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## **Viet Nam Assistance for the Handicapped**

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**Working Reference:**

### **NGO / Civil Society Development in Vietnam**

8/2004

Developed by:

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This Working Reference is a developing literature survey on NGO/Civil Society development in Vietnam. The contents are excerpts from various legal documents, commentary, and research papers. This document is only a compilation of research materials and opinions were neither drafted by nor representative of the opinions of VNAH or its staff.



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## **General Overview of NGO development and mass Organizations in Vietnam**

A large part of the third sector organisations in Vietnam is formed and run under the guidance of the Vietnam Fatherland Front, which can be classified in six large blocks:

1. Social organisations such as Vietnam Association of Elderly, Vietnam Red Cross, etc.
2. Political organisations such as the Communist Party of Vietnam, Socio-political organisations, consisting of five large organisations:
  - Vietnam Confederation of Labour
  - Ho Chi Minh Communist Union of Youth
  - Vietnam Women Union
  - Vietnam Peasant Union
  - Vietnam War Veterans Association
3. Socio-professional organisations including unions and associations like Vietnam Union of Sciences and Technology Associations, Vietnam Union of Associations of Art and Literature, Vietnam Union of Friendship Associations, etc;
4. Professional and business organisations including Vietnam Cooperative Alliance, Vietnam Chamber of Commerce and other associations like the Association of Gardeners, Association of Bee Producers, etc;
5. Other informal organisations like association of school mates, association of chess players, etc.

### **Socio-political sphere**

All these organisations have branches/units in all the 64 provinces, 622 districts and 10,511 communes in the country. The government provides 100% of the operating costs of all the socio-political organisations. Leaders of these organisations at central, provincial and district levels receive monthly salary and their benefits as government employees.

The members of commune Fatherland Front do not receive any salary, but a symbolic allowance from the relevant local government. In most communes, members of VFLF, especially presidents and vice-presidents, are retired government employees with a monthly pension.

However, in case of the War Veterans Association and the Association of Elderly, only leaders at central level receive salary and benefits. The government employees who are selected to be leaders of a socio-political unit in the institution/factory where they work, receive an additional allowance to their monthly salary for their production/service.

### **Socio-professional sphere or Associations**

Including Socio-professional organisations; Professional and business organisations including; and Other informal organisations.

Thousands of associations operate at the district and commune levels. These associations

have been established in accordance with the Regulations 102/SL-004 (on the right of setting up an association) issued on 20 May 1957.

**Source:**

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=2](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=2)

**Members of the VFLF**

1. Vietnam Communist Party
2. Vietnam Labour Federation
3. Vietnam Peasant Association
4. Hồ Chí Minh Communist Union of Youth
5. Vietnam Women Union
6. Vietnam War Veterans Associations
7. Vietnam Army forces
8. Vietnam Union of Science and Technology associations
9. Vietnam Literature and Arts associations
10. Vietnam Union of Peace and Friendship .
11. Vietnam Cooperations
12. Vietnam Youth Associations
13. Vietnamese Lawyers Associations
14. Vietnam Journalist associations
15. Red Cross Vietnam
16. Traditional Medicine Association of Vietnam
17. Vietnam General Association of medicine and Pharmacy
18. Vietnam Association of Historians
19. National Association of Vietnamese Gardeners
20. Hội Sinh vật cảnh Việt nam
21. Vietnam Buddhism Associations
22. Committee of Christianity Solidarity of Vietnam
23. Vietnam Protestant Association
24. Blind Association
25. Disabled and Orphans Protection Association
26. Family Planning Association Vietnam association for education promoting
27. Associations of Elder People
28. Accupunture Association
29. Vietnam Chamber of Commerce

**Source:**

<http://www.mattran.org.vn>

**Vietnam Union of Science and Technology Associations (VUSTA)**

Recently, to facilitate coordination, the Government encouraged the associations to unite in Unions. Thus three large unions have been formed. The largest is the Vietnam Union of Sciences and Technology Associations (VUSTA). Vietnam Union of Science and Technology Associations (VUSTA) was established under Decision 121/HDBT dated 29 July, 1983 by the Council Of Ministers (now Government) of Socialist Republic of Vietnam .At the time of foundation, there were only 15 members within VUSTA. Now the number has already reached 85, of which 52 are Disciplinary Associations at the central level and 33 unions of Science and Technology Associations at the local level. It can be confirmed that VUSTA has developed very rapidly in its system. The member associations operate in accordance with their regulation but also with respect to VUSTA's Status and are subject to

the direction and supervision of the Central Council of VUSTA. The Vietnam Communist Party and Government have given much attention to and appreciate the activities of VUSTA. This is indicated in decree 45/CT/TW of the Political Bureau of the Party's Central Council regarding the acceleration of the operation of VUSTA and in the Decree 14/2000/CT-TTg of the Prime Minister on "the Implementation of the Measures to Increase and Improve the Effectiveness of the Operation of VUSTA"

**Source**

[http://www.vusta.org.vn/en/general\\_introduction/index.asp](http://www.vusta.org.vn/en/general_introduction/index.asp)

[CONT.]

The VUSTA currently has 51 central discipline associations and 32 local unions of associations of provinces and cities. Besides, VUSTA has under its umbrella 73 institutions for research, training and application of scientific and technological renovations. The youngest association - Vietnam Associations of Young Scientist-Engineers was established in August 2004 under the Decree 88 and had included the Vietnamese overseas as members.

During the last few years, along with the development of multisectoral economy, many economic organisations of the same area of production or profession have united into large professional associations. In principal, these associations are members of VFLF and are administratively coordinated by MOHA.

**Funds (Foundations)**

On 22 December 1999, the Government of Vietnam issued Decree 177/ND-CP on regulations of organisation and operation of social funds and charity funds. According to the regulation, funding is available to a non-governmental not for profit organisation which has at least three founding members who are able to prove that they are able to mobilize and manage funds according to the mandate of the fund.

To set up a fund, its founding members have to submit the dossier of application for fund establishment including the application, a draft charter of the fund, a list of founding members, and members of fund management board, etc. and a plan of mobilization, management and use of the fund's capital and properties. The dossier should be sent to the provincial president for consideration and approval. The provincial president may assign the president of a district or a town to issue a decision regarding the establishment of the fund.

According to incomplete statistics, as of 2001, about 200 funds have been founded in Vietnam. Most funds were set up by associations, a small number were set up by individuals. There are several nationwide funds like the Poverty Alleviation Fund, Fund for Technical Creativity, Fund for employment support to people with disability, etc.

There are funds formed by government organisations, for example the fund for protection and support of children, formed by the Vietnam Committee of Protection and Care of Children - a ministry level government organisation in charge of children's issues.

Funds may also be formed under social organisations, like the Compassion Fund of the Vietnam Women Union or the Fund for Supporting Farmers formed by the Farmers Association. These funds may have their branches down to the commune level.

These 'funds' mobilise money from government agencies, private businesses and individuals to support disadvantaged people or children or people and children in difficult situation, such as those who suffer natural disaster or who live in poverty, etc.

**NPOs in the field of science and technology**

The field of sciences and technology has the largest number of NPOs. As of 2001, 273 NPOs of this field were registered under the VUSTA. About 80% of these NPOs have been established by the association members of VUSTA. The rest belong to collectives or individuals.

These NPOs are organized and operated according to the Decree 35/HDBT on the coordination of scientific and technological activities, issued on 28 January 1992 by the Council of Ministers (Government at present).

### **Social supporting centres**

There are hundreds of centres providing social support, associations such as the Women's Union, Red Cross, etc. For example, a number of centres for orphans have been formed under the Association for Protection and Support of Disabled People and Orphan Children. These centres have to register with the local governments directly or through the umbrella association. Few centres have been set up by individuals. The main function of the centres is to provide care and support to orphans, disabled people and lonely old people.

The Government issued Decree 25/ND-CP on 30 May 2001 on regulations of organisation and operation of support centres. The Decree stipulates that support centres are not for profit institutions set up by governmental, non-governmental or social organisations. Support centres can receive people with difficult circumstances, for example, orphans, lonely elderly who has no income, people with disability having no income or resource for living, etc. Support centres may also provide vocational training, involve people in production and provision of service for income and help them to rehabilitate to the community. Financial resources of a support centre may include contribution of its members, donation from government or social organisations, individuals inside and outside the country, contribution of the family or sponsors, income from production or services, etc.

### **Organisations of other forms**

There are many organisations which do not fit in the above classification. Most of these organisations are informal or unregistered. These include clubs, centres for natural disaster prevention, etc.

