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The Media in Vietnam and Freedom of Information –
Not Yet A Right; Perhaps A Growing Notion

Abstract
Given its liberal reforms programme beginning from the mid-1980s, Vietnam is no longer as tightly controlled as it used to be albeit remaining an authoritarian one-party system. The liberalization has a big impact on the country’s media. The changes have seen the press being encouraged to expose corruption within the establishment which needs a degree of freedom of information in Vietnamese society. In the wake of this, the Vietnamese state has made new legal provisions to facilitate news gathering and warned against officials trying to obstruct journalists. However the laws of Vietnam are far from efficacious and freedom of information is by no means a consolidated legal right. But it is not entirely cosmetic and should be seen as an evolving process where freedom of information has taken root in media discourse and become arguably a growing notion.

The mention of Vietnam’s media evokes images of tight political control generally associated with socialist regimes. Several observers have highlighted this image of a state-fettered press (Palmos 1995; and Templer 1999:159-76). If their accounts are taken at face value, such extensive degrees of press management by the state would make it meaningless to talk about freedom of information as an operating principle. Other studies have painted a more moderate account of the state’s custodial role in media, acknowledging the strict censorship regime but pointing out that meaningful independent journalism was still possible on certain occasions (Beaulieu 1994; Smollar 1995; and Sidel 1998). This paper tends towards the latter perspective and argues a case that, at the very least, a notion of freedom of information is growing within media discourse. Vietnam’s media have changed as part of a larger trend of political and economic “reforms” known as doi moi, a formal policy endorsed by the VCP (Vietnam Communist Party) at its Sixth Congress in 1986. The principle of “freedom of information” is better understood when placed in the context of larger trends within Vietnamese politics than discussed technically as a legal provision or a bureaucratic procedure. Hence this paper will comprise the following parts:
1. A description of the Vietnamese political system placing it within the framework of a socialist polity undergoing market and political reforms.

2. A profile of the media system and how it is controlled as part of the country’s monolithic political system.

3. What sort of writ can freedom of information enjoy within such a system? This includes looking at the country’s legal statutes where they relate to the matter of freedom of information and examines the relevance of such laws in a country where rule of law is widely acknowledged as non-extant.

4. If freedom of information is not protected by the law, then what are the social and political factors that promote that notion in Vietnam?

**Political System**

The VCP enjoys a monopoly of power. No law actually prohibits alternative parties but the VCP’s Political Report at its 1996 Eighth Congress had a line which called for the “absolute rejection of political pluralism and the multiparty system” (*Tap Chi Cong San* No 4 April 1996:9). Currently, Vietnam does not have any legal political party other than the VCP. Within this monolithic system, governance is dispensed by the following institutions: the ruling party and the government which comprises the legislature (National Assembly) and the executive (the Prime Minister and his Cabinet and the civil service). In actual fact, the party dominates the government because a vast majority of cabinet ministers, senior civil servants and legislators have to be party members which subjects them to party discipline and the dynamics of party elite politics, i.e., advancement in their government career depends on the patronage of powerful party leaders. Furthermore, the party maintains a whole slate of departments and sub-departments that replicate all of the functions of the government ministries. The latter must defer to the former whose prerogative is to ensure that government organs adhere to party guidelines when they go about their work of running the country. Commanding this party-dominated system is a small power elite that makes up the VCP Politburo. The efficacy of policies from conceptualization to implementation is dependent on the intra-elite politics of this

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1 Unless otherwise stated, all English translations of Vietnamese text in this paper are provided by the writer.
small group of senior leaders. The judiciary is part of this party-controlled system but
does not have the power to review executive/legislative decisions nor to arbitrate on
constitutional matters. All sectors of society are subsumed under the ideological tenet
of “party leadership” and a party cell system penetrates far and wide into many levels
of society, e.g., social organizations, place of work, public institutions and residential
neighbourhoods.

