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Vietnam in 2013

Single-Party Politics in the Internet Age

ABSTRACT

This essay reviews Vietnamese politics in 2013 through the lens of the constitutional drafting process and the unprecedented confidence vote in the National Assembly. Both events were framed by the country's ongoing economic struggles, elite political contestation, international integration, and a more informed public, fueled by an increasingly active blogosphere. The events foreshadow how future Vietnamese leaders can no longer rely on deep reservoirs of patriotism for legitimacy. Performance matters now more than ever.

KEYWORDS: Vietnam, National Assembly, Constitution, confidence vote, Giap

INTRODUCTION

On October 4, 2013, General Vo Nguyen Giap of the Vietnam People's Army passed away. A public outpouring of grief attended his wake the next week. Such strong emotions conveyed three messages to Vietnam watchers. First, tremendous gratitude remained throughout the country for the warrior most closely associated with Vietnamese independence. Second, there was strong sympathy for the public intellectual who was sidelined during the war with the United States and allowed to play only a minor role in the post-1986 economic reform process. Third, the death was a palpable reminder that the connection is thinning between the Vietnamese Communist Party's (VCP) ruling elite and their role in bringing independence and unification.

Even without Giap's passing, 2013 was set to go down as a monumental year in Vietnamese politics. Two events stand out: (1) the decision to *replace the 1992 Constitution* and the very public and unanticipated process that followed, revealing support for a fundamental rethinking of the current system;

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and (2) the *confidence vote in the Vietnamese National Assembly* (VNA), which arose out of intra-elite friction, but ultimately provided an unprecedented look into public sentiment regarding the performance of cabinet leaders. In this essay, I review these two events, illustrating their reflections of ongoing policy debates regarding economic reform, international integration, and the Internet.

ELITE POLITICS

To understand the critical events of 2013, it is useful to begin with the elite political environment at the end of 2012. Vietnam specialists often use the shorthand “culture of consensus” to describe the Vietnamese decision-making process.¹ The term is a misnomer.² Instead, it is rare for elite maneuvers and disagreements to spill over into the public view, so the final Politburo Decree or Congress Political Report is usually presented as a consensus, papering over the compromises and competition that undergirded their creation.

Elite political debates, however, burst into public view at the 6th Plenum of the Central Committee (October 1–15, 2012). This unique transparency was fueled by the vigor of two ambitious politicians, Prime Minister (PM) Nguyen Tan Dung and President Truong Tan Sang, along with the emergence of an active and informed blogosphere and the poor performance and non-performing loans of state conglomerates³ that threatened a general banking crisis. Now under the eye of a tense public, the Politburo unanimously recommended consequences for its own serious mistakes in management of the country and “a comrade of the Political Bureau” was to be singled out for particular criticism.⁴ Anticipation of potential leadership changes at the Plenum was high. Ultimately, however, the Central Committee rejected the Politburo’s nomination regarding the comrade, asked the body to correct its

1. Martin Rama and Văn Kiệt Võ, *Making Difficult Choices, Vietnam in Transition* (Washington, D.C.: International Bank for Reconstruction and Development/World Bank, 2008).

2. For details, see Edmund Malesky, Regina Abrami, and Yu Zheng, “Institutions and Inequality in Single-Party Regimes: A Comparative Analysis of Vietnam and China,” *Comparative Politics* 43:4 (2011), pp. 409–27.

3. Estimates vary, but the most reliable figures put non-performing loans at 9% of all lending. Clearly, state-owned enterprises (SOEs) were the primary driver with outstanding loans totaling nearly \$50 billion, or one-third of gross domestic product (GDP).

4. See David Koh, “The Sixth Plenum in Vietnam: Thunder without Rain,” *ISEAS Perspective*, October 29, 2012.

mistakes, and did not comment further on the anonymous comrade. Although it is impossible to know for certain, observers have treated the Central Committee's decision as a victory for PM Dung, suggesting that he was able to pull together a coalition in the party legislature, a move that kept him in power.

