

# The system of Anti-corruption agencies in Vietnam: Concept, function, and challenges

Thanh Huyen, Nguyen

## Introduction

Vietnam is one of the countries in the 21st-century with significant economic growth as the country's annual GDP growth rate reached over 6% during the past ten years. Despite these economic opportunities and success, Vietnam faces the challenge of endemic corruption. Corruption accounts for nearly 5% of Vietnam's GDP in 1998 (Wescott 2003, p.258). Meanwhile, according to the 2006 Global Integrity Report, Vietnam lost about 3-4% of its annual GDP due to grand and petty corruption (NORAD 2011, p.12). In the 2019 Vietnam Corruption Barometer survey held by the Toward Transparency (TT)<sup>1</sup>, 43% of the respondents considered corruption as the most critical issue that needs to be handled, making it the 4th priority following poverty reduction, food safety, and crime/security (TT 2019a, p.12).

Many researchers believe that corruption started to grow rampantly in Vietnam after the Doi Moi reform in the second half of the 1980s<sup>2</sup>. Essentially, despite the act of giving and taking bribe and embezzlement were criminalized under the law from 1945<sup>3</sup>, the word "tham nhũng (corruption)" only appeared for the first time in official documents of The Communist Party of Vietnam (CPV) in 1986<sup>4</sup>, followed by the promulgation of the first Anti-corruption Ordinance in 1998 and the Articles on corruption offenses under the 1999 Penal Code (Dinh 2019, p.101). However, this period's anti-corruption policies were not adequate to tackle the problems (World Bank 2004, p.93). In 2005, Vietnam launched a wide range of reforms, namely adopting the new Anti-corruption law in 2005 and developing a system of multiple anti-corruption agencies (the system of ACAs) in 2006. In the last 15 years of its development, the system of ACAs of Vietnam made some progress but also exposed various issues. Hence, a comprehensive

revision must be made to take a more in-depth look into the current system’s problems and find solutions to enhance its efficiency.

## 1. Overview of Vietnam’ s corruption situation

### 1.1. Extent of corruption

From 1997 until 2018, Vietnam ranked around the second half of Transparency International’s Corruption Perception Index (CPI) ranking. Table 1 demonstrates the variation of Vietnam’s CPI from 1997 until the end of 2019.

Evidently, corruption is not a recent issue of the Vietnamese government. Although the concept of “corruption” was not officially recognized until 1986, the fight against bribery and public fund embezzlement began far earlier in the country. After declaring independence from France in September 1945, the Vietnamese government adopted a set of policies to combat bribery, including the promulgation of Decision number 64 of the President (amended on 25 November 1945) on the establishment of the Special Inspectorate Bureau<sup>5</sup> and the Special Court to investigate and judge laws violations behaviors of public officers, and the Decision number 223 of the President (amended on 27 November 1946) on bribery offenses. In 1950, Tran Du Chau, the head of the

Table 1 Vietnam’ s CPI and Ranking from 1997 to 2019

CPI and Ranking before 2011			CPI and Ranking after 2011		
Year	CPI (*)	Ranking	Year	CPI (**)	Ranking
1997	2.79	43/52	2012	31	123/174
1998	2.5 ▼	74/85	2013	31	116/177
1999	2.6 ▲	75/99	2014	31	119/174
2000	2.6	76/90	2015	31	111/167
2001	2.6	75/81	2016	33 ▲	113/176
2002	2.4 ▼	85/102	2017	35 ▲	107/180
2003	2.4	100/133	2018	33 ▼	117/180
2004	2.6 ▲	102/145	2019	37 ▲	96/180
2005	2.6	107/158			
2006	2.6	111/163			
2007	2.6	123/179			
2008	2.7 ▲	121/180			
2009	2.7	120/180			
2010	2.7	116/176			
2011	2.9 ▲	112/182			

(\*\*) Scale of 0 (highly corrupt) to 100 (very clean)

(Source: Transparency International)

(\*) Scale of 0 (highly corrupt) to 10 (very clean)

Ministry of Defense's Logistics Department, became the first person to be charged with a bribery offense and received a verdict of death from the jury (Gregory 2016, p.228). Until recently, a wide range of high-profile corruption scandals has been exposed, especially since the commencement of the high-profile anti-corruption campaign led by the CPV General Secretary Nguyen Phu Trong in 2016. In about five years (from 2016 until the end of June 2020), the Vietnamese government claimed to prosecute 8,883 corruption cases and punished 110 high-ranking officers on graft and bribery charges, including 8 members of the Central Committee of the CPV<sup>6</sup>.

