historically taken its roles in upholding each of these extremely seriously, and any given issue of the Party Newspaper *Nhân Dân* would have examples of VCP self-promotion along each of these lines, with the latter, political stability, being paramount. (After the advent of the *đổi mới* reforms, the first pillar, the Marxist pro-poor foundation, metamorphed into a fervent quest for economic development using a market-based economy, termed “Socialism with a market orientation,” by Party and government officials.)

It was only after the formal advent of *đổi mới* that a small space for non-Party organizations opened up, and we begin to see the formations of the first “NGO-like” groups in post-war Vietnam. These organizations simultaneously legitimate and undermine the three pillars of legitimacy described above. First, in their development work, VNGOs tend to focus on the poorest of the poor. In doing so they legitimate the

regime's earlier stance, and even in some ways allows the regime to pursue its modified goals of economic development by forming the basis for a socially established (as opposed to a state-sponsored) safety net for those left behind in the new market-driven economy. But at the same time, the existence of and state reliance on VNGOs implicitly highlights the government's inability or unwillingness to continue its support for that part of its population that will not or cannot reap the benefits of Capitalist-style economic development. The very fact that VNGOs (and INGOs, for that matter) are needed to service this population points to the fact that the state no longer can nor does so sufficiently.

Secondly, in terms of the pillar of resistance to foreign domination, VNGOs represent both the ability and desire of Vietnamese to take charge of their own development process, and, ironically, their dependence on foreign funding, training, and resources to do so.⁵⁰ They have arisen at the same time as, and somewhat in the shadow of, the large number of foreign aid and development agencies that descended on Vietnam through the 1990s. VNGOs are both a vital part of the massive donor political economy, and are wholly dependent on foreign aid money for their survival. They are symbols of the Vietnamese national traits of compassion, self-help, and professionalism and at the same time are subject to influence from powerful external donors.

⁵⁰ In Chapter 7, I will discuss the idea of "Vietnamese-led development" in the context of the professionalization and de-politicization of development work.

Thirdly, in terms of the pillar of internal political stability, VNGOs constitute virtually no threat at this time. As I will discuss in more detail in Chapters 6 and 7, the fact is that VNGOs work closely with state officials at every administrative level. They are not a radicalizing force, promoting opposition to state ideology or state policy. Rather, they work in conjunction with state officials toward fulfilling state development goals and policies. However, they also constitute a *potential* site of resistance and opposition. The many delays in forming policy, the careful use (and avoidance) of certain terms, the occasional political sanctions, and the classification of these issues as “sensitive,” all point to a situation where VCP theorists are uncomfortable with the idea of associations that are not directly subordinate to the Party and therefore are not under close surveillance. Were conflicts over ideology and/policy to emerge, VNGOs, with their foreign resources and local networks, could possibly (under certain hypothetical circumstances) form a locus of opposition.

Clearly, just in terms of challenges to state legitimacy, VNGOs pose a problem for the state and the state ideology in Vietnam. They are allowed to exist and are even supported in their operations by state actors. But the ambivalence of the VCP and the government of Vietnam is apparent in the lack of legislation supporting the position and role of VNGOs in Vietnamese society, or even a coherent, consistent set of regulations for their registration. (I will take of this point in more detail, in Part 3 below.)

b. Marxist-Leninist Theory and the Idea of Civil Society

The second issue I want to take up regarding the unstable position of VNGOs in Vietnamese society is the complex relationships between Marxist-Leninism, the social space for NGOs and the concept of civil society. Theoretically, the idea of NGOs, and more broadly, the idea of civil society, poses fundamental problems for the Marxist-Leninist leadership. One of Lenin's major contributions to Marxist ideology, expressed in his 1903 book *What is to be Done?*, is that the proletariat can only achieve and sustain a revolutionary consciousness under the continued guidance of a "vanguard" Communist party. This party must assume leadership in order to both organize the revolution and to guarantee its political direction and ideological purity. With this perspective, Leninist ideology proscribes organization outside the Party/State⁵¹ since such organization could either mislead the proletariat from their correct revolutionary course, or worse, become a platform from which counter-revolutionary forces could undermine the revolution (Thayer, 1992; Miller, 1992).

In fact, the idea of civil society is relatively under-theorized in Marxism. In the early 1990s, shortly after the fall of Socialist regimes in Easter Europe and the demonstrations in Tiananmen square, Chinese and Vietnamese political theorists published a very few articles describing civil society in terms of classical Marxist

⁵¹ Fforde (personal communication, 2005; also Fforde, 2004) has pointed out that Marxism and Leninism both rely on a command economy model to ensure political power and ideological direction. This raises the question of whether Leninism can survive under the *đổi mới* reforms in Vietnam. Certainly the rapid success of *đổi mới*, at least in macro-economic terms – has served to legitimate the VCP on one hand while de-legitimizing its political and economic ideology on the other. Fforde calls this inherently unstable state of affairs "Neo-Leninism." (See also Vasavakul, 1999; Vasavakul, 2001, and Escobar, 2003)

theory, at the same time couching their theoretical explanations in terms of general law and order. The purpose of these articles was clearly to turn the debates about civil society into officially sanctioned channels, controlled by officially sanctioned theorists. Since the mid-1990s, the VCP has repeatedly resisted attempts to move these debates into a wider arena.⁵²

One of the most notable Chinese articles on the subject was by Yu Keping in the Summer 1995⁵³ issue of *Social Sciences in China* called, “Marx's Theory of Civil Society and its Historical Position.” Using copious references to and quotations from Marx’s writings, this article describes civil society as the public expression of *individual interests* (specifically bourgeois interests) that transform into entrenched *class interests*, at the expense of public expression of *political interests* (i.e., the revolutionary interests of the proletariat and peasantry). Civil society becomes, then, another site of bourgeois class conflict. Furthermore, civil society did not exist in primitive societies and will not exist when communism is fully expressed. It is only present in intermediate stages of social development, and most particularly under Capitalism.⁵⁴

⁵² The recent CIVICUS project to define and measure civil society in Vietnam, and the recent attempts by the Vietnam Union of Science and Technology Associations to propose their own draft of the new (proposed) Law on Associations are indications that these debates may be moving outside the officially sanctioned channels.

⁵³ This article was originally published in Chinese in the premier Chinese social sciences journal, *Zhongguo Shehui Kehue*, in 1993.

⁵⁴ Interestingly, a ranking Vietnamese Party theorist told me, “In the last stage of human development the state will not exist. Instead, to govern society we will rely on social organizations,” i.e., a new “civil society” (name withheld, personal communication, Hanoi, March 2004).