Further alterations in the composition of VCP elites have fueled the rumor mill regarding internal competition in the party. In January 2013, announcing its efforts to fulfill the resolution of the 6th Plenum to root out malfeasance, the Politburo decided to set up the Central Internal Affairs Commission and the Central Economic Commission with Nguyen Ba Thanh, party secretary of Da Nang City, and Minister of Finance Vuong Dinh Hue as the respective chiefs. Thanh was a fascinating choice. Prior to the appointment, most assumed that Thanh (born in 1953) would end his career as party secretary of Da Nang (where he was credited with that city's emergence as a favorite destination for domestic and foreign investment),⁵ having been passed over for previous Politburo nominations and now nearing retirement age. Thanh was an eye-opening appointment, because he was thought to be less captured by the interests of the state-owned sector, and therefore might be able to plot a path forward toward more robust economic reform. Coming from outside the traditional pathways to promotion, Thanh was also thought to be someone who might be able to challenge policy gridlock and shake up the promotion and appointment process, infusing the bureaucracy with new blood and fresh ideas. Though his appointment fueled speculation about an additional countervailing voice in the Politburo, within weeks Thanh became the subject of a VCP-led corruption investigation involving malfeasance in land allocation during Da Nang's expansion. True or not, the accusation likely muzzled the independent, central-accented voice his nominators had hoped for.

At the 7th Party Plenum in May, the Central Committee appointed two new members to the Politburo. Thanh and Hue were bypassed in favor of two younger candidates, both hailing from the Southern Mekong Delta with careers in local politics: Dr. Nguyen Thien Nhan, deputy prime minister and former minister of Education, and Nguyen Thi Kim Ngan, a member of the VCP Secretariat, deputy chairwoman of the VNA, and former minister. Nhan, with degrees from the U.S. and Germany and time spent at Harvard

5. For annual reports and rankings in the Provincial Competitiveness Index (PCI), see <www.pcvietnam.org>.

University, is well known within the foreign business community. Ngan also has experience dealing with economic policies, having served in the Ministries of Labor and Finance. Such appointments could be seen as a step toward rejuvenating economic decision-making at the highest level—a view strengthened by the appointments of Deputy Prime Ministers Vu Duc Dam and Pham Binh Minh in mid-October 2013. A more political spin, however, is to view these promotions through the lens of patronage politics, where the promotions point to a strengthened hand for a PM with Mekong Delta roots.⁶ Although little is known about Minh's policy positions, Dam's appointment signaled a willingness to strengthen the quality of the civil service and tackle bottlenecks in infrastructure improvements, two areas where he had been active in his previous role as head of the Office of Government.

REVISING THE CONSTITUTION

On October 21, the VNA commenced a month-long session to debate, finalize, and likely ratify a new constitution that will replace the 1992 Constitution, which was last amended in 2001. Formally, the VNA has sole power to amend the Constitution (Article 147), but convention has dictated that the process be initiated and regulated by a resolution from the Politburo. This resolution was waylaid by the Politburo's desire to wait until after the 2011 Party Congress and the revision of the VCP's own statutes.

A series of events in 2010 motivated a preemptive kick-start to this process by the VNA, which announced that it was preparing for a Resolution on Constitutional Revisions. The key trigger was an ongoing pilot program to remove local legislatures (District People's Councils) in 10 provinces that would hopefully expedite central infrastructure rollouts by removing a key veto point. If the pilot program was deemed successful and made permanent, the change would violate the 1992 Constitution's provision requiring a People's Council at every administrative level. The modesty of this impetus for constitutional revision stands in stark contrast to the tumult that followed.⁷

6. Carlyle A. Thayer, "Vietnam's 7th Plenum: New Leaders to Play Musical Chairs?" *Thayer Consultancy Background Brief*, May 16, 2013.

7. Nguyen Thi Huong, "Pursuing Constitutional Dialogue within Socialist Vietnam: The 2010 Debate," *Australian Journal of Asian Law* 13:1 (2012).

Economic Slowdown and the Constitution

As preparations for the revisions began in 2013, however, controversial items were added to discussions among members of the drafting committee. Moreover, a perceived strengthening of the role of the president beyond its current ceremonial powers prompted debate about further institutionalization of the ongoing elite competition.