The Minister of Public Security To Lam (2019, pp.154-159) observed various major corruption cases that rocked Vietnam's social and political system and pointed out three main forms of corruption crimes in Vietnam. The first one is the collusion between state officials and criminal organizations to create a perfect criminal network. The scandal of Nam Cam in 2003 is a typical example of this method. In this corruption scandal, senior police and judicial officers worked with a mafia-style gang led by Truong Van Cam to cover a variety of crimes, including murder, manslaughter, domestic violence, gamble, and usury (Malesky & Phan 2019, pp. 117-118). Bribing the senior state officers to win a contract and receiving a special privilege or tax evasion is the second form. In this form of crime, criminals do not form a closed group and only make transactions from time to time. This kind of crime often occurs in projects involving foreign components, especially the Official Development Assistance (ODA) projects. For instance, in the trial in 2010, Huynh Ngoc Sy - vice director of Department of Transport of Ho Chi Minh City, and also the leader of the East/West Highway Project Management Unit, was sentenced to 26 years in prison for the charge of receiving bribe from Pacific Consultants International (PCI), a Japanese consulting company, in exchange for the contract of the project in 2001 and 2002. This project was funded by Japan's ODA and distributed by JICA (To 2019, pp. 154-156). The third and last one is the embezzlement of public funds by manipulating the value of the contract. The embezzlement scandal in 2017 at the Petro Vietnam Power Land Company (PVP Land), a subsidiary of Petro Vietnam Construction Joint Stock Corporation (PVC), is a good illustration of this kind of crime. In early 2010, Le Hoa Binh, former chairman of the 1/5 Construction and Services Joint Stock Company, planned to acquire the entire contract related to the 9,584 m<sup>2</sup> of the Nam Dan

Plaza project in Hanoi, in which PVP Land possess 50.5% of the shares. In order to buy the share of PVP Land at a lower price than the real value, Le gave 14 billion VND (equivalent to about 600,000 USD) to Trinh Xuan Thanh, the former chairman of the board of directors of PVC and also the former Deputy-Chairman of the Provincial People's Committee of Hau Giang. As a result, Le acquired the shares with 87 billion VND (about 3.7 million USD) lower than the real value (To 2019, pp.157-159).

On the other hand, petty corruption takes a deep root in Vietnamese society not only because of the officers' power abuse but also the willingness to pay the bribes of the people. According to the Vietnam Youth Integrity Survey 2019 of TT (2019b, pp.3-4), 57% of the respondents who were in contact with the police in the last 12 months admitted to paying a bribe. Meanwhile, 40% of the respondents agree to pay bribes to go to a prestigious school or company. The situation is the same in the private sector. On the Provincial Competitiveness Index 2019 report of Vietnam Chamber of Commerce and Industry, among 1,500 surveyed foreign companies in Vietnam, 42.5% of the companies paid a bribe during customs procedures (VCCI 2020, p.31), whereas 55% of the companies confessed that they paid a bribe to get construction permits in the past year (VCCI 2020, p. 76). Notably, 7.5 % of the companies claimed that the informal charges account for more than 10% of their income (VCCI 2020, p. 58).

### 1.2. Causes of corruption

There are many reasons behind the flourish of corruption in Vietnam. Duong (2015, p. 25) highlighted low salaries for public officials as one of the major factors pushing officials to engage in corruption. The research of Pham, Vu, & Nguyen (2020, pp.83-85) on the problem of being underpaid in Vietnam's current judicial system is a typical example. The authors reported that an ordinary district judge earns 2,691,000 VND (134.50 USD) per month, while 5,060,000 VND (253 USD) per month is the basic salary of an ordinary provincial judge. Meanwhile, according to the General Statistics Office of Vietnam, living expenses for a single working person in 2018 is about 2,545,000 VND (109,86 USD) per month (GSO 2020). Researchers emphasized that this underpaid issue is the main reason for corruption in the court system (Pham, Vu, & Nguyen 2020, p.85).

On the other hand, Gregory (2016, p. 232) pointed out that the traditional gift-

giving practice raises corruption risk. Gift-giving traditional practice and “xin – cho (begging-granting)” mindset was also demonstrated in the books of To (2019, pp. 55-75) and Dinh (2019, pp. 36-52). With this mindset, the people who came to apply for licenses or any other official documents is “begging”, and the civil servants who issue these papers are “granting”. This mindset exacerbates the problem of red tape in Vietnam. Furthermore, both researchers believe that economic inequalities brought by the economic transition from centralization to free trade and market economy caused a difference in salaries between the public and private sectors, which can also raise the motivation to commit corruption. Similarly, ineffective administrative procedures, moral degradation of a part of officials, and inadequate legal frameworks are internal factors that create favorable conditions nurturing corruption from the inside.

## 2. The Anti-corruption agencies in Vietnam

### 2.1. Legal framework

The legal framework for anti-corruption of Vietnam consists of laws covering a wide range of issues from criminalizing corruption offenses and legalizing the anti-corruption mechanisms to protect whistleblowers (Table 2).

The current legal framework for anti-corruption of Vietnam is based on the Anti-corruption Law and the Penal Code. The former creates the basis for the application of the latter. The Anti-corruption law consists of the definition of corruption and corruption offenses, related organizations’ responsibilities in the fight against corruption, and assets declarations’ requirements. Whereas the Penal Code provides in detail sanctions to each corruption offense. Whistleblowers protection is provided in Law on Complaints, Law on Reception of Citizens, and Law on Denunciation.

Furthermore, the Law on Access to Information and Press Law provides a legal framework to practice the citizens’ freedom of speech and freedom of access to information. The legal framework on anti-corruption of Vietnam is considered comprehensive, yet the law enforcement faces many problems (GAN 2017). For instance, neither law assigns a specific agency to protect the information provider. Adopting the fundamental law differs from case to case leading to changes in relevant organizations’ responsibilities. As a result, the informants’ safety is not well protected (Pham 2019, p.215).