Given the timing of the article (the original Chinese version was published four years after the Tiananmen Square demonstrations) and the dogmatically ideological Marxist tone it takes, not to mention the lack of response from other academics, the article can be read as a statement of official position on or interpretation of the concept of civil society at that time in China.⁵⁵

In April 1994, shortly after the appearance of the Chinese language version of that article, *Tap chí Cộng sản* (TCCS, the VCP theoretical journal) published a short article on civil society in its regular “Clarification of Concepts” column (*Tap Chí Cộng Sản*, 1994). This article uses classical Greek and medieval references to define civil society in a way that links citizens to the state, but then argues that the definition of civil society subsequently changed, was “deformed,” in the mid-nineteenth century by European writers. At that time, the article maintains without any specifics, civil society took on a variety of different meanings. However, the article quotes Hegel as stating that the state has the *legal right* to “interfere” in civil society in order to reduce any injustice and “bitter discontent” within it, thereby protecting and influencing “the members of civil society to work for their collective interests.” At the same time, through adherence to the law, civil society has the ability to maintain a state free from authoritarianism:

If you want to have civil society turn into a lawful state, in that society the level of the people’s understanding of the law must be promoted, creating habitual respect for the law, living and working according to the law. Civil

⁵⁵ China scholar Kam Wing Chang (personal communication, November 2005) agreed that this analysis of the timing of the Chinese article was reasonable.

society has the ability to make the state system abide by the people's will (p. 62, my translation).

This article is a strange mix of historical explanation of the term, a reification of the unassailable position of the state, and a call for "Rule of Law," a major theme of Vietnamese development policy since the early 1990s. Read one way, it acknowledges the potential of civil society to function in an anti-authoritarian manner, as happened in Eastern Europe just a few short years before this article was written. At the same time it sends a warning that civil society must act within legal bounds and so must be subject to state "intervention." It lacks the dogmatic Marxist analysis and tone of the Chinese article, yet it maintains the pre-eminence of the state. Being written in the foremost Party theoretical journal, it clearly asserts the position of the CPV in determining the proper place and role of civil society in Vietnam.

An interesting and fruitful interview at the Department of Human Rights in the Ho Chi Minh National Political Academy (name withheld, personal communication, March 2004) confirms this reading of the CPV's position. As an introduction to the interview I was subjected to an all-too-common recitation of Vietnamese history from the perspective of the CPV. My informant emphasized that in all of Vietnamese history there had never been a major conflict within the country, between the 54 ethnic groups or the six major religions. Historians may debate this assertion, but his point, as he made clear, was that unity and solidarity were paramount in Vietnamese ideology and are guaranteed by law. "The Constitution of Vietnam prohibits any action that threatens solidarity," he said, and followed up immediately with, "This is

the legal background for discussing social organizations [VNGOs].” My interview must be seen in the context of a highly-place Party theorist making the basic position of the Vietnamese state known to a foreign researcher (an *American*, no less). He was telling me that civil society would be subordinate to law, and that the state would, without question, maintain control. The basic pillar of internal social stability would not be challenged.

While the focus of the *TCCS* article on law and order and the primacy of the state are apparent, nevertheless it is somewhat confused in its historical analysis, and far from clear in its definitions of civil society. It therefore reveals a situation in the CPV where a “Party line” had not yet been formulated, formal definitions had not been adopted, and therefore rules and laws were still vague. This situation still holds true. Although an extremely small number of unofficial Vietnamese writings on civil society can be found from the late 1990s, there have been no further attempts to define or write about civil society in official CPV publications since 1993. The term “civil society” is not used in official writings, though it may be seen in rare cases of academic inquiry or in donor-commissioned papers on development themes.

Registering VNGOs: Finding the Spaces between Party Lines

The ideological limbo that the concept of civil society finds itself in is the foundation for, and is perhaps in part perpetuated by, the legal limbo in which VNGOs find themselves. At this time, though right of association is guaranteed by the

Vietnamese constitution, there is no clear legal basis for VNGOs to exist in Vietnam.⁵⁶ Instead, VNGOs have been able to establish themselves in the “cracks” between various types of legislation, making existing laws work in their favor, or by preemptively seeking permission from specific local authorities which have authority to prevent their work. Thus VNGOs exist in fact, but in a number of different legal forms. In this part I will first discuss some of the ways in which VNGOs overcome the legal barriers to registration. Then I cover the very different strategies that three VNGOs in HCMC used to gain status as legal organizations.

VNGO Registration: Walking a Fine Line

There are multiple possibilities for an organization to become a legal entity in Vietnam. Each VNGO operating in Vietnam must find its own way to establish itself, legally or otherwise. Often the choice of how a VNGO registers has consequences on how it operates. For instance, if it is registered with the local authorities it may not be able to expand its operations outside the local area as easily as if it were registered with national authorities. In other cases it is merely a technical hurdle the VNGO jumps and then goes on with operations as normal.

The options available to a budding organization depend heavily on its geographic location and on the sector in which it wishes to operate (e.g., health, children’s issues, agriculture, etc.). My study centered on Ho Chi Minh City, but it is

⁵⁶ A new “Law on Associations” is, as of this writing, being debated in the National Assembly of Vietnam. It is a highly contested law that may or may not encompass VNGOs. This new law is beyond the scope and time frame of this dissertation, unfortunately.

useful to look at Hanoi, where central state regulations tend to be more fully and universally applied, as the model. It is, in fact, much easier to start and register a VNGO in Hanoi, and that is where we find the largest number of such organizations. Typically in Hanoi, VNGOs register as “Scientific and Research Organizations” under the umbrella of VUSTA, the Vietnam Union of Scientific and Technological Associations.

VUSTA is an association of associations. It was formed as a means of centralizing research and science-based organizations that were created under the 1992 legal instrument, Decree 35.⁵⁷ Under this decree, promulgated early in the *đổi mới* period, groups of individuals can form associations to promote scientific research outside of the then rigidly controlled Ministry of Science and Technology. The most important provision of Decree 35, according to its author, Nguyễn Cao Đàm (interview, 2004), is that it does not require “asking permission” (which in turn requires patronage support), but only requires “registering.” An unintended consequence of the simple and open nature of Decree 35 was that groups wanting to do social work and development, i.e., VNGOs, found that it was a perfect vehicle for registering their organizations.

The utility of decree 35 and VUSTA for VNGO registration is noticeably geographically limited. In Hanoi, virtually every VNGO I identified were registered through this method, and the VUSTA website lists hundreds more. In fact, in Hanoi

⁵⁷ A “decree” is a relatively low-level legal instrument, subordinate to “ordinance” and to the highest instrument, “law.”

VNGOs will even identify themselves as being a *tổ chức 35* (a “35 organization”).⁵⁸ On the other hand, in Ho Chi Minh City, the VUSTA presence is almost non-existent, and with only one or two exceptions no VNGO I talked to had ever heard of Decree 35. The geographic difference is explained by the imperfect implementation of central policy, allowing local jurisdictions to retain certain powers for themselves.

As an entity, VUSTA has a subsidiary office, the Ho Chi Minh City USTA, that is, in fact also subordinate to the People’s Committee (city government) of Ho Chi Minh City (HCMC). There is a long-standing rivalry between HCM City (the center of commerce and economic dynamism) and Hanoi (the center of politics and policy). One aspect of this rivalry is a tendency for HCMC officials to implement policy in their own way. For VNGOs this means, typically that they cannot register directly under the national VUSTA nor is it easy to register under the local HCMC USTA, but must gain the favor and trust of the HCMC People’s Committee or of an existing organization that can “introduce” (represent) them to the People’s Committee. In effect, the VNGO must develop a political patron.⁵⁹ Dr. Ho Uy Liem, Vice Director of VUSTA in Hanoi, recognized this problem, explaining that although Decree 35 gives the authority for registering associations to local USTA offices, it is very common in

⁵⁸ As a humorous aside, in southern Vietnam the number 35 used as an adjective has a strongly sexual connotation, implying someone is promiscuous. My use of the phrase “35 organization” in the south was met with a variety of smirks, laughter, and blushing cheeks. No VNGO in Ho Chi Minh city would ever consider using such a phrase to describe their work – it would not be seemly nor professional.