In the 1980s, when societal dynamics forced many communist regimes into
launching major political and economic reforms, Vietnam was no exception. That
liberalization trend saw the VCP leadership embarked on an exercise in the early
1990s to divest the party of its extensive power and refrain from the habit of micro-
managing every aspects of governance. In theory, the party is only meant to set broad
policy guidelines and leave the minutiae of law-making and implementation to the
government. In practice, the evidence to this effect has never been persuasive. By the
end of the 1990s, overlapping party-government prerogatives continue to hobble
efficient governance. The popular wisdom is that the VCP leadership is insufficiently
coherent to maintain a liberalization momentum that will reduce the overweening role
of the party.

Be that as it may, the broad-sweeping changes that have come about with doi
moi do signal a clear-enough break with the doctrinaire regimentation of the past.
Market economics has taken over from the old model of state-planning. A free flow of
goods has enabled a consumer society to grow especially in the cities. Increasing
consumer choices have brought great social changes, e.g., ownership of motorbikes
increases mobility and ownership of fax and video-machines mean faster and freer
flow of information. Market economics requires opening up to the world and this has
also forced the pace of change. Not only do more foreigners come in as investors or
tourists but foreign travel for Vietnamese citizens have also become much easier. This
human traffic enhances the flow of change-inducing information. The Vietnamese
state covets the financial rewards of an open economy that can profit from engaging
the world market, but continues to treat the liberalizing social and political side-
effects with suspicion. Nevertheless, it has no choice but to handle, with a soft touch,
this erosion of its pervasive authority. A return to the old pre-doi moi ways is
unthinkable. In a nutshell, “hard” authoritarianism has given way to a “soft”
authoritarianism. The regime may remain for quite a while yet but its regimen has been altered in significant ways. These changes also have had their impact on the country’s media.

The Media – Basic Features and Trends

Vietnam’s 80 million people with a per capita income of US$300 live in a predominantly agricultural country with poor communication infrastructure. Yet given this poor status, the media (i.e. the print variety) is surprisingly lively in terms of the types of newspapers and magazines. As is the practice in socialist countries, the ruling VCP, the government ministries, the army and a host of state-sponsored social organizations (representing farmers, workers, women, youth, etc.) have their own newspapers or magazines. Since 1954, the VCP had gradually phased out private ownership of the press and no private publication legally exists as of now (although since the early 1990s, some papers have been published as joint ventures between state organs and foreign investors). The 1990 Press Law does not specifically prohibit private ownership of media but is worded in such a way as to remove this possibility that was allowed under the previous legislation in 1957. So for all intent and purposes, the media in Vietnam is entirely state-owned.

According to a Ministry of Culture and Information’s annual report on media activities issued in April 1999, Vietnam publishes 177 newspapers and 313 magazines (Bo Van Hoa Thong Tin 1999:10). Both the quantity and quality of the print media have improved since the country launched doi moi in the mid-1980s. Improved paper quality, slick computer-aided page layout and better-packaged stories have all added up to provide Vietnamese readers with publications that are visually sophisticated and a good read as well. This situation is far removed from the ideological pamphlets that they used to have before the reforms. The following piece of statistics on newspapers in Ho Chi Minh City provides a snapshot of the impact of liberal reforms on media. In 1985, the city had 15 different titles which are published regularly (i.e., daily, weekly,

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1 Article 12 of the 1990 Press Law states that an organization or what the law calls a “supervisory organ” can apply for a newspaper publishing permit, making no mention of individuals. In 1999, the Ministry of Culture and Information denied a publishing permit to a dissident Tran Do precisely on this
half-monthly and monthly). This figure rose to 57 by 1991, a four-fold increase (Heng 1998:31).

Vietnam Television has three national channels. In addition to that, viewers can receive a local channel. Television broadcast however covers only 77 per cent of the country’s surface area (Vietnam News Agency. 25/5/00). About 60 per cent of the population have access to television (Bo Van Hoa – Thong Tin 1999: 11). In the big cities like Hanoi and Ho Chi Minh City, the rate of TV availability rises to 90 per cent of all households (Forrester 1998:79). Beginning in the 1990s, a greater range of foreign shows, better produced and more entertaining than the typical Vietnamese fare, are allowed to be aired and, as a result, local productions have raised their standards as well. On the surface of it, television in Vietnam like the print media also shows discernible signs of improvement in both quantity and quality.