Table 2 Vietnamese legal framework for anti-corruption

NAME OF THE LAW	CONTENT	CURRENT VERSION
BASIC LAWS AND REGULATIONS ON CORRUPTION OFFENSES		
1. Anti-corruption law	Providing definition and shaping the concept of corruption and corruption prevention mechanisms.	Law number : 36/2018/QH14 Promulgated by : National Assembly  Chapter/Articles : 10 chapters, 96 articles Promulgation date : 20 November 2018 Effective date : 1 January 2019
2. Penal Code	Criminalizing the crime of corruption and defining sanctions.	Law number : 100/2015/QH13 Promulgated by : National Assembly  Chapter/Articles : Chapter XXIII - Offenses Related to Abuse of Power · Section 1. Corruption Offenses (Articles 353 - 359) · Section 2. Other Offenses Related to Abuse of Power (Articles 364 -366) Promulgation date : 27 November 2015 Effective date : 1 July 2016 Revised on : 5 July 2017
LAWS AND REGULATIONS ON DENUNCIATION AND COMPLAINTS		
3. Law on Denunciation	Regulations on denunciation of law violations and providing a basic legal framework to protect whistleblowers	Law number : 25/2018/QH14 Promulgated by : National Assembly Chapter/Articles : 9 Chapter, 97 articles Promulgation date : 12 June 2018 Effective date : 1 January 2019
4. Law on Complaints	Regulations on complaints against administrative affairs and behavior of civil servants.	Law number : 02/2011/QH13 Promulgated by : National Assembly Chapter/Articles : 8 Chapter, 70 articles Promulgation date : 11 November 2011 Effective date : 1 July 2012
5. Law on Reception of Citizens	Code of conduct for the civil servant when serving the citizens; and the rights and obligations of citizens in contact with civil servants, including denunciations and complaints	Law number : 42/2013/QH13 Promulgated by : National Assembly Chapter/Articles : 9 Chapter, 36 articles Promulgation date : 25 November 2013 Effective date : 1 July 2014
OTHER LAWS AND REGULATIONS		
6. Press Law	Regulations on media institution activities, including articles on freedom of the press, freedom of speech, and administrative agencies' responsibilities.	Law number : 103/2016/QH13 Promulgated by : National Assembly Chapter/Articles : 6 Chapter, 61 articles Promulgation Date : 5 April 2016 Effective Date : 1 January 2017 Revised on : 20 November 2018
7. Law on Cyber Security	This law provides a legal framework for protecting national security and public order in cyberspace; responsibility of relevant organizations and individuals	Law number : 24/2018/QH14 Promulgated by : National Assembly Chapter/Articles : 7 Chapter, 43 articles Promulgation Date : 12 June 2018 Effective Date : 1 January 2019
8. Law on Access to Information	This law provides a legal framework to exercise citizens' right to access information and regulations on administrative agencies' responsibilities.	Law number : 104/2016/QH13 Promulgated by : National Assembly Chapter/Articles : 5 Chapter, 37 articles Promulgation Date : 6 April 2016 Effective Date : 1 July 2018

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HISTORICAL VERSIONS			
	<p>Law number : 55/2005/QH11 Promulgated by : National Assembly</p> <p>Chapter/Articles : 8 Chapter, 92 articles Promulgation date : 29 November 2005 Effective date : 1 June 2006 Revised on : ① 4 August 2007 ② 23 November 2012</p> <p>Effective until : 1 January 2019</p>	<p>Law number : 03/1998/PL-BTVQH10 Promulgated by : Standing Committee of the National Assembly</p> <p>Chapter/Articles : 5 Chapter, 38 articles Promulgation date : 26 February 1998 Effective date : 1 May 1998 Revised on : 28 April 2000</p> <p>Effective until : 1 June 2006</p>	
	<p>Law number : 15/1999/QH10 Promulgated by : National Assembly</p> <p>Chapter/Articles : Chapter XXI - Offenses Related to Abuse of Power · Section A. Corruption Offenses (Articles 278-284) · Section B. Other Offenses Related to Abuse of Power (Articles 289-291)</p> <p>Promulgation date : 21 December 1999 Effective date : 1 July 2000 Revised on : ① 3 June 2008 ② 19 June 2009</p> <p>Effective until : 1 July 2016</p>	<p>Law number : 17-LCT/HDNN7 Promulgated by : Standing Committee of the National Assembly</p> <p>Chapter/Articles : Chapter 9 - Offenses Related to Abuse of Power (Articles 219-229)</p> <p>Promulgation date : 27 June 1985 Effective date : 1 January 1986 Revised on : ① 28 December 1989 ② 12 August 1991 ③ 22 December 1992 ④ 10 May 1997</p> <p>Effective until : 1 July 2000</p>	
	<p>Law number : 03/2011/QH13 Promulgated by : National Assembly</p> <p>Chapter/Articles : 8 Chapter, 50 articles Promulgation date : 11 November 2011 Effective date : 1 July 2012 Effective until : 1 January 2019</p>	<p>Name of the law : Law on Complaints and denunciation</p> <p>Law number : 09/1998/QH10 Promulgated by : National Assembly</p> <p>Chapter/Articles : 9 Chapter, 103 articles Promulgation date : 2 December 1998 Effective date : 1 January 1999 Revised on : ① 15 June 2004 ② 29 November 2005</p> <p>Effective until : 1 July 2012</p>	
	<p>Law number : 29-LCT/HĐNN8 Promulgated by : National Assembly</p> <p>Chapter/Articles : 7 Chapter, 31 articles Promulgation Date : 28 December 1989 Effective Date : 2 January 1990 Revised on : 12 June 1999 Effective until : 1 January 2017</p>		

