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# The development of civil society and dynamics of governance in Vietnam's one party rule

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Civil society has been in operation under one-party rule in Vietnam in the years since the Doi Moi (renewal) in 1986. Despite the continued monopoly of political power by the Communist Party of Vietnam (CPV), civil society has been gradually expanded and developed. The paper reviews recent arguments in the political science and area studies literature on the emergence of civil society in Vietnam's Doi Moi period over the past two decades, to comment on the dynamics of the relationship between civil society and the party-state, problematizing the development of civil society in the context of a one-party-dominated state. At a certain level, civil society has been 'tolerated', 'endorsed', or recognized by the party state to fill a gap in the governance network. In practice, it has never been an easy project for civil society to make its way into Vietnamese society given the party-state's Gramscian concession to maintain the existing hegemony.

**Keywords:** civil society; Communist Party of Vietnam; governance; party-state; Gramscian concession

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As a theoretical concept, civil society has only recently transplanted into Vietnam's political discourse. As a social force, under Communist Party of Vietnam (CPV) rule, civil society emerged several times, albeit at a very limited level, during the years before Doi Moi or market-based reforms launched in 1986. Since the late 1980s, the emergence of civil society in Vietnam has been noted as a new phenomenon characterizing state–society relations in an authoritarian state dominated by the CPV. Although the CPV has been highly reserved on political reforms, economic reforms have been associated with many dramatic social and political changes. Among those changes that resulted from the relaxed control of the party-state over society is the restoration and development of civil society. The symbiosis of a traditional Leninist governance structure and a market economy has created space for elements of civil society to come back into being.

Vietnam's authoritarian state, which once attempted to annul civil society in its efforts to dominate every aspect of society, has now accepted aspects of civil society. Civil society has been 'tolerated', 'endorsed', or recognized by the party-state and fills a gap, playing a role in the governance network and national development. In practice, while still viewing it with suspicion, the CPV has accepted the challenge to steer the market economy and civil society to pursue development goals. In that context, various forms of 'civil society' exist and perform a role which the CPV finds useful for societal control alongside other types of organization, particularly the mass organizations.[1] However, these forms of civil society have the potential to run beyond

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1 In a socialist system, mass organizations are Leninist institutions which 'serve as mobilizational instruments of the authorities by transmitting official policies and laws to society'. Jonathan R. Stromseth, 'Business Associations and Policy-Making in Vietnam', in *Getting Organised in Vietnam: Moving in and around the Socialist State*, ed. Benedict

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the party-state's control and governance capabilities. The paper discusses this challenge and argues that the Vietnamese party-state has employed both a co-optation strategy and a Gramscian concession to maintain its existing hegemony over popular ideas, values, and norms in governance. The utility of Gramscian notions of civil society in Vietnam can be played down or overlooked if not contextually grounded and recalibrated. The paper demonstrates how power is diffuse and immanent in civil society and that this power can generate pressure for changes within Vietnam. It is noted that there are different ways of understanding civil society in Vietnam, particularly the liberal democratic view, which will not be discounted in the paper, as each of the approaches provides a different insight and helps shed light on the research problem. Throughout the paper, empirical evidence of civil society interacting with the Vietnamese party-state will be presented and discussed in three themes of governance: the environment, constitutional amendment, and protest politics.

## Conventional approaches to civil society and its development in Vietnam

The Western liberal democratic perspective has dominated thinking on civil society since the 1980s when neoliberalism began to carve profound imprints in the global political economy. Civil society is generally seen as 'the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or set of shared rules'.[2] Furthermore, 'the strength of civil society is measured by the peaceful coexistence of these units and by their collective capacity to simultaneously *resist subordination* to the state and *demand inclusion* into national political structures'.[3] This mainstream approach has four important assumptions that need to be highlighted as they are relevant to the debates on civil society in Vietnam. First, it emphasizes the dichotomy between the state and civil society or the structural autonomy of civil society from the state.[4] It is accompanied by liberal ideas about asserting civil liberties of individuals, universal right to political participation, checks on state power, and the rule of law. Second, it characterizes state–civil society relations as complementary, cooperative, and in partnership. This *consensual* approach is reinforced by the 'discovery' of *social capital* generated by civil society in the 1990s. The American political scientist Robert Putnam arguably identified the link between social capital and democracy, contributing to the effectiveness and stability of democratic government.[5] He defines social capital as 'features of social life, networks, norms and trusts that enable participants to act together more effectively to pursue shared objectives'.[6] Third, civil society is associated with democratization and contributes to democracy and economic development.[7] Fourth, market economy engenders civil society and civil society is an inevitable and natural product of capitalist development.[8]

All four assumptions mentioned point to the *normative ideal* of civil society that the West through its multilateral and bilateral donors[9] has placed in their development programmes with

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J. Tria Kerkvliet, Russell Hiang-Khng Heng and David Koh (Singapore: Institute of Southeast Asian Studies, 2003), 63.

2 Larry Diamond, 'Rethinking Civil Society: Towards Democratic Consolidation', *Journal of Democracy* 5, no. 3 (1994): 228.

3 Philip Oxhorn, 'From Controlled Inclusion to Coerced Marginalization: The Struggle for Civil Society in Latin America', in *Civil Society: Theory, History and Comparison*, ed. John A. Hall (London: Polity Press, 1995), 251–2.

4 Ingrid Landau, 'Law and Civil Society in Cambodia and Vietnam: A Gramscian Perspective', *Journal of Contemporary Asia* 38, no. 2 (2008): 244.

5 Robert D. Putnam, 'Bowing Alone: America's Declining Social Capital', *Journal of Democracy* 6, no. 1 (1995): 65–78.

6 Ibid., 169.

7 Jude Howell and Jenny Pearce, *Civil Society and Development: A Critical Exploration* (Boulder, CO: Lynne Rienner Publishers, 2001), 39.

8 Ibid., 72.

9 They include, but are not limited to, the World Bank (WB), the International Monetary Fund (IMF), the United Nations Development Program (UNDP), the European Union (EU), the United States Agency for International Development

civil society as 'a key ingredient in promoting good governance'.[10] It is important to recognize how this approach and its conceptualization of civil society have influenced the way international donors and most NGOs reliant on their funding have formulated and implemented development projects in developing countries including Vietnam. It has presented civil society, the state, and the market as a triadic development model for developing countries. This way of thinking has not only been influential among international donors and NGOs in Vietnam but has also infiltrated into the academic circles even within the CPV. Tran Ngoc Hien, one of leading theorists of the CPV called for renewed and bold thinking by allowing civil society as the '*third cornerstone*' alongside the market economy and the law-based state to lay the full foundation for the political and economic system in Vietnam.[11] Particularly the fourth assumption – that civil society is a by-product of capitalistic development – is reified by the fact that the emergence of civil society in both socialist countries, China and Vietnam, coincides with the ascendancy of a market economy.

Conventional theories hold that civil society under authoritarianism is either heavily repressed or co-opted by the party-state.[12] Taking these accounts to extremes, many even maintain that civil society in a country like Vietnam has been annihilated and no longer exists. This line of argument fits well in the case of Vietnam before the late 1980s when the party-state adopted an exclusionary strategy against civil society and state institutions entirely dominated almost every sphere of society.[13]

Political, social, cultural, and historical factors have profound effects on the development of civil society in Vietnam. Villages in Vietnam's traditional society are arguably regarded as a primitive form of civil society actor as they enjoyed relative autonomy from the pre-colonial state.[14] During French colonial rule, civil society actions were characterized by the non-violent protest movements of workers, farmers, intellectuals, writers, and journalists on different fronts to claim and assert their legitimate rights, and to fight for freedom and democracy. They reached a peak in the widespread movement for democracy in the period of 1936–39. These seeds were destroyed or taken over by the party-state after the CPV came to power and imposed an orthodox socialist vision of society where the state is the only legitimate representative of the whole society's interests.