### **Revenue/ funding for CS organizations**

In the past, once an association was allowed to be formed by the state, its operation used to be subsidized. The government still partly funds the administrative work and coordination of the large unions and associations. Government subsidies helps for the office expenses, maintenance, supplies, e.g. electricity, telephone, equipment, etc. and salary for management staff of the associations. At present the government funds are available to the major associations to the provincial level, sometimes as far as the district level. However, under the Decision 21/2003/QD-TTg on government budget for these social and social-political organisations, the funding from government will gradually reduce and a new mechanism will be applied after 2005

Most associations and organisations are self-financing so fundraising is of utmost importance. The social organisations establish funds/foundations to collect donations and then distribute these to poor people or disaster affected people. The other channel is direct collection and distribution of donations organized by social organisations as regular or emergency activities. Many organisations, for example, the women unions or labour federations organize a day or launch a week of collection money, clothes or food in



different workplaces or communities.

A major part of income of the socio-professional organisations, professional and business organisations, and nonprofit organisations in the field of science and technology comes from fees from various scientific research, and training and technological activities.

The government funds do not influence much the program orientation and functioning of the third sector organisations as most of them do not rely on the government resources. Many Vietnamese NPOs get resources from programs funded by international agencies or from joint projects with international NGOs.

## **INGOs**

### **Organisation of Development Assistance**

Currently, Viet Nam has relations and cooperation with about 500 International Non-Governmental Organisations (INGOs), of which close to 370 work permanently in Viet Nam through specific projects and partners, and are granted operation licences. Several have been providing assistance to Viet Nam since the late 1970s and during the 1980s, when development assistance from the West was limited to aid from the UN system, Sweden and Finland. However, the last decade has seen an annual increase of new INGOs active in the country, from 125 in 1991 to 485 in 2001. Consistent with the Regulations on the Operation of Foreign Non-Governmental Organisations in Viet Nam promulgated by the Government of Viet Nam, more than one hundred INGOs have offices and staff in Ha Noi, Ho Chi Minh City, Da Nang and Hue. All in all 378 permits have been issued by what is now the Committee for Foreign Non-Governmental Organisation Affairs (273 Permits for Operation, 65 Permits for the Establishment of Project Office and 40 Permits for the Establishment of Representative Office), with some INGOs having two to three different Permits. INGOs working in Viet Nam come from virtually all over the world: North America, Western European, as well as from the Asia-Pacific region. Most INGOs operate through agreements signed directly with Government Ministries, People's Committees of provinces, or mass organisations.

Within the Vietnamese administration, coordination of the activities by foreign NGOs is the responsibility of the People's Aid Coordinating Committee (PACCOM). PACCOM was established in June 1989 as specialized and functional body of the Viet Nam Union of Friendship Organisations (VUFO), which is the standing agency of the Committee for Foreign NGO Affairs, mandated by the Government to facilitate foreign NGOs' activities and to coordinate their aid programmes in Viet Nam. Specifically, PACCOM has been acting as a bridge to link INGOs to appropriate local partners, and to support these relationships. In order to facilitate INGOs activities in Viet Nam, PACCOM has its network with close and effective collaboration of focal points for foreign NGOs affairs at the central level and in all 64 provinces and centrally administered cities. It also provides administrative and programme support.

### **Activities of INGOs in Viet Nam**

The unique role of INGOs is that the focus of their activities is of a people-to-people nature. They are able to work directly with beneficiaries and can respond to needs rapidly and with flexibility. The diversity of their methods of providing assistance, the range of local counterparts, and their geographic and sectoral focus cannot be generalized easily.

INGO outreach covers all of the provinces of Viet Nam. INGOs work at the provincial, district, commune and village/hamlet level. The list of the various activities INGOs are currently engaged in includes:

- Health: Reproductive Health; HIV/AIDS; Primary Health Care; Nutrition; etc.
- Education: Early Childhood Development; Preschool, Primary and Secondary School; University; Vocational Training; etc.
- Integrated Rural Development; Sustainable Agriculture and Natural Resource Management
- Environmental Protection
- Micro-Finance and Income Generation
- People-to-people development through the use of volunteers
- Capacity and Institution Building
- Women's and Children's issues
- Gender
- War Legacies such as landmine and UXO, and toxic chemicals
- Disability
- Advocacy
- Disaster Preparedness, Mitigation and Relief

### **Bilateral Donors activities**

Promotion of Civil society as cross-cutting issues is adopted in most of activities by bilateral and multilateral donors.

The portfolio of projects and activities in poverty reduction, rural development, governance, health, economics, public administration reform, the notion of civil society is enhanced and advocated.

#### **Source:**

[http://www.ngocentre.netnam.vn/ngores\\_E/intro001.htm](http://www.ngocentre.netnam.vn/ngores_E/intro001.htm)

## **Civil Society and NGOs in Vietnam**

### **Developments**

With the concept of civil society and NGOs described above one can say that a civil society has to a certain extent been already established in the past. The difference between the civil society in the past and today lies in the degree of its participation and capacity to influence developments.

The principle "people know, people discuss, people execute and people supervise" which has been repeatedly mentioned in documents and policies of the Vietnam's Communist Party (CP) reflects the wish of the Government to encourage every social organisation and citizen participating in formulating, implementing and monitoring policies. This principle has been realised through the Directive 30/CT issued by the Central Committee of the Vietnam's CP on Grassroots Democracy.

In order to implement the Directive of the Central Committee of the Vietnam's CP, the Government has passed a number of decrees concerning grassroots democracy, e.g. Grassroots Democracy at the Commune (Decree 29/1998/ND-CP issued May 11, 1998), at Grassroots Democracy at agencies (Decree 71/1998/ND-CP dated September 8, 1998) and Grassroots Democracy at state owned enterprises (Decree 07/1999/ND-CP issued February 13, 1999). In those decrees, the Grassroots Democracy Decree at Commune has been considered the legal basis for strengthening the participation of local communities at

the local level. The article 4 of the Decree requested local government be responsible for providing information concerning policies, laws, long-term and annual socio-economic development plans of the communes, land-use plans and annual draft budget. Besides the rights to be informed, the Decree also stipulated the rights of citizen to be involved in discussing and deciding the level of their contribution, in establishing local committees monitoring construction projects contributed by citizen, and in assessing activities of People's Committee and People's Council of the communes. The Decree differentiates four levels of participation of citizen: sharing information, providing comments, participating in decision-making and monitoring.

To facilitate the participation of citizen towards devolving decision-making power to local government, the Government recognised the need to strengthening partnerships with other organisations working for the benefits and needs of the people, by continuing to encourage and support the work of mass organisations. The Government also recognized the need to put in place a legal and policy framework for associations and domestic NGOs, for example issuance of the Decree 35/CP in 1992 on Some Measures to Encourage Scientific and Technological Activities, which allows individuals establish their own science and technology organisations, Decree 177/CP in 1999 concerning social and charity funds, and the recent Law on Science and Technology in 2000

The policy and institutional framework mentioned above provides a basis for development of a civil society in Vietnam. There are a number of forms of communities set up voluntarily by people at the grassroots level to manage natural resources and development for a sustainable livelihood. One of these communities is the water-users group established in various locations in Vietnam which is considered the grass-roots NGO. The Thai Long Dam Project in the Cam Phu Commune, Cam Thuy District, Thanh Hoa Province has been supported by the International NGO - the American Friends Service Committee (Quaker Service Vietnam). This project is one of successful examples demonstrating the capacity of grass-roots community - the Water Users Cooperative in empowering the local farmers in managing their local water resource for their own benefits, in the context of government policy to transfer the water user right to local communities. This case did not only prove the role of NGO in the development of the communities and in providing a substitute for function in the field of welfare (water supply at the commune level) which the state can no longer afford to perform, but also showed that a close partnership between the local NGO, international NGO and the Government in implementing the project is important factor for the success of the project.

Other examples related to the role of local resident communities in enforcing business to improve the quality of environment next to their living area are the complaints of local residents against the polluting enterprises. As a results of their complaints, one factory had to install air filter to improve the discharged airs and the other factory had to be relocated. These cases illustrated the possibilities of local communities in challenging the political legitimacy of the Government and thereby creating social and political pressure on business (O'rouke 2000)

Civil society in Vietnam can also be represented by groups of critical intellectual actors such as journalists, historians, scientists. While the action and resistance responded to the development by local communities concerning their sustainable livelihood and community development has been taken place at the operational level, the 'cultural critique' of the mainstream development has been carried out by these critical intellectual actors at the discourse level. Concerning the environmental impacts of coal mining in Quang Ninh Province in general and in Ha Long Bay in particular, the journalists were the first who brought this concerns and issues in newspaper and TV programs. Apart from journalists, scientists also actively participate in the debates on the way coal mining has operated. In

response to the VINACOAL's plan (Vietnam Coal Corporation) to expand the mining area to Yen Tu Mountain- the Centre of Vietnamese Buddhism designated by the Government as the national historical monument, members of the National Association of Historians and the Centre of Historical Monument Conservation openly criticised in July 1998. In his open letter to the Chairman of the Quang Ninh People Committee, Tran Quoc Vuong, a well known outspoken professor of culture and history at the Hanoi National University, strongly criticised. This open letter was published in the newspaper *the Culture* and widely distributed. As a result of this debate, the People Committee together with the VINACOAL had to organise a press conference to respond to the critiques (Bach Tan Sinh ).