Source: Compiled by author

## 2.2. Concept of Anti-corruption Agencies in Vietnam

The concept of corruption was recognized officially for the first time in the documents of the 6th National Congress of CPV in 1986. Anti-corruption is mentioned together with the fight against embezzlement of public funds and the “chasing money” mindset<sup>7</sup>. Corruption at this time was considered a social evil that can be prevented by the financial inspection method<sup>8</sup>. On 26 February 1998, the 10th National Assembly (1997–2002) 's Chairman Nong Duc Manh<sup>9</sup> signed into law the Anti-Corruption Ordinance of 1998, the first legal documents designed for anti-corruption in Vietnam. The 1998 Anti-Corruption Ordinance referred to the responsibilities of the heads of state agencies, stressed the internal audit and periodically inspection (Article 16), regulations on denunciations (Article 18), and responsibility to coordinate with police, procuracies, and courts (Article 31). However, there were no specialized ACA mentioned throughout the 38 Articles of the Ordinance. The approach implemented in the latter half of the 1990s was not very efficient. As a result, on the 9th National Congress, held in 2001, CPV admitted the fight against corruption as a survival matter<sup>10</sup>.

In 2003, Vietnam signed the United Nations Convention against Corruption (UNCAC). Before ratifying the UNCAC in 2009, Vietnam conducted many prerequisite studies and preparations, such as participating in the Anti-Corruption Action Plan for Asia and the Pacific organized by the OECD. The amendment of a new law on preventing and combating corruption in 2005 and the establishments of anti-corruption bodies were part of a series of actions in preparation for the implementation of UNCAC (Dinh 2019, pp.106-107). The 2005 Anti-corruption Law consists of 8 chapters and 92 articles, covering five main areas: (1) developing the concepts of corruption and regulations against corrupt acts; (2) providing the guidelines to promote transparency and mechanisms to detect and prevent corruption; (3) building a legal framework for setting up and coordinating among ACAs; (4) creating general provisions on assets regulations; and (5) defining the role of social organizations and the press in the fight against corruption. Articles 73 and 75 of this Law introduced the Central Steering Committee for Anti-Corruption (CSCA) and specialized ACAs inside the Government Inspectorate, the Ministry of Public Security, and the Supreme People's Procuracy.

The Vietnamese ACAs system concepts became evident in the “National

Strategy on Preventing and Combating Corruption Towards 2020” (Resolution 21/NQ-CP dated 12 May 2009). Part II, section 1a of the Resolution, pointed out that “fighting against corruption is the responsibility of the whole political system under the leadership of the Party”. Therefore, instead of building an independent ACA, Vietnam chose to form specialized anti-corruption units under key agencies of inspection and criminal prosecution process. This “anti-corruption relying on multiple laws and institutions” pattern is the second of three anti-corruption patterns in Asia as presented by Quah (2013, pp.25-29)<sup>11</sup>. This pattern’s main characteristic is the diversity of laws and ACAs, but potentially ineffective due to its overlapping functions, lack of coordination, and fading the country’s anti-corruption efforts. Nevertheless, this system remained the same, even after adopting the new Anti-corruption Law in 2018.

### 2.3. Mechanism and function of the Vietnamese ACAs system

The Vietnamese ACAs system is formed by four leading agencies, in which the CSCA is the top leader. CSCA participates in neither investigation nor prosecution. The main tasks of CSCA are to give guidance, direct the activities

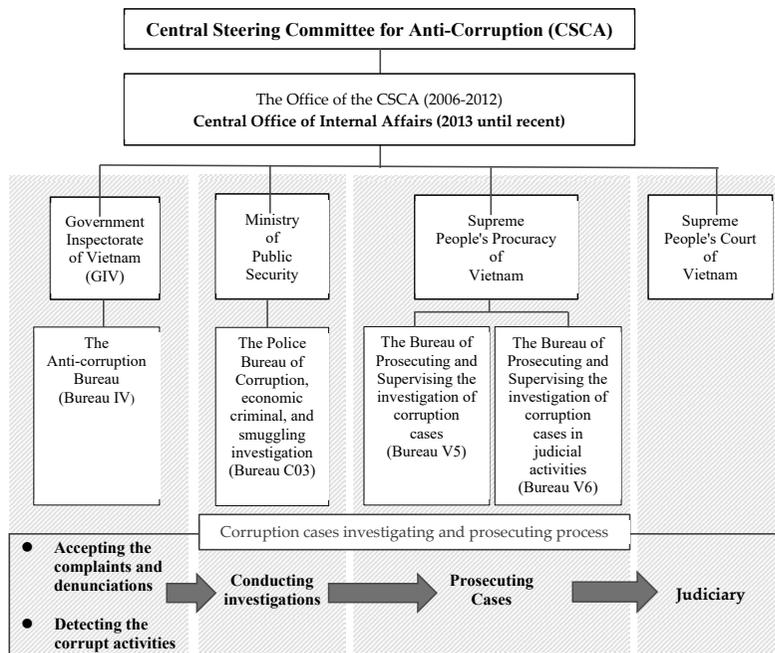


Figure 1 System of anti-corruption agencies (ACAs) in Vietnam

Source: Author

of the whole system, and supervise most essential corruption cases. Other three agencies were placed under the Government Inspectorate, the Ministry of Public Security, and the Supreme People's Procuracy. This co-operation can be summarized in Figure 1.