Radio too has undergone changes although it has attracted far less attention than television or the print press. The national broadcasting body Voice of Vietnam runs five services. This is complemented by a huge network of local radio stations which can be as rudimentary as a neighbourhood loudspeaker service generally devoted to mobilizing residents for officially-sponsored campaigns. First-time visitor to Vietnam normally find this feature of the Vietnamese media most suggestive of the old image of a socialist media disseminating mind-numbing propaganda.

Internet usage is very low. Industry sources placed the number of subscribers at only 17,000 by January 1999 (figure posted on Vietnam Economic Times webpage www.vneconomy.com.vn). A vast majority of IT users are the city-based elites largely resident in Hanoi and Ho Chi Minh City. The authorities install firewalls to block access to certain politically sensitive websites belonging to anti-VCP Overseas Vietnamese organizations based in the West. However the major deterrent to Internet usage is its cost. The need to own a computer and other accessories exclude a vast number of Vietnamese. The average sum spent on servicing an Internet account is 350,000 dongs (USS25) a month, a huge sum in a country where average monthly
salary is US$50. However, many major party and government institutions, among whom are the major newspapers, have web pages and project an image of being up to date with the latest in information technology.

Since relatively more data is available on the Vietnamese print press, this paper shall concentrate its discussion on this branch of the media although the observations that are made are relevant to all forms of media as a whole. Vietnamese apparatchiks like to point to the large and growing number of publications as an indication that the country’s press is vibrant, operates with considerable freedom and enjoys increasing readership among the population. However this perspective of what seems like a media boom should be qualified by a few other hard facts. Only a fraction of the many titles are national-level publications distributed throughout the country; many are small provincial publications and the circulation may be a mere 400 to 500 copies per issue. Even those papers with country-wide distribution are relatively small when one considers that the population is some 80 million. In Vietnamese marketing terms, a circulation of 20,000 to 30,000 copies per issue is considered big. Furthermore, the broadsheet papers are usually no more than eight pages per issue while the tabloid size publications are only 16 pages at most. The country has only three daily national newspapers: Nhan Dan belonging to the Communist Party, Quan Doi Nhan Dan belonging to the armed forces, and Tin Tuc belonging to Vietnam News Agency. Other national papers are only permitted to publish a certain number of editions in a week. These characteristics make for a situation where a media consumer appears to have a vast array of choices but, in reality, the quantity and flow of information are still far from adequate.

The large selection of titles is a legacy of the pre-reform years when state subsidy was taken for granted and publications never had to bother about circulation figures or making enough money to cover cost. With market reforms, direct subsidy has been abolished but a system of indirect subsidy remains intact. The rents on newspaper premises are nominal. Basic salaries of many staff members are paid out of the state budget because in a situation where media is state-owned, journalists are considered public servants. Nevertheless, with the advent of economic reforms, newspapers have to learn to wheel and deal with market forces if they want to do better than just survive. Some publications have found a successful marketing formula
by going in the direction of tabloid sensationalism. They purvey the weird and the
salacious in crime stories culled from police records, all published in the name of
exposing social problems. Others like Tuoi Tre (Youth), belonging the Ho Chi Minh
Youth League of Ho Chi Minh City, and Lao Dong (Labour), belonging to the
General Federation of Trade Unions, have found that a more professional approach to
news that is less encumbered by ideological and propaganda considerations gain
readership. Over the years, they have built up circulation rates to rival that of Nhan
Dan, the VCP’s official voice and regarded as the most powerful and well-resourced
paper in the country. All in all, the press has shifted significantly from a mode of
pushing state-decreed propaganda with scant regard for readers’ interest to being
more conscious of the need to attract readers as buyers of newspapers. A combination
of market pressures and the state’s need to carry out political reforms have
contributed to this significant shift in the press culture. But this trend is steeped in
official ambivalence. Editors who oblige popular taste and market forces to produce
soft human interest or light entertainment stories expose themselves to official
criticisms of succumbing to “commercialism”. Similarly, those who allow articles that
are too critical of the state or adopt too liberal a line on social-economic-political
issues, risk being accused of promoting “peaceful evolution”.