In the early years of communist rule in the North of Vietnam, actions from civil society briefly emerged between 1955 and 1956 in the '*Nhan van-Giai pham*' movement where prominent intellectuals, artists, and writers rose up to voice their claims for freedom and independence from the party-state's interference. The movement was quickly crushed by the party-state.[15] However, the legacy of '*Nhan van-Giai pham*' has become the 'rallying points for today's dissidents',[16] as the issues raised by the movement are still topical in Vietnam's current political discourse.

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(USAID) and the Department for International Development (DFID) of the United Kingdom Government, and the Australian Agency for International Development (AusAID).

10 Howell and Pearce, *Civil Society and Development*, 4.

11 Trần Ngọc Hiên, 'Kinh tế thị trường định hướng xã hội chủ nghĩa với nhà nước pháp quyền và xã hội dân sự nước ta' [Socialist-oriented market economy, the law-based state, and civil society in our country], *Tạp chí Cộng sản* [Communist review] 787 (May 2008): 50–5.

12 Christopher Heurlin, 'Governing Civil Society: The Political Logic of NGO–State Relations Under Dictatorship', *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 21, no. 2 (2009): 222–4.

13 Lữ Phương, 'Xã hội công dân: Từ triệt tiêu đến phục hồi' [Civil society: from annulment to restoration] (Unpublished paper, *Vietnam Update* Conference, Dept. Political and Social Change, RSAPS, ANU, Canberra, 1994); John Gillespie, 'Localizing Global Rules: Public Participation in Lawmaking in Vietnam', *Law & Social Inquiry* 33, no. 3 (2008).

14 Tran Trung Chinh, 'To chuc xa hoi dan su – Mot di san cua Viet Nam' [Civil society actors – a legacy of Vietnam], *Viet-studies*, February 9, 2012, http://www.viet-studies.info/kinhte/TranTrungChinh_XaHoiDansu.htm (accessed June 17, 2012).

15 Kim N.B. Ninh, *A World Transformed: The Politics of Culture in Revolutionary Vietnam, 1945–1965* (Ann Arbor: University of Michigan Press, 2002); Heinz Schütte, *Fünfzig Jahre Danach: Hundert Blumen in Vietnam 1954–1960* (Hamburg: Hamburger Südostasienstudien, Band 3, 2009).

16 Zachary Abuza, *Renovating Politics in Contemporary Vietnam* (Boulder, CO: Lynne Rienner Publishers, 2001), 42.

The spirit of the movement was revived on the threshold of *Doi Moi* in the late 1980s through the battle for intellectual freedom and press freedom. Many political dissidents argued that such freedoms serve the CPV's interests by 'making it more efficient, less corrupt, and more accountable to the people'.[17] Their arguments were rejected and they were heavily clamped down on by the state. Remarkably, during the period, the Club of Former Resistance Fighters, an independent pressure group within the party-state circle, had become what is termed by Abuza 'an internal loyal opposition to the party'[18] by mounting substantial civil society actions and was subsequently coerced into dissolution. Similarly, in 2007, the Institute for Development Studies, an independent policy research institution led by prominent intellectuals like Nguyen Quang A and Hoang Tuy, was also dissolved by decision of the Prime Minister.

Another important phenomenon that characterizes the (re-)emergence of a nascent civil society in Vietnam since the early 1990s is the proliferating number of organizations and associations, which attract great scholarly attention.[19] The impact of market reforms on the 'revitalisation of groups and associations' was noted by Thayer: 'With the exception of groups which have attempted to engage in overtly political activity, state authority has generally tolerated – if not encouraged – the activities of revitalized organisations and newly formed associations.'[20]

According to Vietnamese government statistics, by June 2005 there had been 320 associations operating at national level and 2150 associations at provincial and equivalent municipal level. At sub-province and sub-city level, associations are also common. The database compiled by the Vietnam Union of Science and Technology Associations (VUSTA) alone in 2011 included 391 Vietnamese non-governmental organizations (VNGOs). Meanwhile, in 2010, the Vietnam Union of Friendship Organizations (VUFO) kept a record of over 800 international non-governmental organizations (INGOs) which had spent more than US$2 billion on different projects and programmes in Vietnam between 1989 and 2010. The INGOs have been working in close partnership with VNGOs or Vietnam's state agencies to deliver their projects. As the party-state has been unable to prevent the growth of these social organizations, it has been employing a strategy of co-opting all these organizations by imposing structural ties and manoeuvring personnel appointments. As a result, political connections and elitism have been highly evident in all VNGOs and their operations.[21]

The explosion of associational activity has added to the growing interest in the concept of civil society in Vietnam despite the continuing control of the party-state. According to Hannah, while there were a number of possible ways that the term entered the Vietnamese language, the translated version '*xa hoi dan su*' or '*xa hoi cong dan*' with contested denotations and diverse connotations has been significantly transplanted into Vietnamese political discourse along with the entry of the donor community in the early 1990s.[22] Despite its limited public discussion and the lack of an enabling legal framework due to the party-state's inherent anathema to the concept,[23] civil society activity has transcended the development discourse and quietly established its presence in the political discourse. In the Vietnamese context, civil society is broadly understood as a

17 Ibid., 155.
18 Ibid., 162.
19 Carlyle Thayer, 'Political Reform in Vietnam: Doi Moi and the Emergence of Civil Society', in *The Developments of Civil Society in Communist Systems*, ed. Robert F. Miller (North Sydney, NSW: Allen and Unwin, 1992); Mark Sidel, 'The Emergence of a Voluntary Sector and Philanthropy in Vietnam: Functions, Legal Regulation and Prospects for the Future', *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 8, no. 3 (1997); Michael L. Gray, 'Creating Civil Society? The Emergence of NGOs in Vietnam', *Development and Change* 30, no. 4 (1999).
20 Carlyle Thayer, 'Mono-Organizational Socialism and the State', in *Vietnam's Rural Transformation*, ed. Benedict J. Tria Kerkvliet and Dough J. Porter (Singapore: Institute of Southeast Asian Studies, 1995), 52.
21 Gray, 'Creating Civil Society?'
22 Joseph Hannah, 'Local Non-Government Organizations in Vietnam: Development, Civil Society and State-Society Relations' (PhD diss., University of Washington, Seattle, 2007).
23 The Law on Association was withdrawn from Vietnamese political and legal agenda in 2008 after 13 drafts had been produced and debated.

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sphere of associative actions to articulate common interests and demands of citizens, to protect their rights, and to meet their needs vis-à-vis the state by seeking to engage with governance to negotiate ideas, norms, values, and practices of the state.

The emergence of civil society has been supported by the ascendency of the internet in Vietnam in 1997 and the expanding independent cyber space. The internet has increased access to different sources of information and advanced freedom of information. In doing so, it has contributed to reducing the party-state's control over information flows and the opening of space for some aspects of civil society to thrive. The emergence of various civil society organizations and better-informed citizens has increased demand for more effective governance and popular participation in policy-making. Along with remarkable economic achievements, there have been increasingly vocal calls from the public demanding democratic rights, the freedom to association, assembly, and participation in the public realm. These calls are strongly articulated through the new social media by well-known political blogs like Anh Basam, Boxit Viet Nam, Nguyen Xuan Dien, and Danlambao. They have stirred up a new form of political activism and added to the complexities of state–society relations.

These phenomena in Vietnam's civil society require a new way of conceptualizing the changing dynamics of state–society relations. Thus, there has been a scholarly tendency to move from the traditional 'state dominant' theory to a corporatist model, recognizing influences of social forces over policy through state-dominated organizations.[24] Depending on the degree of power attributed to the society in relation to the state, there are two different versions of corporatism, i.e. 'state corporatism' and 'social corporatism', which gives credit to state-led or 'co-opted' civil society.