In general, the denunciations and complaints will be first accepted by inspectors. In most cases, the relevant ministry's internal inspectors will make the first move, getting as much first-hand evidence as possible to verify the signs of the corrupt activities. Only large-scale and attention-grabbing cases are entrusted to the national inspectors in bureau IV of GIV. Through receiving denunciations, complaints, and organizing regular/ad hoc inspections, the inspectors classified misconduct behaviors to be either criminal offenses or non-criminal offenses. If they decide the misconduct behavior as a non-criminal offense, they could impose punitive fines under Law on Handling of Administrative Violations<sup>12</sup> or submit recommendations to the top of relevant agencies<sup>13</sup>. Suppose the behavior in question shows clear criminality signals according to the Anti-corruption Law and Penal Code, the inspectors will transfer the case file, including the inspection conclusion, to the Police Bureau C03 under the Ministry of Public Security and request an official investigation. By implicating the investigation techniques and special investigative means, which only policies are permitted, such as detention, arrest, and fugitive warrant, the police will investigate the case and decide whether to file criminal charges. If there is enough evidence to file criminal charges, they will submit the case file to the People's Procuracy following criminal court proceedings described in the Criminal Procedure Code<sup>14</sup>. This procedure is also specified in the Joint resolutions No. 03/2018/TTLT-VKSNDTC-BCA-BQP-TTCP of the Supreme People's Procuracy, GIV, Ministry of Public Security and Ministry of National Defense, which took effect on 18 October 2018<sup>15</sup>.

In principle, the police investigation will be conducted after receiving the inspectors' findings. However, in some cases, both may take action at the same time. For example, in the bribery offense of Tenma Vietnam - a subsidiary of Japan's plastic product maker Tenma Corporation, local police and the inspectors of the Ministry of Finance pronounced to investigate at the same time after receiving information on 26 May 2020 (Le 2020, Anh & Hoang 2020). However, it should be noted that the internal inspections of Ministries are the subsidiary of each ministry and be directed by the Minister. GIV can only

supervise and give guidance in terms of technical and professional operations (Inspection Law, Article 17). Also, the Central Inspection Committee of CPV may conduct independent investigations and propose sanctions against its members. Furthermore, the State Audit of Vietnam takes part in detecting and investigating corruption offenses through auditing procedures. Since these agencies do not have a department or a team specialized to combat corruption, we can call them the cooperating agencies, which form a temporary investigation team to cooperate as requested<sup>16</sup>.

This system of anti-corruption was built in 2006 and remains until now. Notwithstanding the unchanged system, transferring the CSCA from a state agency to a CPV's department since 2013 is a significant effort to strengthen CPV leadership in combating corruption and targeting high-profile corruption scandals in Vietnam<sup>17</sup>. There are two major changes in the structure and the political position of the new CSCA. First, at the time of establishment in 2006, the CSCA was chaired by the Prime Minister and operated as a department

Table 3 Organizational structures the Central Steering Committee for Anti-Corruption (CSCA) in 2006 and 2013

Term	From 2005 to 2012	From 2013 until now
Members	10	16
Affiliate	National Assembly	General Political Department of CPV
Report to	- Central Committee, General Political Department and General Secretary of CPV - National Assembly	- General Political Department and General Secretary of CPV
Chairman	Nguyen Tan Dung (Prime Minister)	Nguyen Phu Trong (General Secretary of CPV)
Vice-Chairman	Deputy Prime Minister	- 2 CPV's Central Committees - Deputy Prime Minister - Vice-Chairman of National Assembly - Minister of Public Security (From January 2020)
Committees	<ul style="list-style-type: none"> <li>· Inspector General of GIV</li> <li>· Minister of Public Security</li> <li>· Prosecutor General of the Supreme People's Procuracy</li> <li>· Chief Justice of the Supreme People's Court</li> <li>· Deputy Minister of National Defense</li> <li>· Minister of Culture, Sports and Tourism</li> <li>· Central Committee of CPV</li> <li>· Vice Chairman of the Central Committee of Internal Affairs</li> </ul>	<ul style="list-style-type: none"> <li>· Inspector General of GIV</li> <li>· Minister of Public Security (2013-2019)</li> <li>· Prosecutor General of the Supreme People's Procuracy</li> <li>· Chief Justice of the Supreme People's Court</li> <li>· Chief of General Political Department of the Ministry of National Defense</li> <li>· Chief of the State Audit</li> <li>· Chef of Central Propaganda Department of the CPV</li> <li>· Chef of the Central Organizing Commission of CPV</li> <li>· Secretary General of the Vietnamese Fatherland Front</li> <li>· Chief Justice of the National Assembly</li> </ul>

Source: Author

under the Vietnamese National Assembly<sup>18</sup>. From 2013, CSCA was reformed as a department under the CPV, chair by General Secretary Nguyen Phu Trong<sup>19</sup>. Even being stated as the leading force of Vietnam's State and society<sup>20</sup>, the CPV is not a part of the State administrative system or vice-versa. Undoubtedly, its organizational system is formed in line with the state agencies<sup>21</sup>, which means the CSCA's position was changed from inside to outside of state administrative apparatus. In addition, Article 73 about the establishment and power of CSCA in the 2005 Anti-corruption Law was abolished in the new 2018 Anti-corruption Law. Currently, the function of CSCA is based on Resolution No.05-QĐ/BCĐTW passed by the 11th Central Committee of CPV on 9 April 2013.