### **Obstacles**

The first institutional barrier to the participation of local communities and citizen is the lack of information about policies, laws and regulations, socio-economic development strategies and plans of the Vietnam CP and the Government. The recent assessment of UNDP in the National Target Programme (TNP) for Hunger Eradication and Poverty Reduction (HEPR) - Programme 133 in short and - Programme 135 for Socio-economic Development in Communes with Extreme Difficulties, operated towards devolving management authority and promoting the participation of local communities over the last two years 1999-2000 reveals that almost all local communities have not yet been given the authority to participate in the decision-making, management and monitoring process. The role of local communities in identification of programmes' target beneficiaries, planning for implementation and monitoring of results and expenditures has not been realised yet, because decision making mainly takes place at provincial levels, while the programmes lack the flexibility to accommodate local people's inputs. Besides, local people have little information on what they expect in terms of programme activities. The reliance on mass organisation as channels for information sharing and consultation proves problematic (World Bank 2000).

One additional obstacle is a lack of tools that facilitate participation of local communities and citizen. According to the Assessment of UNDP in the Programme 133 and 135, despite of the demand from the programmes to have the participation of local communities in the planning and implementing process, no useful detailed guidelines are put in place to realise this demand. Other challenge is related to gather comments from citizen on draft socio-economic development strategies and plans. Until there is a way to process information that facilitates the full participation of citizen to make comments, the making all documents public becomes symbolic. In all regulations concerning grassroots democracy there is no guidelines on how to involve people to participate, for example the method on Participatory Rural Appraisal (PRA). This method has been so far successfully used by NGOs in formulating, implementing and monitoring development projects at local level.

### **Source:**

Exert from "Civil Society and NGOs in Vietnam" by Bach Tan Sinh  
<http://www.un.org.vn/donor/civil/CSandNGOs%20in%20Vietnam.rtf>

## Decree 88

### Comment - Decree No. 88/2003/ND-CP

Decree 88 regulates associations that are voluntarily formed bodies of Vietnamese citizens that have the same area of work interest, are of the same circle, pursuing the same purpose of unity, and operating in a regular manner. Religious associations and those that play an important role in the political system of the country such as the Vietnam Fatherland Front and the Vietnam Veterans' Association are not governed by the Decree.

Associations under the Decree 88 have legal status and can use their own stamp and open bank accounts. They are entitled to select the names and logos in compliance with the laws. Associations must satisfy certain conditions for establishment including being formed for purposes not contrary to the law; having names and operational domains not identical to those of other legally operating organizations; their own charter and premises, and a sufficient number of participating members.

To establish an association, prospective founders must first set up a preparatory mobilization committee which must be recognized by relevant State authorities. After receiving recognition, the committee shall prepare an application dossier that includes a draft charter, plan of operations, list of members of the preparatory mobilization committee, certified CV of the president, and documents showing the headquarters and assets of the association.

The dossier must be sent to Minister of Home Affairs or Chairman of Provincial People's Committee depending on whether the association is to operate nationwide or in a single province. These agencies must issue receipts and give a response to the preparatory mobilization committee within 60 days as of the date they receive the dossier. Should state authorities refuse to grant establishment, they must explicitly state the grounds for their refusal in writing.

One point that draws criticism is the fact that only Vietnamese citizens and organizations can join associations which organized and operating under Decree 88. The Decree stipulates that foreign joint ventures and wholly-owned enterprises established by the laws on foreign investment in Vietnam cannot become full members of associations.

With regards to organization and structure of associations, the highest body of an association is the plenum meeting which must meet at least every 5 years to make the most important decisions on the association's operations. Such decisions can only be passed by a majority vote of the attending members.

Associations are to represent and protect members' interests; arrange and co-ordinate the operation of members; provide education and training to members; consult and respond the queries of others etc.

Decree 88 also outlines policies for division, separation, merger, consolidation and dissolution of associations.

There are two ways an association can dissolve: on their own initiative or by a decision of the State upon the appearance of any of the following - they fail to operate for 12 months in a row or congress adopts a resolution to dissolve the association but the leadership declines to obey.

Associations that are in serious violation of the law must also be dissolved.

It is unclear under Decree 88 whether all associations are required to obtain a licence, or if so-called associations without licence are required to halt their operation in order to apply.

The Decree 88, which is drafted by MoHA, is a step forward in addressing the need for a coherent legal framework for NGOs. However, clarification could be provided especially as to:

- i) the coverage of the Decree,
- ii) its implementation mechanism,
- iii) linkages to other related reform initiatives, including the Grassroots Democracy Decree, PAR and related decentralisation initiatives.

It is expected that the guidelines for implementation, which are being drafted, will contribute to clarification of these points.

**Source:**

<http://www.un.org.vn/donor/civil.htm>

**DECREE 88 – Operation of Association (July 2003)**

DECREE No. 88/2003/ND-CP OF JULY 30, 2003 PROVIDING FOR THE ORGANIZATION, OPERATION AND MANAGEMENT OF ASSOCIATIONS

THE GOVERNMENT

Pursuant to Order No. 102 QUL004 of May 20, 1957 promulgating the Law on the Right to Set Up Associations;

Pursuant to the October 28, 1905 Civil Code;

Pursuant to the December 25, 2001 Law on Organization of the Government;

At the proposal of the Minister of the Interior,

DECREES:

Chapter 1

GENERAL PROVISIONS

Article 1.- Regulation scope

1. This Decree provides for the organization, operation and State management of associations.

2. This Decree shall not apply to the following organizations:

a) Vietnam Fatherland Front, Vietnam Labor Confederation, the Ho Chi Minh Communist Youth Union, Vietnam Peasants' Associations, Vietnam War Veterans' Association, Vietnam Women's Union;

b) Religious organizations.

Article 2.- Associations

1. Associations prescribed in this Decree are understood as voluntary organizations of citizens, organizations of Vietnamese of the same professions, the same hobbies, the same genders for the common purposes of gathering and uniting members, regular activities, non-self-seeking, aiming to protect members' legitimate rights and interests, to support one another for efficient activities, contribute to the country's socio-economic development, which are organized and operate according to this Decree and other relevant legal documents.

2. Associations bear different names such as union of associations, confederation, federation, society, clubs with legal person status and different appellations according to law provisions (hereinafter referred collectively to as associations).

3. Association shall include the following organizations classified according to the (territorial) scope of operation:

a) Associations operating nationwide or inter-provincially;

b) Associations operating within provinces or centrally-run cities (hereinafter referred collectively to as provinces);

c) Associations operating within rural districts, urban districts, provincial capitals or towns (hereinafter referred collectively to as districts);

d) Associations operating within communes, wards, district townships (hereinafter referred collectively to as communes).

Article 3.- Setting up association and principles for organization and operation hereof

1. The establishment of associations must be permitted by the competent State bodies defined in Article 15 of this Decree.

2. Associations shall be organized and operate according to their respective charters which are approved by competent State bodies and do not contravene laws, they are organized and operate according to the principles of voluntarism, self-management, self-financing and self-responsibility before law.

Article 4.- State bodies' responsibility towards associations

1. State bodies shall, within the scope of their functions and tasks, have the responsibility to create favorable conditions for associations to operate according to their respective charters and with efficiency.

2. Associations which are recognized as socio-political organizations or socio-political and professional organizations or which have their operations associated with the State's tasks, shall be rendered support from the State budget according to the Prime Minister's regulations.

Article 5.- Legal person status, seals, names and logos of associations

1. Associations have their own legal person status, seals and accounts.

2. Associations are entitled to choose their own names and logos under the provisions of law.

## Chapter II

### CONDITIONS AND PROCEDURES FOR ESTABLISHMENT OF ASSOCIATIONS

Article 6.- Conditions for establishment of associations

1. Having operation purposes not contrary to law; having names and main operation domains not identical to those of the association which have been previously set up lawfully in the same geographical areas.

2. Having charters.
3. Having head-offices.
4. Having adequate number of members registered for participation.

The Minister of the Interior shall prescribe the number of members registered for joining associations.

#### Article 7.- Boards canvassing for establishment of associations

1. To establish associations, the founding members must set up boards canvassing for the establishment thereof. The association establishment-canvassing boards shall be recognized by the agencies which perform the State management over the branches or domains where the associations are expected to operate.