At the same time, the slow-burning crisis in the Vietnamese economy provided the impetus for constitutional revision. Estimates from the International Monetary Fund (IMF) predicted GDP growth of 5.1% in 2013. While far away from Vietnam's post-Doi Moi (Renovation Policy) average of 7.3%, the number is highly respectable. But it conceals severe weaknesses in the economy, especially the high rates of non-performing loans and the closure of several thousand private companies. Moreover, with over one million young people entering the labor force each year, there is significant worry that current growth will not generate enough jobs to accommodate them. As policy-makers sought solutions to these economic problems, two key elements of the 1992 Constitution emerged as potential roadblocks to much needed economic reforms.

First, the 1992 Constitution unequivocally states in Article 19 that the state-owned sector is the leading engine of the economy, providing formal cover for differential treatment in regard to land and credit access that stacks the deck against private domestic firms and new foreign entrants. Openness to international trade and capital flows and the critically important Enterprise Laws (2000, 2005) had ushered in an economy that looked radically different than the one policy-makers saw in the early 1990s. Private and foreign companies accounted for the majority of output, investment, exports, and employment. Economic malaise and the well-documented struggle of state conglomerates led many high-placed Vietnamese to wonder whether Vietnam could even afford a state-dominated economy. After all, the Vinashin bailout had cost \$600 million.⁸ The profligacy of SOEs also led to the accumulation of non-

8. Vinashin, the national shipbuilding company and once the poster child for the plans to turn Vietnam's state-owned conglomerates into national champions, took on over \$4 billion in foreign loans, but struggled to produce high quality ships that were competitive on international markets. Moreover, the company expanded outside of its core competency into real estate and other businesses that were damaged during the 2008 financial crisis. In danger of bankruptcy, the company was saved when Vietnam offered \$626 million of government-guaranteed bonds at the Singapore Stock Exchange. It was later rebranded as the Shipbuilding Industry Corporation (SBIC).

performing loans in the Vietnamese banking sector, which the government was trying to tackle through a new asset management company charged with buying up and selling off bad debt. Moreover, negotiations with the U.S. and other countries regarding the Trans-Pacific Partnership (TPP), a comprehensive trade and investment agreement that guarantees domestic treatment for foreign investors, put the special privileges of SOEs on the chopping block.

A second issue involved revisions to the status of landed property. Vietnam does not allocate formal property titles to land holders but instead offers long-term leases called Land Use Rights Certificates (LURCs) that allow for usage, exchange, and even mortgage under the 2003 Land Law. The leases of 20–50 years allow Vietnam to have both a commercial real estate market and meet the constitutional claim (Article 17) that land is “owned by the people, and managed by the state”—a vital technical detail for a nominally communist country. But three converging issues required a total rethinking of the Constitution’s land policy. First, the initial batches of LURCs issued with the Land Law in 1993 were reaching their expiration dates, but official policy regarding renewal remained unclear. Second, the frothing Vietnamese real estate bubble froze, as property values sank in the wake of the 2008 crisis, but investors were unwilling to write off the losses and sell. Third, abuses of authority by local officials led to seizures of land from existing LURC holders, leading to protest and violence in some cases. Top-ranked officials, including the prime minister, condemned these seizures, and some perpetrators were punished; the flurry of headlines, however, did little to resolve the legal ambiguity regarding the rights of LURC holders.

Public Consultation and Public Debate

Vietnamese legal experts have noted the top-down nature of previous constitutional revisions, where Politburo recommendations were adopted verbatim. While true, the label “top-down” obscures a historical feature of the Vietnamese Constitution and legal drafting, which is the call for public comment. While generally considered pro forma, the process has been used to generate legitimacy and information about key policy changes being considered by soliciting opinions from intellectuals, experts, and organization leaders.⁹ In

9. Such a process was evident even in the drafting of the 1992 Constitution. See Carlyle A. Thayer, “Recent Political Developments: Constitutional Change & Elections,” paper to *Vietnam Update* 1992, Australian National University, Canberra, November 6, 1992.

this vein, the National Assembly circulated a draft version of the constitution for public comment. Yet, the leadership appeared unprepared for the role of participation in the information age. Intellectuals, bloggers, and advocates took advantage of the opening to offer their own commentary and thousands of submissions through the online platform. Most poignantly, a group of 72 legal experts and former officials posted their own draft constitution (called Petition 72), which removed Article 4's stipulation of the VCP as the sole political force in the country.