Second, the new CSCA members increased from 10 to 16 people, including four Vice-chairmans. Outside of representatives of all key agencies of investigation, prosecution, and courts as its precursor, the new CSCA consist of Chief of the State Audit, Secretary-General of the Vietnamese Fatherland Front (VFF), and two other key persons of CPV (Table 3). The Vietnamese Fatherland Front is defined in the Vietnamese Constitution<sup>22</sup> as a political alliance and a voluntary union of all socio-political organizations of Vietnamese both domestic and overseas and recognized by the government as the representative of people's voice. The participation of VFF in CSCA conveys the high appreciation of CPV toward civil society's participation in the fight against corruption.

In summary, in the concept of Vietnamese ACAs system, the right to investigate, prosecute, and adjudicate is delegated to different agencies and based on the principles of independence and checks and balances. Until recently, the system does not change much in terms of organizations. However, the shift of its top leader, the CSCA, from a government agency to a CPV's department triggers some changes in its operation and performance. By standing outside of the administrative system and expanding members, consisting of broader representatives from most relevant organizations, the CSCA gains more independence and strength to direct the fight against corruption in Vietnam. As a result, the CSCA became more proactive and open to the public a more comprehensive range of reports on corruption and corruption trial from 2013.

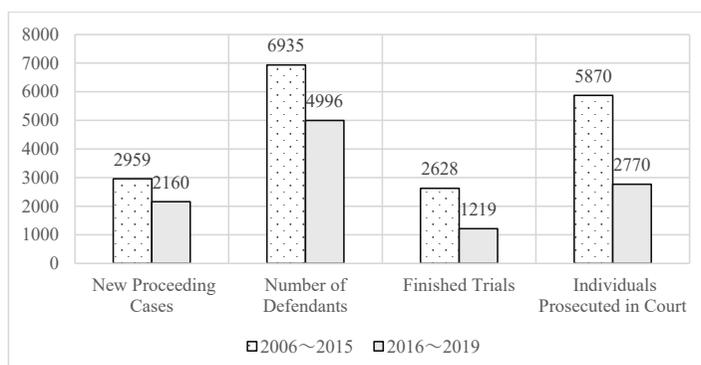


Figure 2 Criminal cases and individuals prosecuted in Court for corruption offenses investigated by Vietnamese ACAs

Source: Author compiled from Annual report on anti-corruption of GIV, Supreme People's Procuracy and Supreme People's Court of Vietnam

## 4. Evaluation of Anti-corruption agencies

### A. Effectiveness of the systems

According to CSCA, it has supervised 68 cases of corruption investigations from 2014 to 2018, of which 40 criminal charges were filed with 500 defendants<sup>23</sup>. More than 4,300 CPV members have been tried and convicted of corruption-related charges during the last five years, of which 56 people were high-profile politicians and 11 members or ex-members of the Central Committee of CPV. In 2017 and 2018, the anti-corruption campaign in Vietnam gained momentum with many high-profile politicians' trials. The corruption

Table 3 Evaluation of Vietnam Anti-corruption Agencies' performance

Year	Control of Corruption		Public Trust in Politicians	
	Score	Rank	Score	Rank
2009	-0.54	34.45	3.63	36
2010	-0.62	31.43	3.91	32
2011	-0.61	32.70	3.68	36
2012	-0.53	36.02	3.42	42
2013	-0.48	38.86	3.37	46
2014	-0.44	40.87	3.37	49
2015	-0.43	41.83	3.47	45
2016	-0.45	37.50	3.58	47
2017	-0.58	31.25	3.55	46
2018	-0.49	37.98	N/A	N/A

Source: Author compile from the database of the World Bank

trials on 22 January 2018 of Dinh La Thang, former Minister of Transport, former Communist Party Secretary of Ho Chi Minh City, and former Politburo member, is a typical example. He was convicted of corruption and law violations that led to embarrassing economic losses charges and be sentenced to 13 years in prison. In 2020, the ex-Minister of Information and Communications was sentenced to life imprisonment for taking bribes amounting to over 3 million USD, and the Minister of Information and Communications was sentenced to 14 years in prison on the same charge. Moreover, figure 2 shows the progress of Vietnamese ACAs in dealing with corruption crime over the past few years.

According to the annual reports to the National Assembly of the Prosecutor General of the Supreme People's Procuracy, within only four years (from 2016 to 2019), the investigative agencies filed 2160 criminal prosecutions, which equaled to 72% of the total number of cases filed in ten years from 2006 to 2015. These numbers show a significant enhancement in the investigation of corruption offenses. Moreover, investigative agencies have finished investigating 61% of cases in 2018, making notable progress compared with the rate of 48% in 2014<sup>24</sup>, illustrating significant progress during the last four years.

Even though the CPI grew in 2017 and 2019, Vietnam's CPI still stagnated below 40 points (out of 100 points), which means that corruption was still a severe problem that the country must face. The problem became apparent after analyzing the other indices. The Control of Corruption Index (CC) of the World Bank showed little improvement. Vietnam's score is relatively low compared to the median of the rest of the world (-0.3 to -0.2) and even the median of Asian countries (-0.2 to 0.2). This index illustrates the extent of corruption and "state capture" of elites for private gains, which means despite the efforts of combating corruption, both grand and petty corruption are still considered a crucial problem in Vietnam. As a result, the Public Trust in Politicians Index saw a downward trend from 2010 to 2015 and showed a slight improvement in 2016 before plunging in 2018. According to TT's 2019 Vietnam Corruption Barometer, 46% of the respondents rated the effectiveness of the government's anti-corruption effort as "bad" which did not improve much from the rating of 50% in 2016 (TT 2019a, p.18).