⁵⁹ Of particular interest, and something I did not follow up on in my research, is the fact that the President of the HCMC Psychology Association is also a member of the HCMC USTA board (interview with a Psychology Association staff member, name withheld, 2004).

areas farther from Hanoi for the local People's Committee to retain that authority (personal communication, March 2004).

In practice for most VNGOs in HCMC⁶⁰ this simply means they must register as a *sub-association* under a larger existing association. The most common way to register in this manner in HCMC is under the Ho Chi Minh City Association for Psychology and Education (*Hội Tâm Lý và Giáo Dục TP-HCM*, known hereafter as the Psychology Association).⁶¹ This is the local (city level) branch of a national professional association that was originally started to promote teaching and psychology. Under the *đổi mới*, this local branch has taken on an additional role as a mini-umbrella association (under the auspices of the HCMC People's Committee) for HCMC-based VNGOs wishing to register their organizations. If it chooses to register using this method, a prospective VNGO must make a case to the Psychology Association that their work in some way involves psychology or education – not a difficult standard for development and charity organizations.

If the Psychology Association agrees to sponsor the application of the sub-association, in effect it pledges (to the local and national authorities) to “take responsibility” for the new group's activities. In other words, the applicant VNGO must, in effect, cultivate a relationship with the Psychology Association that amounts

⁶⁰ This discussion of VUSTA, USTA and Psychology Association registration procedures is based on numerous interviews with VNGO and Vietnamese state personnel, including Ms. Ni of the VNGO AWLH (pseudonyms), Ms. Trang (pseudonym) of the Psychology Association, and Mr. Nguyễn Ngọc Giao, Director of Ho Chi Minh City USTA. All interviews took place in 2004. See also

⁶¹ The following description of registration procedures through the Psychology association is drawn from interviews with Nguyễn Ngọc Giao, the director of the HCMC USTA, “Ms. Linh” (pseudonym), a staff member of the HCMC Psychology Association, and staff members of various HCMC VNGOs who have used these procedures to register their organizations. All interviews were conducted in 2004.

to requesting patronage. This is a long, time consuming process, during which the Psychology Association must gain confidence that the new VNGO staffers are who they say and will do what they promise – and will refrain from drawing embarrassing attention from the authorities.

Making this situation a bit more complicated is the fact that not all organizations in Vietnam are equal. As a sub-unit of the Psychology Association, a VNGO may have one of several statuses, each giving it a different level of administrative rights and abilities. One common form a VNGO takes is as a “sub-association” (*chi hội*) of a larger association. Sub-associations were originally designed to be professional groups that focus on a sub-set of the larger association’s mission or constituency, such as “clinical psychologists” or “high school math teachers” in the Psychology Association. Technically they exist only as professional groups and are not supposed to do project work. However, there is a stipulation that a sub-association can open a “research office” that can conduct research and undertake operational work. Using these existing legal characteristics of Vietnamese associations, VNGOs often form a shell “sub-association” by gathering supporters to form the sub-association’s “membership,” with the intention of creating a “research office” that is, in fact, the VNGO itself.

Once established, these “research offices” and “sub-associations” can operate quite independently on a daily basis. However, at a basic level, they are still creatures of the Psychology Association, at least in HCMC. A sub-association must, technically,

have all its operations approved by the main office of the Psychology Association, though in practice this becomes perfunctory as the Psychology Association gains confidence in the VNGO. The main office also has control over the VNGO's bank accounts and all contractual arrangements.

This bureaucratic oversight is conducted through the issuance of an official rubber stamp. Every legal document, bank transaction, contract, etc., in Vietnam must be signed and then sealed with the stamp of the organization (or company) undertaking the transaction. These stamps are officially registered and are an integral part of business in Vietnam at all but the most casual levels. A subordinate organization, such as a "sub-association" or a "research office," will have a square-shaped stamp, indicating abbreviated legal rights to undertake transactions. Real authority resides in the round-shaped stamps, which indicate that the signer of the document has legitimate authority to undertake the agreement, whatever it is.

VNGOs must, therefore, make periodic visits to the head office of the Psychology Association to have pertinent documents counter-stamped with the Psychology Association's round stamp. In practice, once a strong, long-term relationship has developed between the VNGO and the Psychology Association, this involves nothing more than a weekly or bi-weekly "checking in" and a chance for tea and a chat, plus a simple monthly written report on the VNGO's activities. However, it is certainly a level of oversight and bureaucracy that VNGOs in HCMC would rather be without.

Consequently, the goal for most VNGOs in those circumstances is to apply for and be granted and upgrade in status from a “research office” to a research and services “center” (*trung tâm*) – a status that comes with several perks including a round stamp. As a “center” the VNGO can sign its own contracts, have its own bank accounts (including foreign currency accounts, useful for doing projects with international donors), hire and fire personnel, etc., without the frequent “checking in” with its parent association. The Psychology Association and similar organizations do *not* have the authority to grant “center” status on a sub-association, but can only present the sub-association’s application to the city-level Office of Science and Technology (*Sơ Khoa Học và Kỹ Thuật*), the local office of the national-level Ministry of Science and Technology. One of the main organizations in my research, Third Advocates for Women’s Labor and Health (AWLH), had been working for over 3 years to obtain the status of a “center.”

This patronage-based bureaucracy is a throw-back to an older system of hierarchical lines of bureaucratic control⁶² that was ubiquitous in the pre-*đổi mới* period and which is still the norm in much of Vietnam today. It is exactly this kind of system of VNGO registration that the VUSTA model and Decree 35 have (for the most part) dismantled in Hanoi. But in HCMC it is alive and well, making VNGO registration difficult, costly, politically risky, and can be operationally restrictive. The consequence is that VNGOs are much rarer in HCMC, which is counter-intuitive for

⁶² This system is hierarchical in the sense that the VNGO/sub-association is subordinate to the Psychology Association, which takes responsibility for them and which, in turn, is subordinate to the HCMC USTA and the HCMC People’s Committee.

many Vietnam watchers who see HCMC as a much more liberal environment, generally. However, though bureaucratic restrictions on commercial enterprise seem far looser in HCMC, social controls are more stringent there.

But the people of southern Vietnam are known to be resilient and flexible, able to find ways to circumvent authority without breaking laws, developing small cracks in the regulations into thriving new industries. This trait holds true in VNGO registrations to some degree as well. Not all VNGOs in HCMC work under the “sub-association” model described above. Many have found ways around the restrictions to build their organizations. A few examples follow:

Some organizations whom I met⁶³ operate without legal sanction of any kind. They do humanitarian and/or development work “under the radar,” careful not to break the law or otherwise draw attention to themselves, thinking that if they are doing socially useful things, the authorities will either not detect them, or will turn a blind eye. These people are running significant risks, of course. In general, I believe, these people see their lack of formal registration as a temporary thing. They hope, some day, to acquire the necessary contacts, track record, and reputation to register legally in some manner. But in the mean time they are not willing to remain idle. I did not interview or otherwise study these organizations, but it is important to note that this option was, in fact, chosen by a (probably small) number of organizations.