The Minister of the Interior shall prescribe the number of members of such a board.

2. After being recognized, the association establishment-canvassing boards shall perform the following tasks:

a) Mobilizing citizens and/or organizations to join the associations, finalizing the dossiers of application for permits to establish the associations;

b) The boards' heads shall send dossiers of application for the establishment permits to the competent State agencies defined in Article 15 of this Decree.

#### Article 8.- Dossiers of application for establishment of associations

1. The application for a permit to establish an association.

2. The draft charter.

3. The projected operation plan.

4. The list of member of the association establishment-canvassing board recognized by a competent State body.

5. The curriculum vitae of the head of the association establishment-canvassing board recognize by a competent agency.

6. Document certifying the head-office and assets of the association.

#### Article 9.- Principle contents of the charter of an association

1. The association's name.

2. The guiding principles, purposes, domains and scope of operation of the association.

3. The association's tasks and powers.

4. The organization and operation principles.

5. The procedures to join, leave the association.

6. Members' criteria.

7. Members' rights and obligations.

8. Structure, organization, procedures for election and dismissal; tasks and powers of the association's leadership, control board, other leading posts.

9. Assets, finance and mode of management of assets and finance of the association.

10. Conditions for dissolution and liquidation of assets, finance.

11. Commendation, handling of violations.

12. Procedures for amending, supplementing the charter.



### 13. Implementation effect.

Article 10.- Responsibilities of the State agencies competent to permit the establishment of the associations upon the receipt of dossiers of application therefor

The competent State agencies defined in Article 15 of this Decree, when receiving the dossiers of application for establishment of associations, must issue the receipts thereof. If the application dossiers are complete and valid, the competent State agencies shall, within 60 days as from the date of receiving the complete and valid dossiers, have to reply the association establishment-canvassing boards; in case of refusal, there must be the written replies clearly slating the reasons therefor.

Article 11.-The time for holding congresses to establish associations

1. Within 90 days as from the date the decision permitting the establishment of an association takes effect, the association establishment canvassing board must organize a congress.

2. If past the above time limit it still fails to organise the congress, the association establishment-canvassing board shall send a written request for the extension thereof to the State agency which has issue the decision permitting the establishment thereof. The extension duration shall not exceed 30days; If past the extension duration, such congress is not held, the decision permitting the establishment of the association shall be no longer effective.

Article 12.- Principal contents in the agenda of the association-founding congress

1. Announcing the decision permitting the establishment of the association.

2. Discussing and voting on the Charter.

3. Electing the leadership and the control board as provided for by the association's Charter.

4. Adopting the association's activity program.

5. Adopting the congress' resolution.

Article 13.- Report on the congress results

Within 30 days after the congress, the association's leadership shall send the congress documents to the State agency which has issued the decision permitting the establishment of the association, including:

1. The Charter and the record on the adoption of association's Charter;

2. The record on the election of the leadership, the control board (enclosed with lists of their members) and curriculum vitae of the association's head;

3. The association's activity program;

4. The congress's resolution.

Article 14.- Approving associations' Charters and the effect thereof

1. The competent State agencies defined in Article 15 of this Decree shall decide to approve the associations' Charters when they are adopted by the congresses. In cases where the provisions of Charters are contrary to laws, the competent State agencies shall refuse to approve and request the associations to amend them.

2. The associations' Charters shall take effect as from the dates the competent State agencies decide to approve them.

Article 15.- State agencies competent to permit the establishment, division, separation, merger, consolidation and dissolution of associations and to approve the Charters

thereof

1. The Minister of the Interior shall permit the establishment, division, separation, merger, consolidation and dissolution and approve the Charters of associations operating nationwide or inter-provincially.

2. The provincial-level People's Committee presidents shall permit the establishment, division, separation, merger, consolidation and dissolution and approve the Charters of associations operating within their respective provinces.

### Chapter III

#### MEMBER

##### Article 16.- Membership conditions

Vietnamese citizens and organizations fully satisfying the members' criteria prescribed by the associations' Charters and voluntarily applying to join such associations can all become member thereof.

The competence and procedures to admit members shall be prescribed in the associations' Charters.

##### Article 17.- Right and obligations of members

The right and obligations of member shall be prescribed in the associations' Charters.

##### Article 18.- Associated members and honorary members

1. Joint-venture enterprises and enterprises with 100% foreign investment capital (hereinafter referred to as enterprises with foreign elements) operating in Vietnam, contributing to the development of unions and agreeing to their Charters, shall be considered by unions of economic organizations for their recognition as associated members.

Associated members may participate in activities and attend congresses of unions. They shall not participate in the election of or stand for the leadership of the unions, nor vote on affairs of the unions.

The procedures to admit associated members shall be prescribed by the unions' Charters.

2. Vietnamese citizens and organizations that have no conditions to become members of associations but make contributions to the associations, can be recognized by the associations as their associated members or honorary members. The rights and obligations of associated members and honorary members shall be prescribed by the associations' Charters.

### Chapter V

#### ORGANIZATION, OPERATION, RIGHTS AND OBLIGATIONS OF ASSOCIATIONS

##### Article 19.- Term congress and extraordinary congress

1. The supreme leading body of an association is the plenary congress or the congress of deputies.

2. The office term of the congress shall be prescribed in the Charter but shall not exceed 5 years.

3. An extraordinary congress shall be convened when at least 2/3 (two third) of the total number of the executive members or at least 1/2 (half) of the total number of the full-fledged members so request.

##### Article 20.- Major contents to be decided at the congress

1. Orientations for the activities of the association

2. The election of the leadership, the control board of the association.
3. Change of the association's name, amendment (if any) of the Charter.
4. Joining in Union of associations of the same operation domains.
5. Division, separation, merger, consolidation, dissolution of the association.
6. The association's finance.

Article 21.- Principles for voting at the congress

1. The congress can vote by hand show or by secret ballots. The forms of voting shall be decided by the congress.
2. The voting to adopt decisions of the congress must be approved by more than 1/2 (half) of the present full-fledged members.

Article 22.- Rights of associations

1. To propagate their purpose.
2. To represent their members in internal and external relations related to the functions and tasks of associations.
3. To protect the legitimate rights and interests of the associations and their members.
4. To organize, coordinate activities among members for the common interests of the associations; to reconcile disputes within the associations.
5. To disseminate and train in knowledge to members; to supply necessary information to members according to law provisions.
6. To provide consultancy and criticism on meters within the scope of operation of the associations at requests of organizations and/or individuals.
7. To contribute opinions on legal documents relating to the contents of operations of the associations under the provisions of law. To propose to competent State agencies matters related to the development of the associations and domains where the associations have operated in.
8. To coordinate with the concerned agencies and/or organizations in performing the tasks of the associations.
9. To raise funds for the associations on the basis of their membership fees and sources of the revenue from business and/or service activities under the provisions of law in order to ensure their operation funding.
10. To receive lawful financial supports of domestic and foreign organizations and/or individuals under the provisions of law. ;;
11. Association with national or inter-provincial scope of operation may join to be members of international and regional associations as provided for in the Government's Decree No.20/2002/ND-CP of February 20, 2002 on the conclusion and implementation of international agreements by provinces or centrally-run cities, socio-political organization, social organizations and socio-professional organizations of the Socialist Republic of Vietnam.

Article 23.- Obligations of associations

1. The associations' operations must comply with their approved Charters.
2. An associations operating in a certain domain must submit to the State management by the agency which performs the State management over such domain, field.
3. Thirty days before holding a term congress, the leadership of an association must

send its report to the competent State management agency defined in Article 15 of this Decree and the ministry which manages the branch or domain where it operates.

4. The setting up of associations' representative offices in other localities must be permitted by the provincial-level People's Committees of the localities where the presentative offices are to be located and be reported in writing to the competent State agencies defined in Article 15 of this Article.

5. When changing their presidents, vice-presidents, secretaries general, supplementing their Charters, the associations must report thereon to the competent State agencies defined in Article 15 of this Decree

6. The setting up of legal person under associations must comply with law provisions and be reported to the competent State agencies defined in Article 15 of this Decree.

7. Annually, associations must report on their organization and operation situation to the competent State agencies and the agencies performing the State management over the branches, domains where the association operate no later than December 1 of that year.

8. They must submit to the guidance, examination and inspection by competent State bodies in the observance of law.

9. The lists of members, chapters and attached units of associations, the vouchers on their finance, the minutes of meetings of their leadership shall be made into dossiers and archived at their head-offices.

10. Revenue collected under the provision in Clauses 9 and 10 of Article 22 of this Decree must be reserved for the associations' activities according to the provisions of their Charters, and must not be divided to their members.