The control of the press is vested in the Ideology and Culture Commission
(Ban Van Hoa va Tu Tuong) of the VCP Central Committee; henceforth the Ideology
Commission for short. The Ministry of Culture and Information is only involved in
the formality of administering the press, e.g., issuing a publication permit after the
Ideology Commission has approved the application. This is symptomatic of the party-
dominant nature of the system. All chief editors have to be VCP members and
endorsed by the Ideology Commission. The Commission meets with all chief editors
once a week and briefs them on what is expected of the media (Heng 1998:34-37).

3 The Vietnamese government charges the West of using a “peaceful evolution” strategy to subvert
communist regimes like itself. This refers to the promotion of democracy and freedom of expression
which will force a society to change gradually from inside rather than the imposition of change through
acts of war.
Viewed in perspective, despite the changes brought about by reforms, a party-dominated political system still carries out a very extensive range of media-management functions in the following ways (modified from Buzek 1964:114):

1. Proprietorship of all forms of mass media thus excluding private ownership. This makes the press reliant on the party for licensing and financial facilities, e.g., cheap editorial premises and access to state-owned printing presses.
2. Decisive role in staffing, particularly the senior positions.
3. Guidance in the form of regular directives that cover ideological, political and organizational matters.
4. Custodial institutions to ensure the above three prerogatives.

What we have here is a monolithic socialist state having no choice but to adopt a reform agenda but is hobbled by political misgivings about those reforms. Within such a system, what sort of writ does freedom of information enjoy?

The Law and Freedom of Information

Given the above system, to say that Vietnam’s media enjoy freedom of information without qualifying the statement is to strain credulity. But to say information is entirely controlled by the state is also too extreme a reading of Vietnam’s media environment. It is essential at the outset to accept that freedom of information is not an all or nothing condition. It is dynamic and relative, expanding and contracting according to a whole host of related factors.

The most basic question to ask is does the principle of “freedom of information” exist at all in the Vietnamese zeitgeist. The answer will have to be yes because we can find its ample representation in the country’s legal statutes. For what it is worth, Vietnam’s leadership has always seen the necessity to acknowledge various principles that are related to the freedom of information. All the country’s four constitutions dating from 1946 may not have referred to “freedom of information” per se but have affirmed related principles such as “freedom of speech”, “freedom of the press” and “freedom of association”.

Even more specifically, the first piece of legislation on the media in 1957 known as Legislation 100SL/L on the Press System had a clause that read⁵:

"Chapter 2, Section 1, Article 4: Citizens' freedom of speech in the press is guaranteed. All newspapers enjoy freedom of speech. There is no pre-publication censorship. In emergency situations requiring such censorship, the power to decide rests with the Government Office."

Currently, the media is regulated by a new press law enacted in 1990 and amended in 1999. The section on freedom of speech and press freedom have been expanded to include clauses that specifically forbids any individual or organization from obstructing the press in its legitimate work of news gathering. (Luat Bao Chi Va Cac Ban Van Huong Dan Thi Hanh 1996:7). Other clauses that strengthen the principle of the freedom of the press include (Luat Bao Chi Va Cac Ban Van Huong Dan Thi Hanh 1996:8-11):

- the freedom of an individual to provide information to the press
- the freedom of an individual to complain against or criticize party, state and social organizations and their members
- the obligation of a newspaper to state its reasons clearly if it does not publish information provided by individuals
- the freedom and obligation of organizations to provide information to the press so that the latter could do its job properly
- the right of the press to use alternative sources of information in the event that such information is denied by official investigating agencies on the ground that it will obstruct their investigatory work
- the right of a newspaper to protect the identity of its sources unless it is demanded by the Chief Public Procurator, and Chief Justices of provincial People’s Court and above, on the grounds that these identities are necessary to help in the investigation of serious crimes.