⁶³ Although I was made aware of these organizations and the directors of a few were pointed out to me at a large meeting, I did not make contact nor interview any VNGOs in this category for fear of bringing official scrutiny on them.

Unable or unwilling to cultivate a bureaucratic patron, many organizations in southern Vietnam (and I suspect in other places far from Hanoi's influence) have pursued two other options for securing the right to operate. The first method is an example of working in a legal gray-area, for which southern Vietnamese are known. It involves working without any formal registration, but staying above-board by directly contacting the district or village People's Committee and the local police to explain what form of charity or development work they intend to conduct in that area. If they are able to convince the local authorities of their legitimacy and that their activities are legal, they may be given permission to go ahead with their work. This is a situation frequently described to me as "recognized, but unofficial." This may or may not be a temporary strategy leading (eventually) to formal registration. By "checking in" and being sanctioned by the local authorities, the VNGO greatly reduces its risk of being stopped and its people being harassed or arrested. However, they still are subject to changes in local authorities' attitudes toward them, which in some cases can be capricious.

The last method I will discuss is that of forming a for-profit company in order to undertake not-for-profit work. The new enterprise laws in Vietnam, which are both a product and a driving economic force in the *đổi mới* reforms, particularly in HCMC, make forming a new business quite easy. Social workers and other groups wishing to do development and charity work in HCMC have been quick to make this a viable method of forming their organizations. For example, in contrast to AWLH's several year quest to be granted "center" status by the Psychology Association, the

Development Training Institute (DTI) was given a business license, including all the banking and contract rights that the coveted round stamp would convey on AWLH, after an application process that lasted only 3 weeks. Ms. Thuy, the director of DTI⁶⁴ described the process this way:

I submitted my first application online on the Ho Chi Minh City's business registration website, and after only 3 days it was returned to me, along with a list of corrections and additions that were needed. I resubmitted a few days later, and again after only three or four days I received it back with comments and requests for more information. The third time I submitted it, it was accepted. I had a business license and could begin operations right away after that (interview, 2004).

In addition to the ease of registration, forming a company greatly lessens the amount of governmental oversight. Ms. Thuy told me directly, "I don't want to be under any umbrella of the government of Communist Party." She went on to explain that while every month a VNGO has to report to the "Communist Party" (by which she was referring to state organs in general, such as the Psychology Association⁶⁵), a company is completely independent beyond the requirement to pay taxes. Since five of her board of directors and a large number of her donors are overseas Vietnamese – a group that is traditionally opposed to engaging in any interactions with the government in Hanoi – this was particularly important for her organization.

⁶⁴ Personal and organizational names are pseudonyms. Interview conducted July 2004.

⁶⁵ It is not uncommon to hear Vietnamese citizens living in southern Vietnam and overseas Vietnamese refer to the Vietnamese state collectively and at any administrative level as "the communists" (*công sản*). Such usage is certainly coded, and indicates that the speaker is generally ill-disposed (if not openly hostile) toward the current regime. This usage is rarely heard in northern Vietnam, even by those who are not completely supportive of the regime.

Ms. Thuy also told me that registering social work and development organizations as companies is a “new trend” in HCMC, due to the “complications”⁶⁶ inherent in establishing not-for-profit organizations such as VNGOs. I did not see any evidence of a “trend” to establish such companies, but DTI was not the only organization I interviewed that undertook this method of registration. Another HCMC group started the company Helping Hand⁶⁷ in order to employ disabled people to undertake capacity-building, training, and advocacy work for the disabled in southern Vietnam. Helping Hand was not familiar with other forms of organization or the possibility of establishing a VNGO. Their contacts in the city government discouraged them from setting up a not-for-profit as being much too difficult and recommended the business license approach. Whereas DTI told me that they had not been successful in attracting money from large international donors (only from individuals and churches overseas), Helping Hand has had more luck. They have been able to secure project money from international donors to train invalids in trauma hospitals and to lobby for sidewalk wheel chair ramps at intersections, proving that international donors are not adverse to using organizations that are technically “companies” as partners in their work (interview May 2004).

The VNGOs I talked to who decided against this route of obtaining the legal status to operate were admiring of the cleverness and reasonableness of this approach.

⁶⁶ In our English language interview, Ms. Thuy used the Vietnamese term *phức tạp* which is generally translated as the English word “complicated.” Though the dictionary will translate these words as equivalents, *phức tạp* carries strong connotations of government bureaucracy and the risk of sanction from the state authorities. Any activity that is characterized as *phức tạp* entails the risk of political or legal entanglements.

⁶⁷ Pseudonym.

But they told me clearly that though it met the needs of Ms. Thuy's DTI and of Helping Hand, and that they doubted there would be any real confusion with international donors (who, after all, prefer to partner with not-for-profit organizations), it "was not right" for their organizations. Whereas Ms. Thuy felt her autonomy as a social worker was greatly enhanced by her choice to register as a company, there is a sense that some VNGOs felt a deeper sense of identity with their status as a VNGO, and did not want to clutter that identity up with a legal status that put them in the commercial world, if only nominally. (I will explore this sense of identity and other ideas of professionalism in Chapter 7.)

***Registration Strategies of Three VNGOs in Ho Chi Minh City*⁶⁸**

Perhaps the first VNGO in HCMC and one of the earliest VNGOs in Vietnam is the Ho Chi Minh City Children and Youth Services (CYS). Founded in 1988 by a group of friends and professional colleagues, most of whom worked in various social service agencies in the HCMC People's Committee (city government), CYC is a model of the "old school" in their registration method. Led by a high-level manager in the HCMC Committee for the Protection of Families and Children (a city branch of a national state agency) and other city-level social service agencies, CYC used its insider connections to petition for and receive permission to operate through a special decree from the HCMC People's Committee. I was never able to establish exactly under which law the decree establishing CYC was made. The curious and somewhat amused

⁶⁸ The information in this section comes from interviews (all conducted in 2004) of principles in each respective organization. All VNGO names and acronyms in this dissertation are pseudonyms.

looks I got when I asked that question underscored its lack of relevance to CYS staff; the People's Committee legislated CYS's existence, and that was enough. Also verified through interviews with other VNGOs and with CYS staff is the fact that for a group without CYS's personal and political connections to request such a decree would be "very difficult" (*khó lắm*) to obtain – coded speech for something that is so bureaucratically improbable it would not usually be contemplated.

My second example, Third World Assistance Collaborative-Vietnam (TWAC), followed an entirely different registration strategy. TWAC is an international network of local NGOs in 13 developing countries in Africa, Latin America, and Asia, all loosely affiliated with a head office in Europe. In 1993, the European director arrived in HCMC with the goal of helping to establish a local NGO as a new Vietnamese member of the network. He found the legal environment surrounding VNGO registration extremely difficult to understand and to navigate, and as a foreigner he was automatically shunted to the state agency that oversees international NGOs, called the People's Aid Coordinating Committee (PACCOM). Unable to find a mechanism for establishing a local NGO, he opted to form TWAC-Vietnam as an international NGO – the only one in the TWAC network – with the intention of converting it into a VNGO when the legal situation became more conducive for VNGO registration (personal communication, name withheld, HCMC 1995). To this day, TWAC is still registered as an international NGO in Vietnam, though it is managed and staffed by Vietnamese nationals. When I asked the TWAC director about re-registering as VNGO, as per the original plan over 10 years ago, he

confirmed that it is still a high priority for his organization. “But of course, it is still not possible at this time,” he added (personal communication, name withheld, HCMC 2004).