Since the 1990s, while it can be maintained that a social corporatist interpretation is a better description of the interplay between the party-state and society in Vietnam,[25] the critique is that it would 'risk obscuring the dynamics of change' as well as 'the capacity of the "co-opted groups" to influence the policy-making process'.[26] Thus, there has emerged another approach which explains varying degrees of autonomy from the party-state and the increased social space that social organizations enjoy. This approach emphasizes dialogue and negotiation between society and the state.[27] The dialogues and negotiations underway have created space claimed and asserted by civil society.[28] Reviewing scholarly works on civil society in Southeast Asia, Weiss also confirms that 'all states in the region leave at least some space for civil society (including informal opposition)' despite their different regime types.[29] In a study of organizations and the state in Vietnam, Kerkvliet observed that 'civil society exists in degrees'.[30] Thus, he reframed the question from 'whether there is civil society in Vietnam or not' to 'how it is', finding that civil society in Vietnam is 'still significantly constrained'.[31] Analysis of empirical data across the region by Alagappa confirms that, along with Burma, the Vietnamese state is characterized by a repressed civil society.[32]

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24 Benedict J. Tria Kerkvliet, 'An Approach for Analysing State–Society Relations in Vietnam', *SOJOURN: Journal of Social Issues in Southeast Asia* 16, no. 2 (2001).
25 Heurlin, 'Governing Civil Society'.
26 Tony Saich,'Negotiating the State: The Development of Social Organizations in China', *The China Quarterly* 161 (March 2000): 125.
27 Ibid.; Kerkvliet, 'Analysing State–Society Relations.'
28 Russell Hiang-Khng Heng, 'Media Negotiating the State: In the Name of the Law in Anticipation', *SOJOURN: Journal of Social Issues in Southeast Asia* 16, no. 2 (2001); David Koh, *Wards of Hanoi* (Singapore: Institute of Southeast Asian Studies, 2006).
29 Meredith L. Weiss, 'Civil Society and Social Capital in Southeast Asia', in *International Encyclopedia of Civil Society*, ed. Helmut K. Anheier and Stefan Toepler (New York: Springer, 2010), 296.
30 Benedict J. Tria Kerkvliet, 'Introduction: Grappling with Organizations and the State in Contemporary Vietnam', in Kerkvliet, ed., *Getting Organised in Vietnam*, 15.
31 Ibid., 16.
32 Muthiah Alagappa, ed., *Civil Society and Political Change in Asia: Expanding and Contracting Democratic Space* (Stanford, CA: Stanford University Press, 2004).

Although the liberal democratic view of civil society has been dominant in the West and present in most development programmes and projects across Asia and Vietnam, its influence on studies of civil society in China and Southeast Asia including Vietnam has been limited. In fact, it has been substantially challenged by many empirical studies of civil society in Asia. First, the mainstream approach is intended for liberal democracies while the majority of Asian countries have semi-authoritarian or authoritarian governments along with illiberal democracies or socialist one-party systems. Second, the major problem for this approach in Asian countries in general and Vietnam in particular lies in the assumption of autonomy or the rigid and distinct separation between the state and civil society. As noted by Weiss, 'the boundaries of the public and private sphere are more often porous than impermeable, and the state tends to exert more ideological and programmatic control than in democracies with a sturdier tradition of individualism',[33] or Kerkvliet, 'state and society are often intermingled'.[34] This causes difficulties in studies of civil society as an empirical reality in Asia. Third, there remains confusion and lack of convincing evidence about these liberal-democratic assumptions. They have been challenged by a vast body of literature on civil society, especially those related to Asian countries.[35]

Although the liberal democratic view is of some utility, there is a need to incorporate alternative lines of thought in order to study civil society in Vietnam. Particularly, since the 2000s, Vietnam has witnessed new developments in civil society and governance that are difficult to fully make sense of within a stand-alone liberal democratic view. Against that background, a Gramscian notion of civil society has been brought to the fore due to its increasing relevance to Vietnam. In the following section, the Gramscian concept of civil society will be first discussed and then employed to shed light over recent dynamics of civil society and governance in Vietnam.

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## A Gramscian perspective recalibrated and new developments in Vietnam's civil society and governance

Recognizing that 'the democratic potential of civil society in the region is more limited than it is widely assumed',[36] some scholars writing on civil society in Asian countries under authoritarianism have drawn on a Gramscian perspective among alternative approaches to the liberal democratic one.[37] There are three important arguments made by Gramsci that find relevant applications in many countries across Asia.

First, the Gramscian perspective questions the distinction between the state and civil society,[38] and contends that civil society is an arena of challenge and contestation 'where ideas, thoughts, ideologies, and political principles are contested and debated'.[39] This contestation happens between hegemonic and counter-hegemonic forces which reciprocally shape one another as 'simultaneous double movements'.[40] The hegemonic forces are represented by the coercive rule by the state of the dominant classes and some elements of civil society co-opted by the state with mechanisms of cultural and ideological consent. The counter-hegemonic

33 Meredith L. Weiss, 'Civil Society and Close Approximations Thereof', in *Southeast Asia in Political Science*, ed. Erik Martinez Kuhonta, Dan Slater and Tuong Vu (Stanford, CA: Stanford University Press, 2008), 145.

34 Benedict J. Tria Kerkvliet, 'Politics of Society in the Mid 1990s', in *Dilemmas of Development: Vietnam Update 1994*, ed. Benedict J. Tria Kerkvliet (Canberra: Dept. Political and Social Change, RSPAS, ANU, 1995), 41.

35 Howell and Pearce, *Civil Society and Development*; Alagappa, *Civil Society and Political Change*; and Lee Hock Guan, ed., *Civil Society in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2004).

36 Fahimul Quadir and Jayant Lele, eds., *Democracy and Civil Society in Asia* (New York: Palgrave Macmillan, 2004), 8.

37 Landau, 'Law and Civil Society'; P. Ramasamy, 'Civil Society in Malaysia: An Arena of Contestations?', in Guan, ed., *Civil Society in Southeast Asia*.

38 Roger Simon, *Gramsci's Political Thought: An Introduction* (London: Lawrence and Wishart, 1982), 71.

39 Ramasamy, 'Civil Society in Malaysia', 206.

40 Hagai Katz, 'Gramsci, Hegemony, and Global Civil Society Networks', *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 17, no. 4 (2006): 336.

forces include those elements of civil society, especially subaltern groups supported by intellectuals, who challenge the dominance of the state in culture and ideology and effect social change.

Gramsci's line of argument was developed through his efforts to explain why the communist revolution in Italy failed and why the fascists managed to stay in power during the 1930s. He observed that the dominant ideology of fascism still permeated civil society, arguing that the emergence of a counter-hegemony in civil society is needed before a revolution can succeed. Political parties are considered part of civil society and a strategy of conquering the realm of culture and ideology is necessary for strengthening the political position of the communist parties in class struggles.

Second, turning the focus away from the economic base in the Marxist tradition, this *conflictual* approach highlights civil society as a crucial superstructure that the state seeks to control, thus asserting its political legitimacy. This approach refers to 'a condition in which the dominant classes utilize the state to both coerce and at the same time achieve consent to their dominance within civil society',[41] and maintains that the state 'exercises ideological hegemony by manufacturing cultural and ideological consent in civil society'.[42] The forces and/or classes who rule the state seek to dominate civil society to produce necessary consent for political domination. Hence, there is competition and contestation among different forces because whoever controls civil society succeeds in manufacturing consent from the masses, thus commanding political power.[43] This perspective gives insight into why authoritarian states try to severely constrain civil society from growing autonomous and out of their control. Particularly, it helps explain why those communist parties with monopoly of power, like the CPV and CPC (Communist Party of China), attach critical importance to maintaining a tight grip over national ideology and culture. In the CPV and CPC, it is a long-standing tradition that the department in charge of ideology and culture is extremely powerful and often has the authority to override that of the government ministry responsible for a particular area. The person who heads the party's department in charge of ideology and culture is usually a senior member of the Politburo.