11. The use of fundings of the associations must comply with law provisions. Annually, the associations must make reports on financial settlement according to the State's regulations and send them to the finance bodies of the same levels.

## Chapter VI

### DIVISION, SEPARATION; MERGER, CONSOLIDATION AND DISSOLUTION OF ASSOCIATIONS

#### Article 24.- Division, separation, merger, consolidation, dissolution

1. Depending on operation requirements and capabilities of associations, their leaderships shall propose the competent State agencies defined in Article 15 of this Decree to permit the division, separation, merger, consolidation or dissolution of the associations. The division, separation, merger, consolidation and dissolution of associations must comply with the provision of law.

2. Association shall dissolve in the following cases:

- a) They dissolve by themselves;
- b) They are dissolved under decisions of the competent State agencies defined in Article 15 of this Decree.

#### Article 25.- Associations dissolve by themselves

Associations shall dissolve by themselves in the following cases:

- 1. Upon the expiry of their operation duration;
- 2. At the request of more than 1/2 of the total number of their full-fledged members;
- 3. Their objectives have been already attained.

Article 26.- Responsibilities of the leaderships of associations when the latter dissolve by themselves

1. To send to the competent State agencies defined in Article 15 of this Decree the following documents:

- a) The application for dissolution of the association;
- b) The resolution on the dissolution of the association;
- c) The property, finance statement;
- d) The projected mode of handling the property and finance and the time limit for repayment of debts.

2. To notify the debt repayment (if any) time limits to the concerned organizations and individuals according to law provisions on central newspapers, for associations with national or inter-provincial scope of operation, or local newspapers, for associations with provincial scope of operation, for five consecutive issues.

Article 27.- Deciding on the dissolution of associations

The competent State agencies defined in Article 15 of this Decree shall decide to dissolve associations 15 days after the expiry of the time limits for debt repayment and property and finance liquidation, inscribed in the associations' notices when applying for the dissolution without written complaints.

Associations shall terminate their operation as from the dates the decisions of the State agencies competent to dissolve the associations take effect.

Article 28- Associations being dissolved

Associations shall be dissolved under decisions of the competent State agencies defined in Article 15 of this Decree in the following cases:

- 1. They fail to operate for 12 months in a row;
- 2. When the congresses adopt resolutions on dissolution but their leaderships decline to obey;
- 3. Their operations seriously violate laws.

Article 29.- Responsibilities of the competent State agencies when associations are dissolved

When associations are dissolved, the competent State agencies defined in Article 15 of this Decree must:

- a) Issue decisions to dissolve the associations;
- b) Announce the decisions on dissolution of the associations on the mass media.

Article 30.- Setting property, finance when associations are dissolved, consolidated, merged, divided or separated

1. When associations dissolve by themselves, are dissolved, their properties shall be settled as follows:

- a) Properties, finance donated by domestic and/or foreign organizations; properties, finance given by the State as its support, after the association have fulfilled their property obligations and repay all debts, shall be decided by competent State agencies;
- b) The properties and finance acquired by the associations themselves, after they have fulfilled their property obligations and repaid all debts, shall be decided by the associations according to their Charters before their dissolution.

2. Settling properties and finance of associations when they are consolidated:

a) When being consolidated into new associations, the old ones shall terminate their existence and the new associations shall enjoy all legitimate rights and interests of the old associations and take responsibility for all unpaid debt amounts as well as the service contracts being performed by the old associations;

b) The properties and finance of the consolidated associations must not be divided, changed hand but must be fully transferred to the new associations.

3. Settling properties and finance of associations when they are merged:

a) When an association is merged into another association, the properties and finance of the merged association shall be transferred to the merging association;

b) The merging associations shall enjoy the legitimate rights and interests over the available properties and finance of the merged associations, and take responsibility for unpaid property and finance debts as well as uncompleted service contracts.

4. Settling property and finance of associations when they are divided, separated:

a) After the division of an association, the divided association shall terminate its operation and its property and finance rights and interests shall be transferred to the new association under the decision on division of the association:

b) After being separated, associations shall perform their respective property and finance rights and obligations in accordance with the purposes of their operations.

Article 31.- Right to complain

Where the dissolved associations disagree with the dissolution decisions, they may lodge their complaints according to law provisions. Pending the settlement of their complaints, the associations must not operate.

Chapter VII

STATE MANAGEMENT OVER ASSOCIATIONS

Article 32.- State management over associations

1. To elaborate for submission or promulgate legal documents on associations.

2. To guide the ministries, branches, localities, associations and citizens in observing the legislation on associations.

3. To permit the establishment, division, separation, merger, consolidation, dissolution of associations, and to approve their Charters as provided for in Article 15 of this Decree.

4. To provide professional guidance for State officials and/or employees performing the work of managing associations.

5. To propagate and disseminate legislation on associations.

6. To inspect and examine the observance of legislation on associations; to examine the implementation of Charters by associations.

7. To manage the signing of international cooperation documents on associations under the provisions of law.

8. To settle complaints and denunciations, handle the violations of legislation on associations.

9. To sum up reports on organization, operation and management of associations.

The Ministry of the Interior shall assist the Government in exercising the uniform State management over associations throughout the country.

Article 33.- The State management tasks of the ministries, ministerial-level agencies over the associations' operations in the domains under their respective management nationwide

1. To join competent State agencies defined in Article 15 of this Decree in permitting in writing the establishment, division, separation, merger, consolidation and dissolution of associations and in approving their Charters; to recognize the associations establishment-cavassing boards.

2. To guide and create conditions for associations to participate in activities within the branches or domains under their respective management according to law provisions; to gather opinions of associations in order to finalize the provisions on the State management over the branches or domain.

3. To examine the implementation of the regulations on State management over the branches, domains by associations, to handle or propose competent State bodies to handle violations according to law.

Article 34.-The provincial-level People's Committees' tasks of State management over the associations' operations within their respective provinces

1. To exercise their competence under the provisions in Clause 2, Article 15 of this Decree and perform the State management over organization and operation of associations.

2. To inspect and examine the observance of legislation on associations.

3. To settle complaints and denunciations and handle violations of legislation on associations.

4. To consider the support for associations operating in their respective localities.

5. To consider and permit associations operating in their respective localities to receive financial assistance from domestic and foreign organizations and individuals according to law provisions.

6. To direct provincial/municipal Services, Departments, branches, the district and commune People's Committees in the management of associations.

7. To annually send sum-up reports on the organization, operation and management of associations in the localities to the Ministry of the Interior.

#### Chapter VIII

#### COMMENDATION AND HANDLING OF VIOLATIONS

Article 35.- Commendation

1. Those association which operate and make many contributions to socio-economic deveopment shall be commended and/or rewarded according the regulations of the State.

2. Those association members who record achievements shall be commended and/or rewarded according to the regulations of their associations and of the Sate.

Article 36.- Handling of violations

1. Those who violate the rights to establish associations, abuse associations' name to conduct activities in contravention of laws shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to law provisions; if causing material damage, have to compensate therefor according to law provisions.

2. Those who abuse their positions and powers and permit the establishment of associations in contravention of the provisions of this Decree shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to law provisions; if causing material damage, have to compensate therefor according to law provisions.

3. Associations' leaderships or representatives who deliberately prolong the term congresses prescribed in the associations' Charters or fail to observe the regulations on associations' obligations shall, depending on the nature and seriousness of their violations, be handled according to law provisions.

#### Chapter VIII

#### IMPLEMENTATION PROVISIONS

##### Article 37.- Implementation effect

1. This Decree takes implementation effect 15 days after its publication in the Official Gazette.

2. This Decree shall replace Decree No.258/TTg of June 14, 1957 of the Prime Minister detailing the implementation of Law No..102/SL/L004 of May 20,1957 on the Right to Set up Associations.

3. Associations which were permitted by the former Minister of the Interior and the provincial Administrative Committees for establishment under Order No.102/SL/ L004 of May 20,1957 and were permitted by the Council of Ministers Chairman (now the Prime Minister) or the Minister-Head of the Government Commission for Organization and Personnel (now the Minister of the Interior), the provincial/municipal People's Committee presidents for establishment under Directive No.OI/CT of January 5, 1989 on management, organization and operation of mass associations shall not have to apply for re-establishment.

4. Unions of economic organizations, which were set up under Decision No-38/HDBT of April 10, 1989 of the Council of Ministers (now the Government) on economic alignment in production, circulation, services, shall not have to apply for re-establishment.