The third and final registration strategy I will discuss is that followed by Advocates for Women’s Labor and Health (AWLH). AWLH started life as a project of a large INGO, but a project with the additional goal of “spinning off” a local NGO to carry on the work after the INGO project was completed. To determine how to accomplish this, the INGO hired a Vietnamese consultant to explore the many options for legal registration, to collect the relevant documents and application procedures, and to make a recommendation on which path to follow. (The very fact that the INGO felt the need to hire a person dedicated to learning about all the options speaks to the issues’ complexity.) This research process lasted several months during which the consultant visited government offices, registered VNGOs and unregistered organization, throughout HCMC. After much deliberation, AWLH decided to register as a sub-association and research office under the HCMC Psychology Association (through the process described above). This route necessarily entailed a long process of confidence building and oversight. But AWLH felt that this was the most effective and least risky avenue, given their lack of inside political or bureaucratic connections. They would need to build those connections through the Psychology Association. Since AWLH was committed to being a player in the VNGO sector for the long term, they were willing to invest the time.

The persistence and creativity shown by VNGOs in finding ways to continue operations despite the lack of a clear legal structure demonstrates the desire for (and desirability of) these kinds of organization in Vietnam under the *đổi mới* policies. There is demonstrated need for additional forms of development and social services work beyond that provided by the state sector, and many Vietnamese would prefer to have this work done by local rather than international NGOs. There is an undercurrent of nationalism, or national pride, involved in this preference, of course, but there is also a sense that Vietnamese should be a part of the solution to the many problems created by and/or exacerbated by the rapid move to a market economy in Vietnam. VNGOs are willing to cope with the legal uncertainties in the present environment, hopeful that the situation will improve.

Civil Society, Western Development Agencies and the Vietnamese State

Although there is an undeniable pressure from within Vietnamese society to allow new forms of organizations such as VNGOs, much of that internal pressure can be linked to the simultaneous external pressure of international development agencies. Many of the VNGOs' founders are former staff of, or were otherwise trained by, international development agencies, or are ex-government officials who saw the need and the opportunity created by international donor funds. At the same time, the Vietnamese state has been working slowly to come to grips with these new forms of social and political-economic organization. Their relations with foreign donors are in part defined by the donor's desire for a more robust VNGO sector and the state's

desire to keep such a sector under control – or as the official term would have it, to “manage” (“*quản lý*”) the sector properly.⁶⁹

In this part of the chapter, I will discuss the relations between donors and the state in regards to VNGOs and civil society issues, pointing out some of the areas of accord and of friction. First I will note the interplay of donors’ and state interests toward civil society. Then I will discuss how, through defining the concept of civil society as extremely “sensitive,” the state maintains control over civil society discourse in Vietnam. I follow that discussion with an example of how the disciplinary mechanisms worked in one case to limit VNGO participation and dampen discussion of civil society among the donor community. In the fourth section I will talk about the ongoing frictions between the Vietnamese state and the international donor community and how they engage in constant negotiation of social spaces for civil society. Finally I will look at how the much junior player in this power triad, the VNGOs, navigate the environment between their much more powerful international benefactors and the Vietnamese state.

⁶⁹ While the main thrust of international donors’ comments to me were about building the VNGO sector, at least two organizations talked about trying to link with other forms of non-government groups in Vietnam, though they had not been successful: an INGO (organization’s name withheld) is exploring the possibility of partnering with clubs and other small, local community groups, and a senior foreign staff member in UNICEF’s Ho Chi Minh City office said they were looking to work with “civil society,” not “VNGOs.” Her point was that there were a variety of faith-based and other types of groupings with which UNICEF could “expand partnerships.”

The Interplay of State and Donor Interests on Civil Society in Vietnam

The 1980s saw a major shift in the philosophies of large international development agencies toward a new approach predicated in large part on the promotion of market economies and the formation of civil society in their beneficiary countries. The *đổi mới* reforms were nearly coincident with this shift in international development focus. From that time on, the ambivalent attitude of the Vietnamese state toward civil society has persisted, manifested in slowly emerging policies and ambiguous legal and political status for VNGOs. This ambiguity has posed ongoing problems for international aid agencies. Locating and supporting local NGOs and other civil society groups in Vietnam to channel project funds through and to partner with, as contemporary development practice mandates, has been of great concern of these international agencies since their return to post-war Vietnam in the late 1980s and early 1990s⁷⁰.

It was the *đổi mới* reforms themselves that made feasible this international desire and pressure for the formation of VNGOs as a cornerstone for civil society in service of the development process (even if it was not immediately realized). Under *đổi mới*, there was a great deal more openness among Vietnamese officials for new ideas and approaches to social as well as economic reforms. But perhaps more important was the massive influx of foreign aid money that the donors brought with

⁷⁰ While working as a consultant to international NGOs between 1993 and 1997, I participated in countless discussions and debates about whether there were any authentic Vietnamese NGOs, what the Vietnamese state should do to promote civil society, what international donors could and could not do to accelerate the process, etc. It is not overstating the case to say that this was a fundamental topic of concern for a large number of international development actors.

them.⁷¹ Since the advent of *đổi mới*, large numbers of foreign development agencies arrived in Vietnam, looking for non-governmental partners through which to channel funds and implement projects. Because of the small number and limited capacity of VNGOs, they often have had to be content with government partners, however. Consequently, various Vietnamese state entities scrambled to build partnerships with foreign donors and INGOs to capture this money to further their development projects and to strengthen their organizations. Particularly for the INGOs, working through government agencies is very much against their own wishes, inclinations, and politics, as well as against the desires of foreign foundations and other funders. On the other hand, at least on the surface, it was not in the interests of individual governmental agencies to support the idea of VNGOs, who could conceivably compete with them for the donor dollars.

It was, however, very much in the interest of the Vietnamese state as a whole to be seen to consider the idea very seriously, in order to comply with the donor community. Indeed the World Bank offers country governments a “merit-based” loan which is awarded at one of three levels based on performance criteria that include “improved support for civil society.” Such donor pressure keeps the topic open, and Party and government officials in Vietnam continue to struggle with the concept.

⁷¹ Since the institution of the *đổi mới* reforms, Vietnam has been a darling of donors because of its successful move toward market economy and international economic integration (globalization). In an e-mailed press release in early December 2005, donors pledged US\$11 billion, up from US\$3 billion the previous year.