Third, civil society is not only a sphere of class struggle, but is also a realm of popular democratic struggle.[44] The Gramscian perspective challenges the assumption that civil society is characterized by democratic and egalitarian relations.[45] Civil society is described as *power relations* where inequalities and exploitation exist. Therefore, it offers a terrain for a radical reform and an emancipatory project 'through which dominant ideas and structures of power could be contested'.[46] Despite the asymmetric relationship between civil society and the state, democratic struggles take place because, as Gramsci suggests, 'power diffused throughout civil society as well as being embodied in the coercive apparatuses of the state'.[47] The Gramscian notion recognizes that civil society is 'a medium through which the state can impose its own versions of what is good for society as a whole'.[48] However, as the state gradually degenerates, only promoting and preserving the interests of the ruling party elites, not the universal interests of the general public, there needs to be a space to freely associate and to speak critically and to form organizations independent of the state. This situation is particularly applicable to communist states in East Europe throughout the 1970s and 1980s. Thus, the demands for freedom of association constituted 'a revolt against the communist state's hegemonic claim to be the vanguard of

41 Ibid.
42 Landau, 'Law and Civil Society', 245.
43 Ramasamy, 'Civil Society in Malaysia', 202–3.
44 Simon, *Gramsci's Political Thought*, 26.
45 Quadir and Lele, *Democracy and Civil Society in Asia*, 10.
46 Howell and Pearce, *Civil Society and Development*, 34.
47 Simon, *Gramsci's Political Thought*, 27.
48 Ramasamy, 'Civil Society in Malaysia', 206.

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universal interests'.[49] From this perspective, civil society is considered to generate important factors for the processes of democratization.

Studies in the last decade have been examining different aspects of civil society in Vietnam. These studies include investigating the spectrum of civil society roles,[50] forms of engagement between state agencies and civil society organizations,[51] and the structure, socio-economic environment, values, and impact of civil society.[52] Other studies include Sidel's account of the implications of the legal infrastructure for the development of civil society;[53] Thayer's examination of the challenges mounted by political civil society against the party-state;[54] and Wells-Dang's study of civil society networks that engage in path-breaking advocacy with authorities and elites to bring about political and social changes.[55] In addition, Wischermann's account of civil society actions in relation to governance in three areas – that is, legitimate rule, security, and welfare – leads to an important finding that 'civil society action from within the state apparatus effects changes in governance. Those processes of change were initiated more or less simultaneously from above and below'.[56] While Wischermann's finding serves as a useful guide to what civil society action effects changes in governance, further studies are needed to demonstrate how and why civil society processes contribute to shaping the dynamics of governance in Vietnam's one-party system.

The Gramscian perspective about civil society highlights the dilemma of a co-optation strategy by the party-state of Vietnam. The ruling CPV has structured society in such a way that it (the state) 'penetrates into every possible sector and level of society',[57] blurring the delineation between the state agencies and civil society actors as well as the public and private sphere. The CPV seeks to dominate ideology and culture in civil society with party cells infiltrating many elements of civil society. Thus far, the party-state has managed to maintain control by means of imposing structural ties from civil society organizations to the party-state so that the former are subordinate to the latter's interests. However, some elements of civil society have successfully circumvented and/or navigated this type of co-optation by manipulating the system to their advantage to claim and assert their autonomous space. This duality pattern of civil society in Vietnam is strikingly similar to that of China, as noted by Cooper.[58] Cooper notes that the various incarnations of civil society in China, such as the diffuse and informal networks of relations, and the wide variety of informal activities and associations (in combination with formal associations), can accommodate both compliance and resistance. Clearly, this is evidence that signals a counter-hegemonic discourse in some functional areas of governance that challenges the political legitimacy of one-party rule.[59]

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49 Guan, *Civil Society in Southeast Asia*, 4.
50 Hannah, 'Local Non-Government Organizations'.
51 Benedict J. Tria Kerkvliet, Nguyễn Quang A, and Bạch Tân Sinh, *Forms of Engagement between State Agencies and Civil Society Organisations in Vietnam* (Hanoi: VUFO-NGO Resource Centre, 2008).
52 Irene Nørlund, 'Civil Society in Vietnam: Social Organisations and Approaches to New Concepts', *The German Journal on Contemporary Asia* 105 (2007): 68–90.
53 Mark Sidel, *Law and Society in Vietnam* (Cambridge: Cambridge University Press, 2008).
54 Carlyle Thayer, 'Vietnam and the Challenge of Political Civil Society', *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 31, no. 1 (2009).
55 Andrew Wells-Dang, 'Informal Pathbreakers: Civil Society Networks in China and Vietnam' (PhD diss., University of Birmingham, 2011).
56 Jörg Wischermann, 'Governance and Civil Society Action in Vietnam: Changing the Rules from within – Potentials and Limits', *Asian Politics & Policy* 3, no. 3 (2011): 383.
57 Russell Hiang-Khng Heng, 'Civil Society Effectiveness and the Vietnamese State – Despite or Because of the Lack of Autonomy', in Guan, ed., *Civil Society in Southeast Asia*, 145.
58 Caroline M. Cooper, 'This is Our Way in: The Civil Society of Environmental NGOs in South-West China', *Government and Opposition* 41, no. 1 (2006): 115.
59 Wischermann, 'Governance and Civil Society Action'; Hannah, 'Local Non-Government Organizations'; and Wells-Dang, 'Informal Pathbreaker'.

The development of civil society has figured prominently in studies of Vietnam's politics and governance in the *Doi Moi* era. There has been a broad agreement among scholars that the space for civil society that has emerged can generally be attributed to the incremental loosening of party-state control due to economic liberalization. However, the idea that only market reforms account for the development of civil society in such an authoritarian state as Vietnam is one-sided and one-dimensional. Though economic reforms have indeed 'opened up much more freedom in the social, personal and private spheres',[60] to base Vietnam's civil society development on that single ground seems reductionist. In Vietnam, civil society (re-)emerged alongside the introduction of market-based reforms. Rodan argues that although civil society might be a possible by-product of capitalist development, it contains many more 'political diverse elements'.[61] These elements of civil society could be critically analysed in certain functional areas of governance under a Gramscian perspective to add clarity and nuance to the understanding of the processes of changes and continuity in state–society relations in Vietnam.

The following sections address such themes as environmental governance, anti-China demonstrations, and the political discourse of constitutional amendment to highlight the Gramscian concession by the party-state for maintaining hegemony. These are among the critical areas of governance where the political legitimacy of the party-state is being challenged on ideational grounds and other social forces coming from civil society are gathering momentum. In these areas, informal and unorganized networks of activism have emerged and are operating outside of the party-state. At a quick glance, there seems to be a loose link between these areas. However, with a deeper scrutiny into the logics of the development of ideational challenge, they are all coming from civil society processes where the battle of ideas and values shapes and reshapes power relations. The environment, anti-China demonstrations and constitutional amendment are topical and significant issues in Vietnam's politics nowadays. Social and political change from micro to macro level is now taking shape upon a process of accumulation of various elements. Therefore, it is important to study these areas to understand how civil society in Vietnam works and how the politics of the country has developed.