##### Article 38.- Implementation organization

The Minister of the Interior shall guide the implementation of this Decree

The ministers, the heads of the ministerial-level agencies, the Government-attached agencies and the provincial/municipal People's Committee presidents shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI



**CIRCULAR**

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**SOCIALIST REPUBLIC OF VIETNAM**

**INDEPENDENCE- FREEDOM-HAPPINESS**

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**No.01/2004/TT-BNV**

**January 15, 2004**

**CIRCULAR No. 01/2004/TT-BNV OF JANUARY 15, 2004 GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE No. 8a/2003/ND-CP OF JULY 30, 2003 PROVIDING FOR THE ORGANIZATION, OPERATION AND MANAGEMENT OF ASSOCIATIONS**

In furtherance of the Government's Decree No.88/ 2003/ND-CP of July 30, 2003 providing for the organization, operation and management of associations (hereinafter called the Decree for short), the Ministry of Home Affairs hereby guides the implementation thereof as follows:

**1. ON THE SCOPE OF REGULATION**

The scope of regulation covers: associations, unions of associations, confederations, federations, societies, clubs and associations under other names according to law provisions (hereinafter referred collectively to as associations), which have legal person status and operate nationwide or inter-provincially; within provinces or centrally-run cities (hereinafter referred collectively to as provinces); within rural districts, urban districts, provincial capitals or towns (hereinafter referred collectively to as districts); and within communes, wards and district townships (hereinafter referred collectively to as communes).

**II. THE NUMBERS OF MEMBERS OF BOARDS CANVASSING FOR ESTABLISHMENT OF ASSOCIATIONS, DOSSIERS FOR THE SETTING UP, AS WELL AS RECOGNITION AND TASKS OF BOARDS CANVASSING FOR ESTABLISHMENT OF ASSOCIATIONS**

1. To establish associations, the founding members must set up boards canvassing for the establishment thereof. The numbers of members of the association establishment-canvassing boards are prescribed as follows:

a/ For associations operating nationwide or interprovincially, such a canvassing board must comprise at least 10 members;

b/ For associations operating within provinces, it must be consist of at least 5 members;

c/ For associations operating within districts or communes, it must have at least 3 members;

d/ For unions of economic organizations operating nationwide, such a board must be composed of at least 5 members representing various economic organizations; and for those operating within provinces, it must comprise at least 3 members representing various economic organizations in the provinces.

2. A dossier of application for setting up an association establishment-canvassing board shall include:

a/ The application for recognition of the association establishment-canvassing board, clearly stating the

association's name, its guiding principles and purposes, the domains where the association is expected to operate, the scope of operation, the expected time for establishment of the association, and the temporary meeting venue;

bl The list of those who are expected to join the association establishment-canvassing board and their curriculum vitae: their full names; dates of birth; residence places; educational qualifications; and professional qualifications.

### 3. Recognition of the association establishment-canvassing boards:

a/ Boards canvassing for the establishment of associations operating nationwide or inter-provincially shall be recognized by the ministries or ministerial-level agencies (hereinafter referred collectively to as ministries) which perform the State management over the branches or domains where the associations are expected to operate;

bl Boards canvassing for the establishment of associations operating within provinces shall be recognized by the services or agencies under the provincial People's Committees (hereinafter referred collectively to as provincial/municipal services) which perform the State management over the branches or domains where the associations are expected to operate;

c/ Boards canvassing for the establishment of associations operating within districts or communes shall be recognized by the district People's Committees.

### 4. Tasks of the association establishment-canvassing boards:

a/ To mobilize citizens and/or organizations to register for joining the associations;

b/ To prepare dossiers for the establishment of the associations according to Article 8 of the Decree.

After completing all preparations for the establishment of the associations, the association establishment-canvassing boards shall send dossiers to:

- The Ministry of Home Affairs, for associations operating nationwide or inter-provincially;
- The provincial/municipal Home Affairs Services, for associations operating within provinces, districts or communes.

The association establishment-canvassing boards shall be automatically dissolved after the associations' executive boards are elected by their congresses.

## **III. THE NUMBERS OF PEOPLE REGISTERING FOR PARTICIPATION IN THE ASSOCIATIONS' ESTABLISHMENT**

1. For associations operating nationwide or interprovincially, there must be at least 100 signatures (applications for participation) of eligible citizens and/ or organizations in various provinces, voluntarily registering for participation in the associations' establishment.

2. For associations operating within provinces, there must be at least 50 signatures (applications for participation) of eligible citizens and/or organizations in the provinces, voluntarily registering for participation in the associations' establishment.

3. For associations operating within districts, there must be at least 20 signatures (applications for

participation) of eligible citizens and/or organizations in the districts, voluntarily registering for participation in the associations' establishment.

4. For associations operating within communes, there must be at least 10 signatures (applications for participation) of eligible citizens and/or organizations in the communes, voluntarily registering for participation in the associations' establishment.

5. For unions of economic organizations having members being representatives of Vietnamese economic organizations with the legal person status and operating nationwide, there must be at least 11 eligible legal person representatives in various provinces, while for those operating within provinces, there must be at least 5 eligible legal person

representatives in the provinces, which are engaged in the same production and business lines or the same operation domains meeting the prescribed conditions and voluntarily registering for participation in the unions' establishment.

For professional associations with professional peculiarities, the numbers of citizens and/or organizations voluntarily registering for participation in their establishment shall be considered and decided on a case-by-case basis by the competent State agencies defined in Article 15 of the Decree.

#### **IV. APPROVAL OF ASSOCIATIONS' CHARTERS**

1. Within 30 days after the congresses, the associations' leaderships shall send the reports prescribed in Article 13 of the Decree and the written requests for the approval of the associations' charters to the competent State agencies defined in Article 15 of the Decree, namely:

a/ The Ministry of Home Affairs, for associations operating nationwide or inter-provincially,

b/ The provincial People's Committees (via the provincial/municipal Home Affairs Services), for associations operating within provinces, districts or communes.

2. Within 60 days after receiving the reports prescribed in Article 13 of the Decree and the written requests for the approval of the associations' charters, the competent State agencies defined in Article 15 of the Decree shall base themselves on law provisions, the contents of the associations' draft charters and opinions of competent State management agencies to decide on the approval of the charters.

In cases where the associations' charters contain contents contrary to law provisions, the competent State agencies defined in Article 15 of the Decree shall guide the associations' leaderships to finalize the associations' charters in strict accordance with the current regulations.

#### **V. ORGANIZATION, REGIMES AND POLICIES FOR CADRES ENGAGED IN ASSOCIATIONS' ACTIVITIES AND OPERATION FUNDING**

1. The organization of associations shall be prescribed in the associations' charters.

2. The personnel working at associations' standing bodies shall be decided by the associations themselves. Wages and other regimes and policies for personnel working at the associations' standing bodies shall comply with the associations' regulations and be covered by the associations' funding. For cadres enjoying salaries from the State budget, their wages and other regimes and policies shall comply with the State's regulations.

3. Funding for the operation of associations shall comply with the principle of self-financing. In cases where the associations have their activities associated with the State's tasks, they shall be rendered with

support from the State budget. The provision of support from the State budget to the associations shall comply with the Prime Minister's Decision No. 21/2003/QDTTg of January 29, 2003 on the State budget support rendered to political-social-professional organizations, social organizations and social-professional organizations for activities associated with the State's tasks.

## **VI. ADMISSION OF ASSOCIATED MEMBERS AND HONORARY MEMBERS**

1. Unions of economic organizations may admit associated members being joint-venture enterprises and enterprises with 100% foreign capital, operating in Vietnam (hereinafter referred to as enterprises with foreign elements).

2. Associations (except for unions of economic organizations) shall only be allowed to admit associated members and honorary members being Vietnamese citizens and organizations. The rights and obligations of associated members and honorary members shall be prescribed in the associations' charters.

## **VIII. ON THE SETTING UP OF REPRESENTATIVE OFFICES AND CHANGE OF HEAD-OFFICES AND KEY LEADING OFFICIALS OF ASSOCIATIONS**

### **1. On the setting up of representative offices**

Associations operating nationwide, when setting up their representative offices in other localities, shall have to apply for permission of the People's Committees of the provinces where the representative offices are to be located. The applications for permission must clearly state:

- a/ The necessity to set up representative offices;
- b/ The number of the associations' members in the localities and major operations;
- c/ The office locations (addresses, telephone numbers, fax numbers ... )

After obtaining the provincial People's Committees' consent, permitting the setting up of representative offices, the associations must report thereon in writing to the Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate.

2. When relocating their head-offices, changing presidents, vice-presidents, secretaries general or equivalent posts, the associations' leaderships must report thereon in writing to competent State agencies:

- a/ For associations operating nationwide or interprovincially, the associations' leaderships shall send their reports to the Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate;
- b/ For associations operating within provinces, the associations' leaderships shall send their reports to the provincial/municipal Home Affairs Services and the services under provincial People's Committees, which perform the State management over the branches and domains where the associations operate;
- c/ For associations operating within districts or communes, the associations' leaderships shall send their report to the provincial/municipal Home Affairs Services and the district People's Committees.