But to say that the political economy of donor aid is pushing the civil society agenda from the outside grossly oversimplifies this complex situation. In fact both Vietnamese and foreign informants (including “Mr. Bich,” government policy analyst, and “Mr. Johnson,” World Bank staff member,⁷² 2004. See also Norlund, 2003) made it clear to me that donor dollars do not give international agencies significant leverage in Vietnamese policy arguments. Mr. Johnson put it this way: “This is not Ethiopia or Rwanda. We really do not have as much power to pressure the Vietnamese as some people think we do. We cannot force the Vietnamese to change their policies just by offering or withholding money. That doesn’t work here” (personal communication, Hanoi 2003)..Mr. Bich told me essentially the same thing. On the issue of pursuing a form of civil society in Vietnam that is satisfactory to the VCP, he characterized Vietnamese state priorities as having (over time) become “coincident” with those of international donors (personal communication, Hanoi 2003). I would agree that simple pressure tactics from donors do not work in Hanoi, but I believe the reality of state-donor relations is also more complex than a serendipitous alignment of priorities. It is rather a complex interaction that includes pressure and resistances from both parties. Yet the basic fact remains that in Vietnam donors cannot unilaterally call the shots and must engage in negotiation and compromise. There is surely donor pressure *and* incentive, but the Vietnamese authorities are interested in coming to grips with civil society and VNGOs for their

⁷² Pseudonyms.

own purposes as well. If the Vietnamese state didn't (at some level) want to take this on, it would never have reached this stage.

My reading of the situation in Hanoi seems to confirm that the Vietnamese state is now vested in both understanding and managing a form of Vietnamese civil society that includes VNGOs. Central figures in the Vietnamese state recognize that the *đổi mới* reforms have let a figurative genie out of the bottle, and it is not going back in any time soon (and many believe this to be a positive development). The Party's ability to control the activities and ideologies of the citizens was greatly reduced by the move to a market economy and the concomitant reorganizations in the state sector. Many in the Party and government do not want to return to the level of social control exercised during and shortly after the American war. My interviews revealed a clear and growing sense among decision-makers that some sort of civil society beyond the direct control of the Party and security apparatus is, indeed, *inevitable*, and is fast approaching a critical mass (Mr. Bich, personal communication, 2004; Interviews with a VCP academic and a VCP theorist, names withheld, Hanoi 2003-4). The prevailing sentiment is that it is better to harness and control this newly forming sector for the benefit of the state than to continue to allow it to emerge "organically." Therefore, it is imperative to many Party theorists in Hanoi to understand how the concept of civil society can be worked into the official state ideology, and thereby develop policy to regulate VNGOs.

An example of the official Vietnamese commitment to these issues is the on-going project among top Party and government officials in Vietnam to examine the concept of civil society and its application to local NGO formation in Vietnam. This project started in 1993 with initial funding from GTZ, the official German development agency. Sited in the Government Office of Organization and Personnel (GCOP), this project sent study groups of ranking Vietnamese Party and government officials to various countries all around the world, including places such as India and Indonesia, the UK and the Netherlands, to study their laws on local NGOs and other civil society groups.⁷³ In the early 2000s, the GCOP was elevated to ministerial status, becoming the Ministry of Home Affairs (MoHA). The project, now over 10 years old, became the Office of Vietnamese NGOs (*Vụ Tổ Chức Phi Chính Phủ*).⁷⁴ This office has been the driving force behind the writing the draft of a new and highly contested Law on Associations, which is intended to govern the VNGO sector. The continued, almost dogged support from international donors for this fifteen-year-long Vietnamese state project to understand and apply civil society theory demonstrates their commitment to building some form of civil society in Vietnam.

⁷³ “Mr. Cong” (pseudonym), a prominent VCP theorist and major player in the civil society policy efforts in Hanoi told me that such study tours have been taking place since the 1970s (personal communication, Hanoi, 2004). I have not verified this assertion. However, it seems likely that such study tours, if they occurred, would have been limited to Soviet Bloc countries and perhaps Scandinavia.

⁷⁴ This name is rather ironic on two counts: First, it is the only official use of the term “NGO” I came across in Vietnam in many years of work there. Second, the translation of “NGO” that is used is deeply problematic, with an implication of being “counter-” or “anti-government.” It is the most common translation used for “NGO,” but everyone involved recognizes its inappropriateness, so for an official government office in a ministry to adopt the term is surprising.

“Sensitivity” and the State Control of Civil Society Discourse

As I have stated, just what form a new Vietnamese civil society will take is still unclear and is still being debated among VCP ideologists and policy experts. This lack of a “Party line” causes uncertainty, confusion, and a great deal of caution among Vietnamese when addressing the idea of civil society. Clearly, central level decision-makers are working hard to incorporate the ideas of civil society and NGOs into both ideology and policy.

One example of the Vietnamese state’s attempt to understand and reformulate the concept of civil society is a workshop held in July of 2001, organized by the Government Committee on Personnel (GCOP).⁷⁵ Papers from that workshop explored many aspects of civil society and NGOs in terms of the Vietnamese socio-political context. Titles included “The Current Emerging Problems of Unofficial Organizations” (Vũ Phòng, 2001), “The Social Foundations for Non-government and Non-profit Organizations in Vietnam” (Phạm Bích San, 2001), and “Understanding England’s Civil Society” (Nguyễn Linh Phương), among many others.⁷⁶

Yet, with all the effort the Vietnamese state is putting in to this process of developing a way forward for a new Vietnamese civil society, the subject remains

⁷⁵ This organization was called the *Ban Tổ Chức Cán Bộ Chính Phủ* in Vietnamese. It was a powerful agency involved with both personnel and organizations issues in the Vietnamese government, and was controlled by the VCP. In approximately 2002 this committee was raised to ministerial status as the Ministry of Home Affairs (*Bộ Nội Vụ*), the home of the Office for Vietnamese NGOs mentioned above.

⁷⁶ The translations of the titles are my own. The photocopied workshop proceedings included 30 papers on a broad range of topics and from individuals from many different government and VCP organizations. These papers were all related to associations, NGOs and civil society in Vietnam.

“sensitive,” and politically risky. I received my photocopy of these workshop papers from a cadre from the Fatherland Front (a crucial VCP organization intimately involved in Party theory, cadre discipline, and Party organization down to the village level) after he postponed and cancelled several appointments for an interview.⁷⁷ Meeting a foreigner – especially an American – to discuss such a “sensitive” issue as civil society was simply not possible for a mid-level Party functionary, even in the relatively more open environment of Hanoi in 2004. However, he was happy to provide me with the proceedings of the conference as evidence of the seriousness with which the concept was being studied and debated at the highest levels.

A major reason for this concern for the “sensitivity” of the concept of civil society, and a clear reason for the slow, careful pace of Vietnamese state evaluation of the term, is the loud, triumphalist rhetoric that promoted the idea of civil society as the driving force for the fall of East European communist regimes. The Vietnamese state will not allow any form of opposition to its existence or its state ideology. Its own reading of “civil society” must be in terms that guarantee the sovereignty and primacy of the *status quo* regime. Calls for increased liberties for Vietnamese civil society are construed, by some within the Vietnamese state, as calls for a strengthened opposition. This is precisely what a Leninist Party is dedicated to preventing.

The fact that Western scholarship and Western donors are rarely clear about the precise definition of “civil society” adds to the confusion and concern of

⁷⁷ This story is related in detail below.