## B. Advantages and disadvantages of the system

The establishment of anti-corruption departments inside investigative

agencies and legislative agencies relieve the potential problems of setting up a new organization, such as budget issues, recruiting new staffs, and building new offices. At the same time, the existence of multiple inspective and investigative agencies provides double confirmation. The corruption case of National Highway No. 1 connecting to Bac Lieu City's north gate is a good example. In this scandal, inspectors of the Ministry of Transport discovered a misspending of about 2.1 billion VND (about 90,000 USD). However, the State Audits subsequently announced that the amount in question must be about 51.3 billion VND (about 2.2 million USD). This discrepancy was supposed to be the miscalculating of cost per unit and estimated units at some categories (Phuong 2017).

In contrast, Quah (2013, pp.25-29) has pointed out that the adoption of multiple anti-corruption agencies creates loopholes due to overlapping functions and the Vietnamese system is not an exception. In essence, the involvement of multi-agencies delayed the process. In some cases, it generated chances for suspects to escape. The escape of Trinh Xuan Thanh, the main suspect in the PVP Land corruption case, is a typical example. Trinh was convicted of various misconducts, receiving bribery and other corrupt activities while serving as chairman of the Petro Vietnam Construction (PVC) board. At the end of May 2016, the Vietnamese online press reported public news about Trinh's luxury car and the 3,200 billion VND (nearly 138 million USD) loss of PVC when Trinh was the chairman. On 9 June 2016, the Central Office of CVP announced at the request of General Secretary Nguyen Phu Trong, to investigate the scandals related to Trinh Xuan Thanh. The Central Inspection Commission of CPV made the first move to trace the origins of corrupt activities. After receiving the inspectors' conclusion on 11 July 2016, the police department secretly started the investigation at the end of July. Although the Ministry of Public Defense has confirmed that no inside information was leaked, in reality, Trinh fled abroad from 19 August, right in the middle of the investigation. After a year of living abroad, Trinh appeared and was prosecuted in July 2017 (Thuy & Nguyen 2017).

On the other hand, most of the ACAs of Vietnam are affiliated with administrative agencies; therefore, government intervention is unavoidable. For example, in the corruption scandal at the state-owned Vietnam Shipbuilding Corporation (Vinashin) in 2010, several online newspapers skeptically posted the

article raising questions of government interference in investigation using the Internet, but no further relevant information was provided (Lam 2010). The reorganization in 2013 provided CSCA with more independence from the administrative apparatus in comparison with its precursor. However, the haft of its members is also the chief of administrative agencies. Hence, we can not deny the potential risk of government intervention in the future.

Lastly, while the GIV and police play a vital role in the Vietnamese ACAs system, they are the ones who have the most severe corruption problem among all administrative agencies. In the 2019 Corruption Barometer report, the respondents rated the police as the most corrupt agency (TT 2019a, p.15). Meanwhile, from 2016 to the present, corruption cases involving inspectors have been reported in newspapers every year. For example, in 2016, the bribery scandals involving traffic inspectors were continuously detected in Can Tho and Ha Tinh provinces (VTV24h 2016, Van 2016). While in 2020, inspectors of the Ministry of Construction, the Ministry of National Defense, and the People's Committee of Thanh Hoa province were arrested and charged with bribes one after another (Yen 2020, Xuan 2020, Moc 2020). These corruption scandals inside the ACAs themselves are threatening people's trust in the effectiveness of anti-corruption efforts.

## Conclusion

Quah (2011, pp. 456) emphasized that a robust anti-corruption agency needs to be independent and have adequate capabilities, responsibilities, and resources to function effectively. His research in ten Asian countries also stressed that a single agency specialized for sweeping corruption appears to be more effective than other models by ensuring its independence and impartiality. That might be a new practical approach to Vietnam to improve the effectiveness of the anti-corruption system.

Indeed, Vietnam used to have an independent and powerful agency designed to fight against public officers' misconducts back in the second half of the 1940s, the Special Inspectorate Bureau. The Bureau was launched on 23 November 1945, two months after the independence of Vietnam. The main task of the Bureau is to oversee administrative affairs and inspect the activities of government agencies. The Special Inspectorate Bureau was established under

the Decree number 64 of President Ho Chi Minh. Article 2 of the Decree described in general functions and powers of Special Inspectors, including 1) to accept denunciations and complaints; 2) to investigate, question and examine documents of administrative agencies to recognize, prevent and detect criminal offenses; 3) to arrest and detain any governmental official on suspicion of crimes; 4) to confiscate or seal the evidence, use all methods of investigation and file criminal offense to the Special Court. Special Inspectorate Bureau can even prosecute the cases that happened before the date of the Decree. Despite the comprehensive and powerful functions, setting it up in the middle of the Vietnam War limited the agency and the Special Court's activities. They could operate only in the North Vietnam sphere, and their resources were also far from adequate (GIV 2011, part 1). As a result, the Special Court was abolished on 18 December 1949, whereas the Special Inspectorate Bureau was gradually reformed, evolving to Government Inspectorate of Vietnam. Despite existing for only a short period, the appearance of an independent and powerful anti-corruption agency suggests prospects for future reconstruction of such an agency.