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## *Environmental governance*

Impacts from Vietnam's economic and social development, natural disasters, and climate change have resulted in increasingly formidable environmental challenges. Both the party-state and civil society are committed to combatting environmental degradation and seeking remedies. The environment has become a critical functional area of governance and the government is increasingly faced with the lack of both resources and expertise, and the limited capacities of its 'transmission belts'[62] in dealing with newly emerging problems. Meanwhile, civil society has been widely engaged with environmental activism by promoting a radical discourse and organizing actions to assert its role for better governance over the environment. The making and implementation of environmental policy in Vietnam is an area where civil society's activism has been established through such a process negotiated with the party-state within a green public space. Civil society's struggle for governance space has been manifested by a wide range of activities from state policy implementation, policy advocacy, lobbying for policy change, and even contestation

60 Benedict J. Tria Kerkvliet, Anita Chan and Jonathan Unger, eds., *Transforming Asian Socialism: China and Vietnam Compared* (Canberra: Dept. of International Relations, RSPAS, ANU, 1999), 12.

61 Garry Rodan, 'Civil Society and Other Political Possibilities in Southeast Asia', *Journal of Contemporary Asia* 27, no. 2 (1997): 158.

62 The term 'transmission belts' was used by Lenin to refer to mass organizations as two-way conduits between the party-state and the assigned constituency of each organization. Stromseth, 'Business Associations and Policy-Making', 99–100. For a further detailed discussion on how mass organizations/transmission belts function, see Janos Kornai, *The Socialist System: The Political Economy of Communism* (Oxford: Oxford University Press, 1992), 39–40.

to certain policies.[63] In practice, Vietnam's party-state policy has been advocating broad social participation ('*xa hoi hoa*') in many of the basic governance areas, including the environment.[64] The language of broad social participation has become widely used by the party-state in the discourse over environmental protection.[65] As the party-state calls for participation from all social actors, governance processes over the environment have involved civil society,[66] which has the potential of going beyond the hegemonic control of the party-state.

Since the late 1980s, the Vietnamese party-state has been adapting to a new geo-political environment and addressing political, economic, and environmental problems that critically emerged at the sub-national, national, and global levels. In particular, the Rio Earth Summit in 1992 had a conspicuous effect on the awareness and policy of Vietnam's party-state toward environmental problems. Like China, the 'greening' process in the party-state of Vietnam has since become apparent in 'the proclamation of an impressive body of environmental laws and regulations, and the strengthening of the environmental bureaucracy'.[67] The Vietnamese state has been a signatory to various international treaties relating to the environment: the Convention on Wetlands of International Importance (RAMSAR), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the UN Framework Convention on Climate Change (UNFCCC). A number of important laws related to the environment have been made and/or revised: Law on Environmental Protection (1993 and 2005), Law on Mineral (1996), Penal Code (1999 and amendments in 2009), Law on Water Resource (1998), Fisheries Law (2003), Law on Forest Protection and Development (2004), Law on Biodiversity (2008), and Law on Environmental Protection Tax (2010).

Over the past two decades, concerns voiced by citizens over contentious environmental governance problems have proliferated, supported by the ascendancy of new media and the internet since 1997. This has given rise to a dynamic environmentalism in Vietnam. Many environmental problems are no longer limited to localized community discussions and cause heated policy debates at the national level. The critical discourse on environmental issues has been produced by controversies over the Bauxite mining projects in the Central Highlands, Vong Canh Hill Life Resort in Hue, Hanoi's Reunification Park redevelopment plan, and the Vedan case in Dong Nai province. When discussing similar contentious environmental cases in China, Yang and Calhoun argue that 'the occurrence of such public debates indicates the rise of a green public sphere of critical environmental discourse'.[68] This argument fits well within the Vietnamese context, pointing to the fact that a fledgling green public sphere emerges along with the greening of the state. The emergent green public sphere provides a breath of life to Vietnam's

63 Thayer, 'Challenge of Political Civil Society', 18–19; Hannah, 'Local Non-Governmental Organizations', 93.

64 The policy is labelled by the Vietnamese party-state as 'socialization', which basically means shifting costs from the state onto society and permitting non-state service providers and participants. Jonathan London, 'Rethinking Vietnam's Mass Education and Health Systems', in *Rethinking Vietnam*, ed. Duncan McCargo (London: RoutledgeCurzon, 2004), 132. For environmental governance, the state aims at creating incentives and preferential policies for intensifying 'socialization', according to the 11th CPV National Congress Resolution issued in January 2011.

65 See Le Quy An, 'Ban ve xa hoi hoa cong tac bao ve moi truong' [Discussing socialization of environmental protection], *Nhan dan*, June 5, 1998; Resolution 41-NQ/TW issued by CPV Politburo on November 15, 2004 on environmental protection in the period of accelerated industrialization and modernization; Directive 29-CT/TW issued by CPV Secretariat on January 21, 2009; National Strategy for Environmental Protection approved by the Prime Minister in 2003 and 2012.

66 The party-state has begun to recognize the greater role of non-state actors, particularly social organizations, NGOs, community-based organizations (CBOs) which operate outside the parameters of mass organizations in providing critical feedback and knowledge, particularly with regard to environmental impact assessment. See Hoang Van Nghia, 'Vai tro va hoat dong cua cac to chuc xa hoi trong viec bao ve, giam sat moi truong' [The role and activity of social organizations in environmental protection and monitoring], *Nghien cuu lap phap* [Journal of legislative studies] 203 (September 2011).

67 Peter Ho, 'Embedded Activism and Political Change in a Semiauthoritarian Context', *China Information* 21, no. 2 (2007): 197.

68 Guabin Yang and Craig Calhoun 'Media, Civil Society, and the Rise of a Green Public Sphere in China', *China Information* 21, no. 2 (2007): 211.

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environmental movement which is inherently fragmented, highly localized, sporadic, and non-confrontational in character.

As a sphere of associative actions to articulate common interests of citizens vis-à-vis the party-state, civil society includes members ranging from individual citizens to all non-state actors including mass organizations and social organizations. Although all organizations in Vietnam must have some form of structural tie to the party-state, they can be seen as participants in civil society when their actions manifest interests or practices differing from the party-state. The participation of civil society in governance processes relating to the environment has become increasingly vibrant over the past decade, during which Vietnam's party-state has advocated for an acceleration of various development projects at the expense of the environment. In many cities and provinces, the authorities have been particularly interested in such development projects as the construction of luxury hotels, villas, and golf courses in sensitive environmental and scenic sites without due consideration of environmental impacts. Such notorious development projects as Vong Canh Hill Life Resort in Hue city in 2004[69] and Hanoi's Reunification Park redevelopment plan in 2007[70] attracted strong actions from civil society, articulating the common interests of the community and for the sake of the environment by influencing changes in the authorities' decision-making. In the case of Vong Canh Hill Life Resort, intense collective action from citizens, concerned social organizations, and the mass media protesting against the project on environmental grounds resulted in the Prime Minister's review of the Thua Thien-Hue authorities' decision and suspension of the project. The case of the Reunification Park campaign in Hanoi to stop a plan intending to turn the park into an entertainment theme park is, according to Wells-Dang, 'a clear example of a civil society network, defined here as the joining together of organizations and individuals to influence power around a shared conception of the common good'.[71] The green public sphere which gathered momentum throughout this controversy was decisive in bringing an end to the redevelopment plan initially approved by Hanoi authorities. Meanwhile, the bauxite mining controversy which erupted in November 2007 initially as an environmental problem soon developed many complex issues beyond environmental impacts. During 2008–9, informal networks of prominent intellectuals, former political leaders, bloggers, and environmental activists produced a public discourse critical of the decision by the party-state to exploit bauxite in the Central Highlands.[72] Although a virtual movement protesting against bauxite mining did not generate a desirable outcome (by which I mean a halt to the project), it represented a considerable challenge to the party-state on the ground of critical environmental knowledge. The Vedan case is another typical case of environmental governance where the roles, attitudes, and capacities of each actor had been clearly exposed.[73] The environmental scandal started in September 2008 when Vedan,

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69 More than 50 (e-)newspapers frequently reported and commented on the Vong Canh Hill case throughout 2004–5. For background information, see 'Song Huong yeu ot' [Feable Huong river], *Nhan dan*, March 10, 2006; 'Du an du lich Vong Canh 'deo cay giua duong' [Vong Canh Hill Project in an awkward situation], *Vnexpress*, February 18, 2005, http://vnexpress.net/gl/xa-hoi/2005/02/3b9db7e3/ (accessed June 17, 2012).