Vietnamese state actors.⁷⁸ Donors frequently conflate the support of civil society with “improved governance” and “democratization” (usually without defining either of those terms, as well). To the hard line factions in the Vietnamese state, these kinds of slippages echo an earlier rhetoric, common among American politicians and exiled Vietnamese shortly after the American war that called for a “peaceful evolution” in Vietnam. Advocates for continued pressure on Hanoi after the end of the war felt that eventually the communist regime must “evolve” into something less authoritarian and certainly not communist, especially if helped along with propaganda and a Western-style consumer economy. As these were the same people that had waged a “hot” war against the regime in Hanoi, such rhetoric was not welcomed in Hanoi.⁷⁹

Calls for increased civil society activity echoed the rhetoric of “democratization,” giving credence to those elements in the Vietnamese state that are cautious or even hostile to the idea of increased freedoms for a Vietnamese civil society. To have bilateral and multilateral donors promoting civil society as a way to reform the state and to push for changes in policy, “from the bottom up” as it were, is tantamount to criticizing the regime, a form of political interference most international

⁷⁸ I was witness to a striking example of this lack of clarity at the “International Conference on Civil Society in Southeast Asia,” held in Phnom Penh, Cambodia in late 2003, organized by the Munich Institute of Social Sciences. In his conference presentation, Grant Curtis, an official from the NGO and Civil Society Center at the Asia Development Bank, frequently alternated between the terms “NGO” and “civil society.” When I later asked him if his mixing of the two terms indicated that ADB felt they were equivalent or if they were lacking conceptual clarity, he answered, “Oh, it is certainly a lack of conceptual clarity. We are still trying to figure out what this all means to us” (personal communication, 2003).

⁷⁹ Having occasion to visit a local neighborhood *Công An* (public security police) department in Ho Chi Minh City in 1993, my wife and I overheard a lecture given by a VCP cadre to the local police officers. He said the entire society, especially the *Công An*, must mobilize to prevent the attempts by overseas Vietnamese and others to implement a scheme of “peaceful evolution” in the country. See also Marr (1994) on “peaceful evolution.”

donors would deny participating in. A radical read of civil society promotion, therefore, would see it as a direct challenge to Vietnamese state legitimacy, leading to its eventual overthrow (or at least radical transformation) through peaceful means, *a la* Poland or East Germany. Even under a less radical interpretation, such implied criticism and the call for more civil society in Vietnam has strong undertones of intervention from outside forces. As noted above, resistance to external intervention is a pillar of CVP legitimacy, so an official reaction against such ideas is to be expected. To its credit, the Vietnamese state did not completely shut off discussion of this topic. It did, however essentially restrict it to high-level, official bodies for debate and analysis, where it remains today.

Discipline and the Control of Civil Society Discourse

This restriction of debate and discussion on civil society is manifested in several different ways. Often a concerned look and an admonitory word about the “sensitive” or “complicated” nature of the concept is enough to stop any conversation. Such code words are well-understood as meaning the political ground is not secure under the concept and it should therefore be avoided. I heard such phrases from several people in different positions (including VNGO workers, retired VCP cadre, and academics). The following anecdote brings home the disciplining power the state can bring to bear in controlling the discourse around the use of the term ‘civil society.’

As part of the expression of interest in civil society matters among the international donor community in Hanoi, the United Nations Development Program

(UNDP) started the informal “Civil Society Working Group” (CSWG) in about the year 2000. It is important to note that there have been working groups formed by the international development community in Vietnam since the early 1990s around such topics as “Women in Development,” “Micro-credit,” “Water Users,” etc. However, all these working groups were started under the umbrella of the VUFO-NGO Resource Centre, a collaborative information clearinghouse organization set up by international NGOs and the Vietnamese Union of Friendship Organizations, which oversees INGO activities in Vietnam. The topics of civil society and VNGOs was considered too politically dangerous for INGOs, so UNDP decided to use its much higher standing with the Vietnamese state to sponsor the Civil Society Working Group.

The CSWG consisted of UN, INGO, VNGO, VCP and Vietnamese government members who met in Hanoi every month or so, on a loose schedule, to talk about issues pertaining to civil society (broadly understood). The purpose of these meetings for UNDP was to open a venue of dialog and exchange of ideas between Vietnamese and foreigners interested in civil society topics. Of course they were particularly interested in a dialog between foreign development workers and Vietnamese state officials, but they were also very much aware that the CSWG was one of the few venues where VNGOs could discuss such issues directly with relevant state officials.

The purpose of the CSWG was “to get together and exchange information and ideas on issues relating to civil society” (CSWG listserv e-mail, February 2003). It

met relatively regularly in the first 18 months, and their agenda was divided roughly equally between the issue of VNGOs and “grassroots democracy,” the theme of important legislation being promulgated at that time in Vietnam.⁸⁰ The meetings attracted an ever increasing number of development workers, both Vietnamese and foreign, as well as officials from the MoHA Office of VNGOs (mentioned above) and mid-level theorists from important VCP planning and oversight offices. By late 2002, over 30 people were regularly turning up for meetings, which the organizers considered to be an unwieldy number (foreign aid worker/CSWG participant, name withheld, personal communication, 2003).

A growing dialogue and an increasing sense of progress continued in the CSWG until their November 2002 meeting. At that meeting, VNGO staff people in attendance expressed a desire to write a paper on the position and condition of Vietnamese NGOs in the development community in Vietnam and present it to the annual meeting of the Consultative Working Group (CWG). The CWG is the *ad hoc* group of major international donors in Vietnam. Its annual meeting has developed into a venue for government and multilateral aid organizations to assess Vietnam’s development trajectory and progress, and to make pledges for the coming year. Donors had invited two or three INGOs to participate in the meeting, and the door was left open for VNGOs to attend, though no specific invitations were made. However, no VNGO could risk the exposure of going to such a high-level meeting without a

⁸⁰ Though a fascinating topic, this dissertation does not have the scope to discuss “grassroots democracy” in Vietnam.

specific invitation, so naturally none had ever before attended a CWG conference as a participant.

But in 2002 a small number of VNGOs felt like the time was ripe. They wanted to become real players with a place at the table, and presenting their paper at the CWG conference seemed like an ideal entrée. The international donor community had been encouraging the VNGO sector for many years. They clearly had (and continue to have) a vested interest in the success and growth of VNGOs. The VNGOs knew that and were in part trying to respond to that encouragement. Comments like, “there’s a business forum at the CWG meeting, so why not have a VNGO forum as well?” were heard at the CSWG meeting where the proposal to write the paper was discussed.

The members of foreign aid agencies present at that meeting encouraged the VNGO initiative. No staff members from the MoHA Office of VNGOs attended the Civil Society Working Group meeting that day, but another mid-ranking Party official from a non-ministerial, but extremely powerful national political organization named Mr. Long⁸¹ was present. It is not clear if he agreed with the VNGOs’ idea of presenting a paper to the donors’ meeting, or if he merely did not tell them what a “bad idea” it was. Whatever the case, this Party cadre was later strongly reprimanded by his superiors for failing to quash the initiative.

⁸¹ pseudonym.