Reports on the relocation of head-offices must clearly state the new locations of the head-offices

(addresses, telephone numbers, fax numbers).

The associations' reports on the change of their presidents, vice-presidents, secretaries general or equivalent posts shall be enclosed with resolutions on the election of people to the above-stated posts and the curricula vitae of new leaders.

### **VIII. UNIONS OF ECONOMIC ORGANIZATIONS**

Apart from the rights prescribed in Article 22 of the Decree, unions of economic organizations shall also have the following rights and responsibilities:

1. To act as the standing bodies linking and urging the cooperation among member enterprises for common interests;
2. To assist member enterprises in technology transfer, managerial experiences and trade promotion,
3. To protect the legitimate interests of members in commercial disputes and conciliate disputes among them.

### **IX. DIVISION, SEPARATION; MERGER; CONSOLIDATION; DISSOLUTION AND RENAMING OF ASSOCIATIONS**

1. The division, separation, merger; consolidation; dissolution and renaming of associations shall comply with the provisions of the Civil Code.
2. Under the provisions of Clause 1, Article 28 of the Decree, if the associations fail to conduct such activities as holding meetings of their executive boards or standing boards according to their charters, organizing other activities, for 12 consecutive months, the competent State agencies defined in Article 15 of the Decree shall decide to dissolve such associations.
3. The division, separation, merger or consolidation of associations must be put up for discussion in their executive boards for submission to the congresses for decision. After the congresses' resolutions on the division, separation; merger; and consolidation of associations are adopted, the associations' executive boards shall request the competent State agencies defined in Article 15 of the Decree to make decisions thereon. The establishment of new associations after the resolutions on the division, separation, merger or consolidation are adopted by the associations' congresses shall comply with Article 8 of the Decree.
4. The renaming of associations must be put up for discussion in their executive boards for submission to congresses. After the congresses' resolutions on the renaming of associations are adopted, the associations' leaderships shall send reports and resolutions on the renaming of the associations and the draft charters to the competent State agencies defined in Article 15 of the Decree for consideration and decision.

### **X. HANDLING OF VIOLATIONS**

1. For representatives and leaderships of associations, who intentionally prolong the duration for holding term congresses prescribed in the associations' charters.

Within 12 months after the expiry of a congress term, if an association fails to hold its congress, the competent State agencies defined in Article 15 of the Decree shall send documents requesting the association to hold its congress. Within 6 months after receiving the written request for the organization of the congress, if the association's representatives or leadership still fail to hold the congress, the competent State agencies defined in Article 15 of the Decree shall decide on the handling thereof by the

following methods:

a/ Suspending the administration of the associations by the associations' representatives and appoint a member of their leaderships to temporarily administer their operations until new executive boards are elected;

b/ Holding the executive boards' meetings requesting the setting up of preparatory boards for the organization of the congress. If the associations still fail to hold the executive boards' meetings, they shall be dissolved according to Clause 1, Article 28 of the Decree.

2. In case of setting up legal person organizations under associations ultra vires.

The associations' representatives must bear responsibility before law for the setting up of legal person organizations under the associations ultra vires and the competent State agencies defined in Article 15 of the Decree shall request the associations to issue decisions to dissolve such organizations and request the competent State agencies to revoke their seals.

3. The organization of the associations' term congresses must be reported to:

a/ The Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate, for associations operating nationwide or interprovincially;

b/ The provincial/municipal Home Affairs Services and the services under the provincial People's Committees, which perform the State management over the branches and domains where the associations operate, for associations operating within provinces,

c/ The provincial/municipal Home Affairs Services and the district People's Committees, for associations operating within districts or communes.

If the organization of congresses is not reported, according to regulations, the competent State agencies defined in Article 15 of the Decree shall request the associations to stop the organization of the congresses or shall not approve the charters adopted by such congresses.

4. The discipline of associations' representatives and leaderships shall be decided by the associations according to their charters and law provisions, then reported to the Ministry of Home Affairs and the ministries managing the branches and domains where the associations operate, for associations operating nationwide or inter-provincially; to the provincial/municipal Home Affairs Services and the services under the provincial People's Committees, which perform the State management over the domains where the associations operate, for associations operating within provinces; and the provincial/municipal Home Affairs Services or to the district People's Committees, for associations operating within districts or communes.

## **XI. RESPONSIBILITIES OF THE STATE MANAGEMENT AGENCIES TOWARDS ASSOCIATIONS**

1. The Ministry of Home Affairs shall assist the Government in unifying the State management over associations, coordinate with the ministries and provincial People's Committees in performing the State management over associations according to Article 32 of the Decree, and have the responsibilities:

a/ To coordinate with the concerned agencies in managing the signing and implementation of international agreements by associations according to the Government's Decree No. 2012002/ND-CP of February 20, 2002 on the signing and implementation of international agreements by provinces, centrally-run cities, socio-political organizations, social organizations and socio-professional

organizations;

b/ To gather written opinions of the ministries performing the State management over the branches and domains where the associations operate when permitting the establishment; division, separation, merger, consolidation, renaming, dissolution of associations, and approving their charters, for associations operating nationwide or interprovincially.

2. The ministries and ministerial -level agencies defined in Article 33 of the Decree shall have the responsibilities:

a/ To create conditions for associations to be established in strict accordance with laws;

b/ To create conditions for associations to participate in activities within the domains under their respective management, according to their conditions and capabilities;

c/ To guide associations to operate in strict accordance with their regulations;

d/ To guide the provincial/municipal services, departments and branches to manage associations' activities in the branches and domains under their respective management.

3. The provincial People's Committees shall have the responsibilities:

a/ To create conditions for associations to operate with efficiency and encourage associations' activities which are associated with the performance of socioeconomic development tasks of the localities.

b/ To create conditions for associations to participate in the socialization of medical, cultural, educational, scientific and technological, and physical training and sports activities in the localities, consider and create conditions for associations to participate

in some public services which they have conditions and capability to perform.

c/ For newly-established or difficulty-hit associations, the People's Committees of various levels shall create conditions and help them to stabilize their operations.

4. The provincial/municipal Home Affairs Services shall have the responsibilities:

a/ To advise and assist the provincial People's Committees in monitoring and managing associations in their respective localities; settle problems arising in the organization and operation of associations; and coordinate with the concerned branches in creating conditions for associations to operate with efficiency;

b/ To gather written opinions of the provincial/ municipal services performing the State management over the branches and domains where associations operate, for associations operating within provinces, or the district People's Committees, for associations operating within districts or communes, which shall serve as basis for expertising and submitting to the provincial People's Committees for decision the establishment, division, separation, merger; consolidation, renaming or dissolution of associations and approval of their charters.

- To sum up and report on the organization, operation and management of associations in their provinces to the Ministry of Home Affairs.

## **XII. IMPLEMENTATION ORGANIZATION**

This Circular takes effect 15 days after its publication in the Official Gazette.

The ministries, the ministerial-level agencies, the agencies attached to the Government, the provincial-level People's Committees and associations shall have to implement this Circular. Any problems arising in the course of implementation should be reported to the Ministry of Home Affairs for study, amendment and supplementation.

**Minister of Home Affairs**

**DO QUANG TRUNG**



## Decree 79- Grass Roots Democracy

### Comment - Decree 79- "Grass roots" democracy decree-

Decree 79- Grass root democracy decree updates and specifies the Grassroots Democracy Decree 29 of May 11<sup>th</sup> 1998. Decree 79 specifies the works, which are to be directly decided, supervised and inspected by the people, models for their implementation and responsibilities of organisations, associations and individuals in relation to the people's supervision and inspection. It also spells out the role of village chiefs in building village population communities. However, the institutional framework, including the link to decentralisation policies and capacity building of local level officials, which would contribute to the full implementation of the Decree has not been revisited.

#### Source:

<http://www.un.org.vn/donor/civil.htm>

### DECREE No. 79/2003/ND-CP The Exercise of Democracy in the Communes

DECREE

socialist republic of Vietnam

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*Independence- Freedom-Happiness*

No.79/2003/ND-CP

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JULY 7,2003

DECREE No. 79/2003/ND-CP OF JULY 7,2003 PROMULGATING THE REGULATION ON THE EXERCISE OF DEMOCRACY IN COMMUNES

#### THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to Resolution No. 171NQ-TW of March 18, 2002 of the fifth plenum of the IXth Party Central Committee on renewing and raising the quality of the political system in communes, wards and district townships;

Pursuant to Directive No. 10-CT/TW of March 28, 2002 of the Party Central Committee's Secretariat on continuing to boost the formulation and realization of the Regulation on grassroots democracy,

At the proposal of the Minister of the Interior,

#### DECREES:

**Article 1.-** To issue together with this Decree the Regulation on the exercise of democracy in communes.

**Article 2.-** The Regulation issued together with this Decision shall also apply to wards and district townships. The Minister of the Interior shall issue documents to guide the

application of the Regulation on the exercise of democracy in communes to wards and district townships.