70 See Wells-Dang, 'Informal Pathbreakers', 195–237.

71 Andrew Wells-Dang, 'Political Space in Vietnam: a View from the "Rice-Roots"', *The Pacific Review* 23, no. 1 (2010): 98.

72 Prof. Nguyen Hue Chi, Prof. Nguyen The Hung, and Pham Toan initiated a political blog (*Boxit Viet Nam*) to gain wider public support for the protest movement. General Vo Nguyen Giap gave the movement a strong impetus by sending three open letters to party-state leaders protesting against bauxite mining. See Carlyle Thayer, 'Political Legitimacy of Vietnam's One-Party State: Challenges and Responses', *Journal of Current Southeast Asian Affairs* 28, no. 4 (2009): 49–52; Andrew Wells-Dang, 'Framing the Environment: Competing and Complementary Visions in State and Society' (paper presented at the Vietnam Update Conference, Australian National University, Canberra, November 17–18, 2011).

73 For background information on the case, see David Brown, 'Green on Red: Searching for "Suitable Solutions" to Vietnam's Environmental Crisis' (paper presented at the Vietnam Update Conference, Australian National University, Canberra, November 17–18, 2011); and Bui Hai Thiem, 'Civil Society and Environmental Policy in Vietnam: A New Source of Governance?' (paper presented at the Vietnam Update Conference, Australian National University, Canberra, November 17–18, 2011).

a Taiwanese company, was caught in the act of discharging a massive amount of untreated wastewater into Thi Vai river, thus poisoning the river and seriously affecting the livelihood of thousands of farmers along it. Due to its unprecedented scale and audacity, the Vedan case had overwhelming media coverage and prominence in public discourse for many months,[74] raising many important questions about environmental governance. Finally, the intense collective actions from civil society with the green light given by the party-state have brought about a beneficial outcome for the disadvantaged farmers.[75]

The discourse promoted by civil society in environmental governance has emerged to challenge the practices and structure of decision-making of the party-state, and the role of mass organizations. In the interest of the environment and its political legitimacy, the party-state is increasingly faced with a critical question of redefining the party leadership and management activities of state institutions. The actions of civil society have the potential of becoming more intense and gathering stronger forces of change as more critical problems in environmental governance accumulate and erupt. Prevention of such a crisis in governance inevitably requires the CPV to move away from current practices to a more strategic role in its leadership and to be more responsive to civil society. In this sense, the processes undertaken by civil society are likely to serve as a catalyst for changes in the way the party-state conducts environmental governance, expanding the public space and managing different stakeholders for substantive participation.

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## *Political discourse of constitutional amendment*

Over the past decade, the political discourse in Vietnam has given much traction to the amendment process of the 1992 Constitution. Since the 1992 Constitution was adopted, economic and social changes have continued to widen the gap between political practice and constitutional rules. Although it is 'always mediated by practical policymaking', as contended by Gillespie,[76] this fact undermines the control of the party-state over the constitutional discourse and the constitutional legitimacy itself. By the late 1990s and early 2000s, the party-state officially sanctioned a constitutional dialogue with an aim to make some urgent updates to the 1992 Constitution.[77] It is important to note that by the mid-1990s, Vietnam had normalized relations with most Western countries and financial institutions, particularly the US, EU, IMF, and the WB. The Western influence in Vietnam could be measured by the increasing amount of foreign direct investment (FDI), commercial loans and official development aid (ODA) inflows.[78] These types of economic aid to Vietnam's development were contingent on introducing various market-based reforms and adopting a neoliberal agenda. Under the auspices of these global governance agents, liberal constitutional ideas began to make inroads into Vietnamese constitutional discourse.

The diverse and widespread social participation in this discourse has been crystallized in contestations over many ideas, rules, and norms in the existing Constitution. This is partly because

74 The Vedan case dominated the front page of many Vietnamese newspapers, like *Thanh nien, Tuoi tre, Sai Gon Giai phong, Thoi bao Kinh te, Vietnamnet*. See Brown, 'Green on Red', 5–10.

75 Vedan accepted direct negotiations with farmers, resulting in a payment of VND217 billion (US$10.85 million) for all compensation claims from farmers. See Bui Hai Thiem, 'Civil Society and Environmental Policy', 10.

76 John Gillespie, 'Changing Concepts of Socialist Law in Vietnam', in *Asian Socialism and Legal Change: The Dynamics of Chinese and Vietnamese Reforms*, ed. John Gillespie and Pip Nicholson (Canberra: ANU E Press and Asia Pacific Press, 2005), 7.

77 Sidel, *Law and Society*; Mark Sidel, *The Constitution of Vietnam: A Contextual Analysis* (Portland, OR: Hart, 2009).

78 Vietnam received US$196 billion in FDI registration and US$64.32 billion in ODA commitments between 1993 and 2010 at a steady rate (Statistics released by the Ministry of Planning and Investment in 2010, Summary Report 7501/BC-BKHDT by Ministry of Planning and Investment on November 1, 2011 on ODA Attraction and Use). By 2011, Vietnam's foreign loans amount to US$50 billion, equivalent to 41.5% Gross Domestic Product (GDP) at an average of 15% year-on-year increase. Ngo Thi Tuyet Mai, 'No nuoc ngoai cua Viet Nam: Nhung van de dang quan ngai' [Vietnam's foreign loans and concerns], *Tap chi kinh te va du bao* 12 (2012).

'the institutions that formerly created incentives for citizens to participate in the production of official ideology have been undermined'.[79] In the 1992 Constitution, the CPV for the first time accepted some constraints, albeit limited and non-substantive, upon its powers, as evidenced by some changes in comparison with the 1980 Constitution. The CPV is now no longer 'the *only* force leading the state and society' and 'all Party organizations operate within the framework of the Constitution and the law' (Article 4, 1992 Constitution). These subtle changes, as suggested by Sidel, signal that the CPV is 'opening the door for very gradual moves or begin strengthening and differentiating the role of the government and the National Assembly, and to begin recognizing the positive roles that business, mass organizations and other sectors of society might have'.[80] It is clear that the party has taken a less direct and visible role in governance, giving rise to the more dynamic roles of the executive power and the voice of the legislature in the political arena of the country since 1992. The CPV sees it as politically expedient to transfer certain symbolic and limited policy-making power to the National Assembly in an effort to build its legitimacy. The evidence of Vietnam's constitutional development is consistent with Dowdle's proposition on the Chinese case that 'socialist ideals are conspicuously absent from the process shaping constitutionalism in China' but power politics 'induce constitutional reform'.[81] Limited constitutional reform by the 1992 amendments in Vietnam has not done away with extensive legal and constitutional borrowing from the now defunct Soviet Union, which serves as a mainstay for Vietnam's authoritarian governance system. This dynamic means Vietnam's political system is often unable to deal with the root problems of a conflict with ongoing market-based reforms.