The intensity of emotion and the number of participants in the debate surprised the leadership, forcing leaders like Party Secretary Nguyen Phu Trong to take to the media in an attempt to tame the critics by denigrating their positions as "political, ideological and ethical deterioration."¹⁰ Nguyen Sing Hung, chair of the National Assembly, put it most directly: "Abusing the garnering of ideas on the revised constitution to propagandize and lobby for the people to oppose the party and the government . . . must be resolutely prevented."¹¹ Furthermore, some of the most prominent critics were arrested, and one well-known blogger, Nguyen Dac Kien, lost his day job at a state-run newspaper. The confusing Decree 72, which bans the posting of news stories on blogs and social networks, and a subsequent crackdown on young bloggers, probably are best seen as overreactions to such surprising public commentary. Yet, despite these exciting public debates, none of the more far-reaching reforms was ultimately considered for adoption. The revision process both began and ended modestly.

NATIONAL ASSEMBLY CONFIDENCE VOTE

The discussion of a confidence vote first arose during the VNA's debates over the Vinashin bankruptcy in the fall of 2010. New momentum for a confidence vote picked up after the tumultuous 6th Plenum. Immediately after the session, critics in and outside the top echelons of the party hierarchy hoped that there would be greater opportunities to hold particular officials accountable in the VNA, which had a more diverse membership than the VCP Central Committee. Thus, internal divisions within the elite ranks of the

10. Chris Brummit, "Vietnam Journalist Critical of Party Boss Fired," Associated Press, February 27, 2013.

11. Idem, "Critics Pile on Government in Rare Debate," *ibid.*, March 1, 2013.

VCP facilitated the move to empower the VNA with this unique new authority, unprecedented in other authoritarian and single-party regimes.

The confidence vote, known as preferential confidence ranking, was held on June 11, 2013, allowing delegates to rate each official with low, medium, or high confidence. On its face, the vote in the VNA was a failure for critics who hoped that particular officials would be held accountable for poor economic performance. Focusing on the “low confidence” vote, which triggers further proceedings, not a single official received a share over the 50% threshold requiring monitoring over two years, or the two-thirds criterion necessary for immediate action. All top officials kept their jobs, and stability was preserved among the elite VCP leadership.

On the other hand, the vote provided an incredible amount of information about perceptions of the performance of individual officials and satisfaction with governance. For instance, it was notable that the officials most associated publicly (fairly or not) with the economic situation in the country received the highest share of “low confidence” votes (State Bank Governor Nguyen Van Binh [42%], Prime Minister Nguyen Tan Dung [32%]). The Health (29%) and Education (36%) ministers—both of critical importance to Vietnamese citizens—rounded out the top five lowest performers. In the Provincial Administration Performance Index (PAPI) survey conducted by the United Nations Development Program (UNDP) every year, the strongest correlates of citizens’ satisfaction with government are perceptions of health and education services.¹² Comparing high and low confidence votes to those officials in the medium tier also revealed exactly which ones were the most polarizing, accurately mirroring speculation about factional divides.

CONCLUSION

General Giap’s death cost Vietnam more than a national hero; it cost elite politicians their link to Vietnam’s independence. The current leadership troika of General Secretary Trong, PM Dung, and President Sang were all too young to serve in the war of independence against the French or hold positions of leadership during the American War. Nevertheless, Dung can boast of serving as a battlefield medic, and Sang was imprisoned in Southern

12. For details, see the UNDP-PAPI website for complete data, <<http://www.papi.vn/about-papi>>.

Vietnam for his political activities. The next generation of leaders, slated to take office in 2015–16, will certainly have even more tangential connections to foundational moments in Vietnam's history. As a result, these leaders will find it difficult to tap traditional reservoirs of patriotism as their source of legitimacy. Instead, leaders will be judged on their performance in righting a Vietnamese economic ship that has sailed off course since the 2008 financial crisis and delivering public services to a population increasingly frustrated with corruption and inequality. The debates over the Constitution and the confidence vote make clear just how vital performance legitimacy is and how far the leadership needs to go to achieve it.