Endnotes

- 1 Toward Transparency (TT) is the National Contact in Vietnam of Transparency International.
- 2 The Norwegian Agency for Development Cooperation (NORAD 2011, p.141) pointed out that the economic liberation creating opportunities for corruption. Meanwhile, Duong (2015, p.23) draw attention to problems caused by globalization and integration after Doi Moi. Later, Gregory (2016, p. 229) mentioned about a consensus among a large proportion of Western observers that after Doi Moi, corruption begun to flourish in Vietnam.
- 3 For example, Decision number 223 of Ho Chi Minh president on bribery offenses amended on 27 November 1946. Article 133 of 1985 Penal Code criminalized embezzlement meanwhile Articles 226 and 227 of the same Code criminalized the act of taking and giving bribery.
- 4 Author's research.
- 5 The Special Inspectorate Bureau was the precursor to the current Government Inspectorate of Vietnam (GIV 2011).
- 6 Information retrieved from the report of General Secretary Nguyen Phu Trong in the 8th meeting of The Central Steering Committee against Corruption, aired on Vietnam Television (VTV news) on 25th July 2020.
- 7 Chapter 5 of Political report of the 5th Central Committee presented at the 6th National Congress (Phan & Van 2007, p.352).
- 8 Chapter 3 of the Five-year socio-economic development plan 1986-1990 (Phan & Van 2007, p. 377).
- 9 Nong Duc Manh was Chairman of the National Assembly of Vietnam from 1992 to 2001 (the 9th and 10th National Assembly).
- 10 Chapter 1 of Political report of the 8th Central Committee presented at the 9th National Congress (Phan & Van 2007, p. 777)
- 11 The other patterns are (1) Providing Anti-Corruption Law without law enforcement agency, and (3) establishing independent anti-corruption agency. The former can be seen in Japan while typical examples of the latter are CPIB of Singapore and IACC of Hong Kong. The third pattern is considered the most effective one (Quah 2013, p.456).
- 12 Law number 15/2012/QH13, took effect on 1 July 2013.
- 13 According to Articles 55 and 60 of Inspection Law (Law number 56/2010/QH12, took effect on 1 July 2011).
- 14 Law number 101/2015/QH13, took effect on 1st July 2016.
- 15 The first version of the Joint resolutions was Joint resolutions number 03/2006/TTLT-VKSTC-TTCP-BCA-BQP, amended on 23 May 2006, replaced by Joint resolutions number 02/2012/TTLT-VKSTC-TTCP-BCA-BQP on 22 March 2012 before achieving the current version.
- 16 Article 83 of the Anti-corruption Law stipulates only three agencies with specialized anti-corruption departments, namely the GIV, the Ministry of Public Security, and the Supreme People's Procuracy. Other agencies have obligations and responsibilities to coordinate with these anti-corruption agencies.
- 17 Part II, section 6 of the Conclusion number 21 at the 5th Plenary Session (7 - 15 May 2012) of the 11th Central Committee of CPV, and the Resolution number 162-QĐ/TW, dated 1 February 2013 on establishing Central Steering Committee for Anti-Corruption (CSCA).
- 18 Resolution number 1039/2006/NQ-UBTVQH11 of the Standing Committee of National

- Assembly on organization, tasks, powers and operation regulation of the Central Steering Committee for Anti-Corruption, took effect on 28 August 2006.
- 19 Resolution number 162-QĐ/TW of the Central Committee of the CPV on the Establishment of the Central Steering Committee for Anti-Corruption, took effect on 1 February 2013.
  - 20 Article 4, Chapter 2 of the 2013 Constitution of the Socialist Republic of Vietnam, took effect on 1st January 2014.
  - 21 The political system of Vietnam includes the CPV, the state system (with the National Assembly as the highest representative organ and the sole organ that has the constitutional and legislative rights, state administrative agencies, and judicial organs), socio-political organizations, socio-professional organizations, and mass associations (Information retrieved from Government Portal of Vietnam).
  - 22 2013 Constitution, Chapter 1, Article 9.
  - 23 Speech of General Secretary of CPV at the end of the 14th meeting of CSCA held on 16th August 2018 (Nguyen 2019, pp. 339 – 356)
  - 24 Author compiled from Annual report on anti-corruption of GIV, Supreme People's Procuracy and Supreme People's Court.

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**Abstract**

# The system of Anti-corruption agencies in Vietnam: Concept, function and challenges

Thanh Huyen, Nguyen

The persistence of corruption is a significant problem in Vietnam which threatens the country's development. From the second half of the 2000s, Vietnam pursued a wide range of reforms, namely adopting the Anti-corruption law in 2005 and developing a system consisting of multiple anti-corruption units, which started in 2006. In 2013, the top leader of the Vietnamese system of Anti-corruption agencies (ACAs) was reconstructed and changed from an administrative agency to a department of the Communist Party of Vietnam (CPV), followed by an anti-corruption campaign targeting high-profile officials in 2016. These policies made some impressive improvements in dealing with corruption offenses. However, the system also exposes inefficiency due to its complication and overlapping tasks and need to be revised. Therefore, this paper was conducted to systematically examine the concept and functions of Vietnam's Anti-corruption system and illustrate the strong and weak points of the system, then discussing a little bit the prospect of establishing an independent Anti-Corruption Agency which possesses all powers of detection and investigation in Vietnam.

Keywords: Vietnam, corruption, anti-corruption agency, sustainable development