Media activism in the early years of doi moi had made it necessary to write the above provisions into the 1990 Press Law. During that period when the country was steeped in a mood of liberal reforms, newspapers were encouraged to be more active

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⁵ In Sac Lênh Va Nghị Định Về Báo Chí. 1987:7. Original in Vietnamese.
in exposing official corruption and inefficiencies, and which they did. In that process, a long-quiescent press suddenly turned aggressive found its investigative work being obstructed by institutions of authority or powerful individuals. Oftentimes, journalists and their sources faced intimidation. Thus arose the need to have clauses in the 1990 Press Law to facilitate the gathering of sensitive news.

Since 1990, the party leadership has scaled down but not scuttled its enthusiasm for liberal reforms. The vacillation derives from a fear that liberalization extracts a price, i.e., the loss of extensive state power over citizens. This swing of the ideological pendulum has its impact in the realm of media. Some events in 1997 gave forewarning of the growing official worry that the state was losing control of information flow and wanted to rein in this threatening trend. In September 1997, new rules were issued requiring editors and other senior media officials to give to the Culture and Information Ministry copies of any information passed by their reporters to foreign news organizations. The following month, an editor, Nguyen Hoang Linh, of the magazine Doanh Nghiep (Enterprize), was arrested for running an expose of official corruption (Deutsche Presse-Agentur. 21/5/98). The magazine alleged that the Customs Department grossly overpaid vendors for four naval vessels that turned out to be unserviceable. Initially, Linh could have been charged with revealing state secrets but was finally let off with the lighter charge of "abusing democratic rights to encroach upon the interests of the State". But the event was sufficient to deepen the nervousness of journalists. Then in December 1997, the powerful Interior Ministry whose prerogative included surveillance announced that it was equipping itself with a new press department. The latter is aimed at monitoring and controlling media coverage about security issues (Reuters. 9/12/97).

Against this background of heightened sensitivity to circulation of information by the press, the National Assembly amended the 1990 Press Law in May 1999. In several instances, the amendments signalled a tighter regime of control over media. For example, an expanded Article 12 stipulates that supervisory organs (i.e. organizations that own publications) have to run them more stringently and assume greater responsibility for editorial mishaps (Vietnam Press Directory 2000:21). In Article 28, Clause 1, an additional provision would require compensation to be paid if media reports lead to losses to the business interests of organizations or individuals
(Vietnam Press Directory 2000:26). During the debate in the assembly, some delegates had argued that the amendment should be rewritten to say that if the information were true then there should be no question or compensation (Nhan Dan 21/5/99). The compromise was to stipulate that compensation would only be required if “legitimate” interests were affected.

These changes to the Press Law over the years tell us that the legal environment for media activism is contingent on the larger ideological climate that obtains at any one time. Whatever the ups and downs, in the final analysis, what Vietnam’s journalism has is a Press Law that affirms, in broad strokes, the need for some form of freedom of information in order that the media can do its work properly. How well does the law protect the freedom principle is what concerns us next.

The Trouble with the Legal Regime

Very few people would care to argue that legal statutes protecting information freedom are always observed both in spirit and to the letter. Indeed, many of these clauses are written in such a way as to leave room for discretionary interpretation. Furthermore, for each clause that appears to strengthen provisions for the freedom of information, other clauses proscribe that very principle by obliging the press to follow the leadership of the party and propagate its ideological line and policies.

It is also essential to pause and ask the question: for a country where the rule of law is reputed to be in a parlous state, what value can be placed on the written word of the law. Vietnam’s legal statutes are also notorious for, first, their lack of clarity and, second, their profusion that makes it impossible to keep track of them. Furthermore, laws are badly written because they are usually couched in prescriptive normative language and require a series of more detailed executive decisions from the relevant Ministries to flesh them out. This then leads to the problem of a deluge of rules and regulations which even officials find hard to monitor. Sometimes the official decisions can even be in contention with each other. To know the full extent of the 1990 Press Law, it is necessary to track the legislation through more than 30 supplementary ministry directives even before the introduction of the 1999 amendments (Bo Van Hoa – Thong Tin. 1998:7). This is an example of the confused
legal situation of Vietnam. Legislative effort in support of freedom of expression is not matched by political/bureaucratic zeal to safeguard that freedom in practice. Reading the Culture and Information Ministry’s report on eight years of implementing the 1990 Press Law gives a sense of this lack of official concern to ensure the law protects freedom of information. The tone and gist of the report is almost entirely custodial rather than encouraging of information flow. This is not surprising given that the report was really a preparatory exercise for the 1999 amendments to the Press Law, amendments that sought to regulate the media more stringently (Bo Van Hoa—Thong Tin 1998).