The heated debates leading to the 2001 constitutional amendments resulted in the introduction of the law-governed state doctrine and the idea of power allocation and coordination among state institutions. With active participation from some intellectuals, legal scholars, retired officials, and National Assembly members who advocated a revolutionary approach with fundamental revision, the robust debate leading up to the 2001 amendments was so extensive that it moved beyond the areas and boundaries set out by CPV and National Assembly leaders. In fact, the debate addressed various issues of constitutionalism. However, as noted by Sidel, the senior leaders from the CPV and the National Assembly had 'sought to channel and rechannel the constitutional amendment process back into more limited paths'.[82] The Constitutional Amendment Commission resolutely asserted a reactive perception of the amendments.

The amendments, promulgated by a resolution of the National Assembly (Resolution No. 51/2001/QH10 dated 25 December 2001), are clearly very limited and served as some patchy updates for the 1992 Constitution, leaving out hotly debated themes in the constitutional discourse such as rule of law, judicial power and constitutional review, checks on state power, human rights, and decentralization. These have become recurring themes, which came out of the disappointment with the 2001 amendments and the continuing discrepancy between practice and constitutional rules. References to the 1946 Constitution as the embodiment of democratic, progressive, and national values and a true reflection of Vietnamese people's aspirations are persistently repeated in the public discourse, indicating disillusion with the current Constitution.[83] This nostalgia has been reinforced by the eroding legitimacy of the 1992 Constitution in the very area of legislative affairs where the Constitution is placed as the highest in the legal order, let alone its operation in

79 Barrett L. McCormick, 'Political Change in China and Vietnam: Coping with the Consequences of Economic Reform', in Kerkvliet, Chan and Unger, eds., *Transforming Asian Socialism*, 162.
80 Sidel, *The Constitution of Vietnam*, 88.
81 Gillespie and Nicholson, eds., *Asian Socialism and Legal Change*, 6.
82 Sidel, *Law and Society*, 29.
83 Nguyen Si Dung, 'Hoc o Hien phap nam 1946' [Learning lessons from the 1946 Constitution], *Tia Sang online*, September 16, 2011, http://tiasang.com.vn/Default.aspx?tabid=116&CategoryID=42&News=4377 (accessed June 17, 2012).

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practice. Remarkable examples include the Law on State Audit in 2005 and Resolution No.26/2008/QH12 on a pilot scheme of abolishing the People's Council at ward and district levels, which clearly bypass the Constitution. Another problem that has been repeatedly highlighted in the constitutional discourse is the disjuncture between such constitutional rights as assembly, association, demonstration, access to information stipulated in Article 69 of the 1992 Constitution and many practices by authorities that prevent these rights. In fact, the Ministry of Justice reported that on average 25.59% of authorities' executive orders/decisions inspected between 2007 and 2011 are against the law or constitution.[84]

In fact, the political discourse of constitutional amendment is centred on civil rights and human rights. Chapter 5 of the 1992 Constitution frames all human rights into citizens' rights with accompanying duties to the state. As a member of the United Nations, Vietnam has acceded to the 1948 Universal Declaration of Human Rights and in 1982 ratified its ensuing Covenants in 1966 on civil and political rights, economic, social, and cultural rights. These international human rights instruments, which embody the values that are clearly a 'distilled version of political liberalism',[85] are legally binding on Vietnam. However, the language of rights in the 1992 Constitution is far from the modern universal understanding of human rights, which are inherent and unalienable. In a crude expression of socialist legal positivism, most of the rights appear in the Constitution as gifts bestowed upon citizens by the state. What makes the implementation of these rights more difficult in practice is that many of them are all contingent on being 'stipulated by the laws' and there have been no laws for such important civil and political rights in Article 69 as the rights of assembly, association, demonstration, and access to information. For example, the right to demonstrate has drawn heated debate in the National Assembly (NA) and in the cyber space of social media amid the anti-China demonstrations in Vietnam caused by China's increased assertiveness in the South China Sea dispute over competing sovereignty claims in 2007, 2011, and 2012. The right to protest by people in Vietnam is anathema to many within the party-state elites who are represented by deputies like Hoang Huu Phuoc and Nie Thuat. In a speech at a NA plenary session to counter such an idea, Duong Trung Quoc, a charismatic deputy, citing various examples in history with a focus on the use of demonstrations by the CPV in the colonial period, implicitly argued that demonstration is a constitutional right and that the absence of a law on demonstration could not prevent it.

The apparent gap between the Constitution and political/legal practice raises a critical question about 'protecting' the Constitution against violations and the role of a constitutional review mechanism. Discussions about a mechanism to adjudicate the constitutionality of state institutions' acts and documents came to the fore during the debate for the 2001 constitutional amendments. Although this call was excluded in that process, the debate was revived in the following years, especially with the initial green light given by the party-state leadership and the official consent stated in the CPV National Congress Resolution in 2006. In spite of being marginalized in the party's elitist politics, the idea has re-emerged prominently in recent discussions about further amendments of the 1992 Constitution. Under mounting pressure for changes in the 1992 Constitution, the CPV has reacted by officially sanctioning a constitutional amendment process at its National Congress in January 2011. The National Assembly implemented the party decision by establishing the Constitutional Amendment Commission in August 2011 with a plan to promulgate constitutional amendments in October 2013. Since early 2011, the debate on constitutional amendment has regained some currency. Compared to that more than a decade ago, the constitutional discourse has been enriched by the participation of a new

84 Le Nhung, 'Phat hien gan 4000 van ban trai luat' [Uncovering nearly 4000 documents issued by authorities against the law], *Vietnamnet*, January 6, 2012, http://vietnamnet.vn/vn/chinh-tri/56016/phat-hien-gan-4-000-van-ban-trai-phap-luat.html (accessed May 15, 2012).

85 Anthony Langlois, 'Human Rights', in *An Introduction to International Relations*, ed. Richard Devetak, Anthony Burke and Jim George (Port Melbourne, VIC: Cambridge University Press, 2012), 441.

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generation of intellectuals and scholars who have been trained in Western universities and supported by means of social media and the internet. Themes which have been excluded by official party politics have through this participation re-entered the constitutional discourse. Three key themes in that discourse – rule of law, the language of rights, and constitutional review – will be examined to scrutinize the interactions between socialist constitutional thinking and liberal constitutionalism, and the extent to which the former has been transformed as well as endured. These themes are closely interrelated in the constitutional discourse.

The discourse of constitutional amendment opened up by the CPV for different voices in the last decade represents an effort to lead the change it desires rather than react against undesirable ones. The 1992 Constitution was made at a critical moment when the CPV's chief mainstay of support, the Soviet Union, collapsed yet the constitution retained a lot of Soviet ideological legacies that could hardly cope with massive changes in the economy and society throughout the decades of the 1990s and 2000s. The widening gap between constitutional rules and practices has put the party-state in an increasingly awkward situation and mounted pressure for constitutional amendments due to the many times the constitutional rules have been bypassed at the discretion of authoritarian governance. The ambivalent practices have undermined the very socialist idea about the role of a Constitution in the entire legal system and society, thus eroding the legitimacy of the party-state. While the party-state is running short of ideas and innovation, the globalization process with which Vietnam engages has helped bring a new breath of liberal ideas into the constitutional discourse. It is inevitable that in the process the discourse comes to absorb various elements of liberal constitutionalism. It has become the area in which tension arises between the continued monopoly of power by the CPV and liberal constitutionalism.