But the incident did not end there. The MoHA office of VNGOs contacted the foreign UNDP staff person who organized the CSWG and said that 1) the CSWG was no longer a priority for them and their attendance would be irregular from that point on, depending on the topic of discussion, and 2) the name “Civil Society Working Group” was “not appropriate to the current context in Vietnam” and should, indeed, be changed. Organizers decided to suspend the CSWG meetings for a several months to allow for a cooling down period and an assessment of the political and diplomatic conditions that were developing. Quiet discussions were conducted between the organizers of the CSWG and the principle players from MoHA where it was made clear that the CSWG could continue to meet under its new name, the People’s Participatory Working Group (an English Translation of a Vietnamese phrase developed from English language development theory), but that MoHA staff would no longer be directly or formally associated with the group. Clearly, Norlund and her Vietnamese colleagues were correct in their assessment of the climate in Hanoi when they wrote, “While acknowledging their work as important and increasingly necessary, the [Vietnamese] government seems not yet ready to accept LNGOs [Local NGOs] as equal partners in discussions” (2003, p.47).

My own research was directly affected by these events more than a year later. A European researcher in Hanoi studying a related topic suggested I contact Mr. Long, the CSWG participant who did not protest the VNGO plan to present a paper to the donor meeting. My sponsoring institute and I spent several weeks trying to line up an appointment. Each time we tried we would be asked to call back at a certain time, to

send an additional letter of introduction, or to meet some additional criteria. Each time we did so, we were put off again. Finally, after several weeks of trying, I was granted an appointment. I showed up at the appointed hour, only to meet Mr. Long leaving the office, briefcase and hat in hand. He said, with feigned surprise, “Oh! You are alone. I cannot meet you alone. You should have come with your sponsor. That is the correct protocol.” This was not exactly true, and Mr. Long knew my sponsor, who had sent him details about me and my research, was 1500 miles away in Ho Chi Minh City. Mr. Long, in a typical Vietnamese round about way, was at last giving me the clearest message that I would never get an interview with him.

The interesting thing about this meeting is that Mr. Long seemed genuinely sorry we couldn't meet. His body language and choice of language indicated that he was under a great deal of pressure *not* to talk to me. He took pains to ensure that we were in plain sight of the building and the gatekeeper during our entire discussion. In the end I acknowledged his difficulties and apologized for the inconvenience, and finally asked him if he had any documentation about civil society in Vietnam he might pass on to me. Suddenly his eyes lit up and he smiled very broadly, but only for an instant. Yes, he said, he would leave some photocopies for me at the gatehouse of his office compound, “where your Vietnamese friend can pick them up.” There was no mistaking that I was a huge and troublesome political liability for him and was not to return to his office or contact him again.

I heard much of this story – about the CSWG and the VNGO’s attempt to write a paper for the CWG conference – second hand while conducting research in Hanoi. Various pieces were told by different actors, but all my informants understood and tried to convey to me the problems and the risks that this anecdote illustrates. The VNGO plan to present a paper sparked off a minor subterranean rumble throughout the various state agencies involved with civil society issues in Hanoi in late 2002. It was too much, too fast. It seems to have struck a nerve or frightened someone. I believe the story to be essentially true, and that belief obviously colors my interpretation of my interaction (or lack of interaction) with Mr. Long. But even if the VNGO/CSWG/CWG story has become embellished and/or fictionalized in the retelling, it remains a cautionary tale about the acceptable places, practices and voices in the development process.

VNGOs are not full players, and therefore are not allowed full *public* voice. Civil society is still “being studied” and is yet to be made a part of the Party line. Officials must maintain the bounds of propriety, which in this case requires them to remain vague and non-committal on issues pertaining to both VNGOs and civil society. It even behooves UN agencies to be circumspect and to be judicious when deploying controversial terminology.

But in particular it is the VNGO who must be “mindful” in their dealings and vocabulary (as one Vietnamese INGO staffer expressed it to me). The Vietnamese have a saying: *Trâu bò húc nhau, ruồi muỗi chết*, meaning (roughly), “When the

buffalo and the ox do battle, flies and mosquitoes get squashed.” VNGOs are certainly vulnerable, being caught as they are between the dominant powers of state and donor, depending on the former for their social and legal legitimacy and on the latter for the lifeblood of funding. They cannot afford to blindly follow the lead of the international donor community without a clear understanding of the state’s position and their own position *vis-à-vis* the state.

The threat of state sanction is clear – if it can happen to a ranking cadre in Hanoi, it can certainly happen to VNGO staff person who lacks official status. Whether or not this anecdote is factual, it remains “true”; it has a clear and effective disciplining/self-disciplining effect on public discourse on civil society in Hanoi. It is through such stories, in part, that the state maintains its monopoly on this topic and the idea of civil society remains “sensitive” in Vietnam.

Even as state reactions to civil society issues remain significant, if unpredictable, the discussion is moving forward. The disciplinary consequences of pushing too far, too fast, as illustrated by the anecdote above, tend to slow down the debates and confine them to state actors of a certain type, at a high level of policy analysis. But discussions and debates about the meaning of civil society in Vietnam and the role of VNGOs continue. At this point in Vietnam’s complex (and contested) history, there is an effort at the upper-most levels of government policy and Party ideology to come up with an acceptable concept of civil society – a formula whereby they can incorporate the idea into existing Marxist-Leninist theory, in the context of

the *đổi mới* reforms, without undermining the legitimacy or security of the State. As Lenin said in his 1903 book, *What is to be done?*, “There can be no revolution without revolutionary theory” (Lenin, 1969). Vietnamese Party theorists are working, albeit slowly and methodically, to find the right bit of theory to move this issue forward.

Conclusion

This chapter has attempted to establish some of the context in which VNGOs are developing and in which discussion of civil society are beginning to take place. The suspicions of the Marxist-Leninist state are still profound and exert a strong dampening effect on both the theoretical discussions and the practical aspects of VNGO formation and operations. However, these processes are moving forward, becoming more commonplace and integrated into Vietnamese society.

I have also tried to lay out a number of issues that arise in trying to bring the concept of civil society into contemporary Vietnam. The historical, linguistic, ideological and conceptual problems are enormous. Yet due to political and political-economic factors, the Vietnamese state and the international donor community are wrestling with the definitions of civil society in today’s Vietnam. Meanwhile, VNGOs are continue to appear, partly because of and partly despite the social uncertainty and massive economic and social changes that have accompanied the *đổi mới* reforms. Through it all, the Vietnamese Communist Party continues to try both to balance and to shape the political and cultural discourse around VNGOs and civil society, in order

to forge a Vietnamese definition and a palatable set of policies, without compromising its power or authority.

In the next two chapters I will discuss empirical manifestations of VNGO-state relations and the face of this new form of civil society emerging in Vietnam. In Chapter 6 I will draw on my research observations to look at how the close scrutiny of VNGOs by the state in HCMC has led to different sorts of strategies for VNGO development – usually under varying degrees of state surveillance and even collaboration with the state – and how that development is not wholly unwelcome. Close scrutiny from and direct involvement with state agencies (somewhat perversely) offers opportunities for VNGOs to push their own agendas *vis-à-vis* the state. In Chapter 7, again drawing from my own fieldwork, I will look at how the influence of international donors has affected the formation of VNGOs and the creation of specific kinds of professionalized VNGO actors. In the process, VNGOs, the state and international donors obscure and deny the political nature of the development process. These two chapters taken together, illustrate how VNGOs, with their complicated and inequitable relations with myriad state agencies, are in fact beginning to form one aspect of a Vietnamese civil society.