National Assembly legislation and ministry directives are not the only written laws regulating media behaviour. This provides one more reason to be circumspect about constitutional protection for freedom of information. As any Vietnamese media practitioner knows well, the centre of control for the media is not the Ministry of Culture and Information but the VCP’s Ideology Commission. Party decrees issued by the Politburo, the Central Committee or the Ideology Commission have to be obeyed and no editor is known to have challenged them with legal provisions in the Constitution or the Press Law. The extent to which party regulations rather than government laws regulate the press is best seen in the early years of liberal reforms—1986 to 1989—when key party decrees gave the media its greatest scope for assertive journalism. For example, Directive 15 of 1987 empowered editors to decide what was to be published which launched the Vietnamese media in its role of exposing corruption in high places. But that earlier mood promoting fast-paced reforms is no more. Since then, the ideological pendulum has swung the other way. In October 1997, the Politburo issued Order 22 that said not a word about freedom of information nor about opening up journalistic space. It was mostly about the need to regulate media more rigorously as commercialism, arising from the profit motive that has become part of newspaper culture, took grip. The 1999 amendments to the 1990 Press Law were in response to this Politburo Order. In other words, how free is the flow of information is a function of the ideological climate, as it is defined by the party leadership at any one time.

For a description of other party decisions which gave the media more journalistic space, see Heng. 1998:45.
Party decrees are not always released in full or at all. The internal party deliberations that produced them are even more hidden from public view. Media attention is instead geared towards publicising the final decree and its implementation, usually in a celebratory way. This contrasts with the procedure that is increasingly observed when new legislation is being introduced. Full texts of National Assembly draft laws are always released as public documents. This discrepancy in treatment for party deliberations and the legislative process compounds the problem of party dominance. The centre that exercises actual control over the press is quarantined from the moderating influence of public scrutiny. It presents another form of hazard to the advancement of freedom of information.

At this juncture, one may end up with an overwhelming impression that the laws of Vietnam are useless. But is that necessarily so?

The Value of the Legal Regime

Whether or not its written word is honoured in practice, the very appearance of a law signals an official recognition of a problem and the necessity for a solution. On the other hand, critics will argue that when laws are many but few, if any, are policed effectively, they become cosmetic and serve nothing more than to create an illusion of official concern when there is none. It is easy to think this of the legal regime in Vietnam. Ill-conceived official propaganda embellishing the importance and success of the country's legislative programme contributes also to such a negative perception. To appreciate the value of legislation in Vietnam, do not expect too much of any piece of written law. Think first of its political significance. For instance, a Vietnamese state that wants its citizenry to believe that it supports media investigation of official misconduct has to be seen to be legislating where its policy lies. This subjects the state to a credibility test where failure means attrition to its legitimacy. Furthermore, as part of its doi moi agenda, the VCP leadership has frequently highlighted the need for the country to strengthen the rule of law. This helps to foster a political environment within which citizens can use the law to hold the leadership to its word.
Some may argue that the significance of an official pledge to promote rule of law remains no more than an abstract ideal. They may add that the test of a law is in its use and, in practice, the principle of freedom of information is hardly ever honoured by the Vietnamese state. This claim is not without its justification but it fails to give credit to documented instances when the utility of the law has helped journalists to stand their ground against intimidating figures of authority. In 1996 when I was living in Hanoi, an incident between some journalists and the city’s police provided an example. In July that year, when the press went to check on the police trying to evict some residents forcibly from a building, the officer present warned reporters against covering the event. The defiant journalists invoked the clause in the 1990 Press Law stipulating that it was illegal to stop legitimate news gathering. The officer then threatened them with arrest and also hit a reporter as well as smashed his camera; another reporter had his press card torn and camera confiscated. Not cowed, the journalists lodged reports with the city's Legal Office and wanted the office to press charges (Cong An Thanh Pho Ho Chi Minh 7/8/96:7). All these found its way into the media and the police were keen to back down from a confrontation in court. Another instance of a reporter exercising his legal right happened in a courtroom when a reporter (Minh Tuan 1996) was prevented from tape recording the proceedings. He challenged the court, arguing that this violated articles in Decree 133 issued by the Council of Ministers on 20 April 1992. Finally, the court backed down.