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## *Anti-China demonstrations*

Handling relations with China has always been a delicate and difficult governance area for the party-state.[86] While the party-state has consistently tried to build a strategic alliance with China since relations were normalized in 1991, China's rising power and increasing assertiveness in its sovereignty claim over the South China Sea have given rise to a series of frictions over territorial disputes,[87] and growing public outrage in Vietnam. As a result, since 2007 there have been a number of anti-China demonstrations in the two major cities of Vietnam, Hanoi and Ho Chi Minh city. In December 2007, China's decision to establish an authority for the Spratly and Paracel islands over which Vietnam also claims sovereignty prompted widespread anger among Vietnamese people and the very first public protest with a nationalistic character.[88] Repeated aggressive actions by Chinese authorities, such as issuing annual fishing bans in the Vietnamese exclusive economic zone, detaining Vietnamese fishing boats and fishermen operating in their traditional fishing field within Vietnamese EEZ, and cutting a Vietnamese survey ship's cables in waters claimed by Vietnam in the Binh Minh 2 incident in 2011 led to a further 11 anti-China demonstrations in the summer of 2011.[89] A few other demonstrations took place in July 2012 in the face of Chinese assertiveness in the South China Sea, including reaction to Chinese protests against Vietnam following the passing of a Law on the Sea in

86 Carlyle Thayer, 'The Tyranny of Geography: Vietnamese Strategies to Constrain China in the South China Sea', *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 33, 2011, no.3.

87 Alexander L. Vuving, 'Vietnam: Tale of Four Players', *Southeast Asian Affairs* (2010): 384.

88 Spontaneous demonstrations took place on December 9 and 12, 2007 in response to a declaration by the Chinese government that Sansha would be an administrative unit for Xisha (Paracel) islands, Zhongsha (Macclesfield Bank), and Nansha (Spratly) islands and their surrounding waters. See Carlyle Thayer, 'Vietnam Public Protest in the Past and Today' (Background Briefing, Thayer Consultancy, July 26, 2012).

89 See Thanh Nam, 'Nguong tam ly va bieu tinh lan thu muoi mot' [Psychological threshold and the eleventh demonstration], *Blog Que choa*, August 20, 2011, http://quechoa.vn/ (accessed November 22, 2012).

June 2012 which re-asserted Vietnamese claims over the Paracel and Spratly islands.[90] Although the scale of these protests has not been large, ranging from a few hundred up to a thousand each, participants include students, prominent intellectuals, bloggers, war veterans, and city dwellers from diverse backgrounds.[91] Motivated by the perception of a Chinese threat and ineffective responses from the party-state, they organized themselves without any leadership. They have engaged in contestation over hegemonic power by using and enlarging the public sphere for protest politics.

Given the national character of these demonstrations, they are phenomenal in Vietnam's political arena dominated by the CPV's omnipresent leadership. Patriotism and national interest concerns have placed demonstrators on a moral high ground, thus making it difficult for Vietnamese authorities to take repressive measures. However, Vietnam's authorities accused demonstrators of being exploited by reactionary and hostile elements, political opportunists, and land petitioners in the name of patriotism and causing public disorder.[92] The authorities have employed a number of strategies to prevent these protests. First, they use extensive networks of compliant mass organizations, universities, businesses, and NGOs to enforce their will by discouraging students and youths from participating in demonstrations or even threatening punishment.[93] Second, they prevented many blacklisted would-be active protesters from joining demonstrations by taking them into temporary detention or re-education camps, as in the case of Bui Thi Minh Hang, or by placing them under de facto house arrest.[94] In terms of communication strategy, the authorities directed the state-owned media to conduct campaigns aimed at condemning the demonstrations and denouncing the protesters as instigators by charging them with pseudo-patriotism.[95] The state-owned media was not allowed to cover the demonstrations in 2012.

The anti-China demonstrations involve diverse political aspects. First and foremost, they demonstrate a strong sense of nationalism that contests the 'monopoly of patriotism' of the party-state. They aim to assert the freedom to patriotism, which is not controlled by the party-state. Second, they have become directly critical of the party-state over its secretive processes in Vietnam–China relations and foreign policy failures in preventing Chinese aggression in the South China Sea. Slogans in the July 2012 demonstrations boldly demanded accountability of the party-state to taxpayers. Third, the demonstrations are efforts to reclaim the constitutional right to demonstration, which is stipulated in Article 69 of the 1992 Constitution but has been denied in practice by authorities on the ground of an absence of a law on demonstration. In terms of mobilization, these protests have been the first to employ social media on a large scale – mainly blogs, instant messaging, and Facebook – to coordinate civil society actions

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90 Esmer Golluoglu, 'Protests in Vietnam as Anger over China's "Bullying" Grows', *The Guardian,* August 6, 2012, http://www.guardian.co.uk/world/2012/aug/06/protests-vietnam-china-bullying-grows (accessed November 20, 2012).

91 Quoc Phuong, 'Nhin lai phong trao bieu tinh he 2011' [Looking back at the 2011 summer demonstrations], *BBC Vietnamese*, September 4, 2011, http://www.bbc.co.uk/vietnamese/vietnam/2011/09/110903_viet_summer_protest_analysis.shtml (accessed November 20, 2012).

92 Hanoi authorities issued a notice on August 18, 2011, ordering an end to spontaneous demonstrations and Hanoi Television broadcast a report on August 21, 2011 denouncing demonstrators. Some other state-owned newspapers like *Nhan dan, Quan doi nhan dan, Hanoimoi, An ninh Thu do* carried various commentaries in the same vein. See 'Ky yeu Bieu tinh' [Demonstrations record], https://vietsuky.wordpress.com/ky-yeu-bieu-tinh/ (accessed November 22, 2012).

93 Le Hai, 'Anti-Chinese Demonstrations in Vietnam Looking from a Hyphen Crisis', *The Global Viet*, July 21, 2011, http://blogs.bauer.uh.edu/vietDiaspora/guest-posts/anti-chinese-demonstrations-in-vietnam-looking-from-the-hyphen-crisis/ (accessed November 22, 2012).

94 David Brown, 'Vietnam's Not-So-Rare Protests', *Asia Sentinel*, July 30, 2012, http://www.asiasentinel.com/index.php?Itemid=213&id=4720&option=com_content&task=view (accessed November 20, 2012).

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and influence public discourse in the context of limited media coverage by state-owned official media. The anti-China demonstrations contest many critical aspects of political legitimacy over ideas, norms, and values, thus becoming anathema to the party-state despite their legitimate claims. In fact, they signal important developments in Vietnam's civil society as a social force for change.

## Conclusion

The development of civil society is now coming to the fore of Vietnam's politics. It has become the space for counter-hegemonic discourse and for intellectuals to mobilize support. In some cases, nationalism serves as an appealing claim to legitimacy that can be tolerated and endorsed to certain degree by the party-state. Civil society actions have emerged critically around outstanding cases and then tends to diminish, raising questions about its capability to sustain the momentum gathered. However, although the cases might be seen separately for analytical purposes, there are common themes playing out and staying topical since the very first civil society action. Power has been increasingly contested throughout civil society. They represent ideas and values in governance about democratic freedoms, transparency, accountability, and meaningful participation. These critical issues in governance keep being highlighted throughout different areas and times, revealing increasingly complex aspects of struggles of ideas and values in state–civil society relations. They serve as fundamental platforms for the changing dynamics of governance in Vietnam. The social and political change or resistance to change is now closely linked with the question about the fragility or resilience of CPV rule. Given that the ultimate purpose of the CPV remains the monopoly of power in the absence of effective and convincing ideological responses to critical governance questions, the party-state has to accept changes which implicate both a co-optation strategy and a Gramscian concession to counter-hegemonic discourse in civil society to maintain its existing hegemony. Lacking effective ideational responses, the CPV has developed a syncretism strategy to cope with contestations and challenges over ideas, values, and norms raised by civil society based on critical knowledge. However, it faces another challenge emerging from shifting patterns at its power base. The middle class and the rise of powerful interest groups are the forces that potentially bring about a radical change to the way the CPV continues its ideological and political hegemony. These issues in governance are very important for further research to make sense of the trends going forward in Vietnamese politics.

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