Some journalists whom I interviewed agreed that the law can be a useful tool when they have to deal with obstructive or intimidating officials especially those at the lower rungs of the power hierarchy.\(^7\) It would be a naive journalist who thinks the law has the same efficacy when used in the upper reaches of power. Other key factors are also pertinent in such a confrontation, e.g., the status and confidence of the

\(^7\) I must point out that Vietnamese journalists themselves disagree over the value of the law in their work.
journalist, the political resources he can call on if necessary to protect himself and the seniority of the target he is negotiating with. However, it is pertinent to note that there has been no documented case (in as far as I can verify it) of obstruction of news gathering coming to trial in a court. A lecturer at Hanoi University’s School of Journalism pointed out to me that Vietnam was not a litigious society and altercations between journalists and officials were often sorted out of court by mediation. While this may be justified as a feature of Vietnam’s non-confrontational political culture, the paucity of instances when legal statutes are put to the test in a court of law has other implications. Untested law and untested courts contribute to the widespread perception that rule of law is feeble in Vietnam. Where state-media dynamics is concerned, it reinforces the impression that journalists are junior partners of the establishment and their quarrels with officials are no more than “family spats”; these “family spats” are then resolved by an informal systemic culture rather than institutionalized procedures.

A better way to look at the issue of freedom of information is to approach it as an evolving process. Do not take any law or party decree as an end product representing the successful culmination of a technocratic debate within the system which will then solve all problems. A final draft whether from the party or the government is usually the outcome of political give-and-take and horse-trading. This is most likely to be a protracted journey through the internal politics of the party, shaped along the way by forces promoting or opposing a given position. That it emerges at all attests to an intra-party balance of wisdom and power that endorses the final document and its stance. When no agreement is available, the elite opts for a choice of words that fudge the issue for the time being. In this regard, media practitioners who are attuned to the system tend to see a law or a party decision as a temporary guideline. It can create opportunities to promote a more assertive type of

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8 Interview with Dang Huong on 1 Oct 1996 in Hanoi.
journalism. It can also warn against it. In this ambivalence between encouragement and constraint, the journalist must make an effort to test the written word of authority. Over a period of time, this will create a political climate within which constitutional safeguards for freedom of information can thrive rather than remain irrelevant in a vacuum.

Conclusion

Given this reality, it is premature to think of freedom of information as a consolidated legal right in Vietnam. However, to the extent that the state feels it has to make laws that recognizes the need to protect a free flow of information, and journalists are beginning to use legal provisions to resist intimidation by petty bureaucrats, an awareness of the need for freedom of information has taken root. Thus if it is not yet a legal right, freedom of information is perhaps a rudimentary notion waiting to grow.

Dr Russell Hiang-Khing Heng, a Vietnam specialist, is a Senior Fellow at the Institute of Southeast Asian Studies, Singapore.

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References


Deutsche Presse-Agentur. 21/5/98. “Vietnamese editor faces charges of abusing democratic rights”.


Luat Bao Chi Va Cac Van Ban Huong Dan Thi Hanh. 1996. Ha Noi: NXB Chinh Tri Quoc Gia.


Reuters. 9/12/97. “Hanoi Security Ministry Opens Press Wing”.

_____. 20/5/99. “Vietnam Tightens State Controls Over Local Media”.


Smollar, David J. 1995. "Vietnam's changing media". Report written with a research grant from Graduate School of International Relations and Pacific Studies, University of California, San Diego. (Personal copy given by Smollar.) An abridged version was published in The Bangkok Post 19/12/95. "Vietnamese media move awkwardly toward greater freedoms – Reporters in an information balancing act".


Vietnam News Agency. 25/5/00. “VTV Broadcasts Expanded”.