**Article 3.-** This Decree takes effect 15 days after its publication in the Official Gazette and replaces the Government's Decree No. 29/1998/ND-CP of May 11, 1998 promulgating the Regulation on the exercise of democracy in communes.

**Article 4.-** The ministers, the heads of the ministerial-level agencies, the heads of the agencies

attached to the Government and the presidents of provincial/municipal People's Committees shall have to implement this Decree.

**On behalf of the Government**

**Prime Minister**

**PHAN VAN KHAI**

## **REGULATION ON THE EXERCISE OF DEMOCRACY IN COMMUNES**

(Issued together with the Governments Decree No. 79/2003/ND-CP of July 7, 2003)

### **Chapter /**

#### **GENERAL PROVISIONS**

**Article 1.-** This Regulation specifies works to be promptly informed and publicized by the commune People's Councils and People's Committees (hereinafter called the commune administrations) to people; works to be directly discussed and decided by people; works to be commented by people before being decided by State agencies; works to be supervised and inspected by people; and forms of implementing the Regulation on the exercise of democracy in communes.

**Article 2.-** The Regulation on the exercise of democracy in communes aims to bring into full play the commune people's right to mastery and their creativity, mobilizing the people's great material and spiritual strengths for socio-economic development, the improvement of people's lives, the raising of their intellectual standard, the maintenance of political stability, the enhancement of unity and the building of Party organizations, administrations and mass organizations in communes, into clean and strong ones; to prevent and overcome the situation of degradation, red tape and corruption among a number of officials and Party members. as well as social evils, thus contributing to the achievement of the target of a prosperous people, a strong country and an equitable, democratic and civilized society along the socialist orientation.

**Article 3.-** The promotion of the people's right to mastery must be closely linked to the mechanism of "the Party's leadership, the State's management and the people's mastery," bringing into full play the representative democracy regime, raising the working quality and efficacy of the local administrations, implementing the direct democracy regime at the grassroots for the people to discuss and directly decide on important and practical issues closely related to their interests and obligations.

**Article 4.-** Democracy must lie within the framework of the Constitution and laws, going

hand in hand with order and discipline, rights must be in parallel with obligations; any acts of abusing democracy, violating the Constitution and laws and infringing upon the interests of the State and collectives as well as the rights to freedom and democracy and legitimate interests of citizens shall be resolutely handled.

## Chapter II

### WORKS TO BE INFORMED TO PEOPLE

**Article 5.-** The commune administrations shall have to promptly inform and publicize the following major works to people:

1. The State's undertakings, policies and laws directly related to the rights and interests of the commune people, including:

a/ Resolutions of the commune People's Councils, decisions of the commune People's Committees and those of superior Authorities relating to the localities;

b/ The provisions of law on administrative procedures and settlement of affairs concerning people;

c/ The State's and local administrations' regulations on payers and collection levels of assorted taxes, charges and fees, as well as other obligations of people as prescribed by current laws;

2. The communes' long-term and annual socioeconomic development plans,

3. The land use plans and plans;

4. The annual estimates and settlements of the commune budgets;

5. The estimates and settlement of revenues and expenditures of funds, programs, projects and contributions mobilized from the people for the construction of infrastructure and public welfare projects of communes, villages and hamlets (hereinafter villages and hamlets shall be referred collectively to as villages) as well as their implementation results;

6. The programs and projects directly invested in, or donated to, communes by the State, organizations or individuals;

7. Undertakings and plans on capital borrowing for production development, hunger elimination and poverty alleviation,

8. The adjustment of administrative boundaries of communes and administrative units related to communes,

9. The results of the inspection, examination and settlement of negative or corrupt cases involving commune and/or village officials,

10. The social and cultural activities, the prevention and combat of social evils, the

maintenance of security, social order and safety in communes,

11. The preliminary and final reviews of activities of the commune People's Councils and People's Committees;

12. The plans for gathering or exchanging land plots for larger ones in service of economic restructuring, agricultural development, farm economy and cooperatives;

13. The consideration and selection of poor households entitled to borrow capital for production development and construction of gratitude houses~ the realization of policies towards families with meritorious services to the revolution, fallen heroes' families, war invalids and diseased soldiers who are presented with gratitude houses, savings books and health insurance cards;

14. The results of selection, priority order and organization of implementation of works under the programs and projects directly invested in, or donated to, communes by the State, organizations and/or individuals.

**Article 6.-** The commune administrations shall have to coordinate with the Vietnam Fatherland Front Committees, Vietnam Fatherland Front's member organizations of the same level and the village chiefs in supplying the information prescribed in Article 5 of this Regulation to the people in the following forms:

1. Publicly posting up written documents at the head-offices of the commune People's Committees, residential quarters and cultural centers;

2. Through the public-addressing radio system of communes and villages as well as grassroots cultural, information and propaganda organizations;

3. Organizing meetings between voters and deputies of the commune People's Councils.

4~ At the meeting sessions of the commune People's Councils, meetings of the People's Committees, Vietnam Fatherland Front Committees and Vietnam Fatherland Front's member organizations of the same level, and village meetings.

5. Sending documents to households or village chiefs.

### **Chapter III**

#### **WORKS TO BE DISCUSSED AND DIRECTLY**

#### **DECIDED BY PEOPLE**

**Article 7.-** The people in communes and villages shall discuss and directly decide on the following works:

1. Undertakings on, and levels of, contributions for the construction of infrastructure and public-welfare facilities (electricity supply, roads, schools, health stations, cemeteries, cultural and sport facilities),

2. The elaboration of village codes or conventions of cultured villages, building of a civilized lifestyle, maintenance of security and order, abolishment of bad practices,

superstition and social evils;

3. Internal affairs of the village population communities, suitable to the current law provisions;

4. The establishment of boards for supervision of construction works built with the people's contributions;

5. The organization of the protection of production and business, maintenance of security, order, social safety and environmental sanitation as well as other activities in communes and villages.

**Article 8.-** Apart from the contributions prescribed in Clause 1 of Article 7, the commune People's Committees may coordinate with the Vietnam Fatherland Front Committees and Vietnam Fatherland Front's member organizations of the same level in propagating and mobilizing people to make other contributions for mutual assistance, humanitarian or charity purposes on the principle of absolute voluntariness without imposing compulsory or arbitrary contributions on everyone.

**Article 9.-** Modes of implementing works directly decided by people

1. The commune People's Committees shall formulate plans and programs; coordinate with the Vietnam Fatherland Front Committees of the same level in directing and organizing the discussion of, and decision on, works defined in Article 7 of this Regulation by the people in one of the following forms:

a/ Organizing meetings of all people, household heads or voters representing households in each village for discussion, open voting or secret ballot,

b/ Distributing poll cards to households to collect their opinions.

The gathering of opinions, open voting at the meeting or secret ballot on each matter shall be decided by the people according to the provisions in Article 7 of this Regulation and must be recorded in writing for reporting to the commune People's Committees on the contents of the meetings and the conclusions on voted issues.

2. The commune People's Committees shall issue decisions to recognize the contents specified in Article 7 of this Regulation which are compliant with law provisions and voted for by over 50% of those participating in the meetings or those asked for their opinions.

3. The commune People's Committees shall coordinate with Vietnam Fatherland Front of the same level in directing village chiefs and heads of the Front's working boards to organize the implementation of affairs decided by the people and recognized by the commune People's Committees, with the supervision by the people's inspectorates or the supervision boards for works and projects, which are elected by the people.

4. The people shall have to observe and strictly implement decisions unanimously approved by over 50% of households in communes or villages.

## **Chapter IV**

### **WORKS TO BE DISCUSSED OR**

## COMMENTED BY PEOPLE AND DECIDED BY THE COMMUNE ADMINISTRATIONS

**Article 10.-** Works which the commune administrations must put up for discussion or comment by people before making decisions thereon (or before submitting to competent authorities for decision) include:

1. Draft resolutions of the commune People's Councils;
2. Draft plannings as well as long-term and annual socio-economic development plans of communes, plans on economic restructuring and production restructuring as well as plans on development of business lines and trades;
3. Draft plannings and plans on the use of land in localities as well as the management and efficient use of public land funds of the communes;
4. Plannings on residential quarters; schemes on sedentarization and new economic zones; plans and projects on the mobilization and use of people's contributions for the investment in construction of communally-run infrastructures;
5. Draft schemes on demarcation and adjustment of the administrative boundaries of communes, schemes on splitting and establishment of villages;
6. Draft plans on the implementation of national target programs in the communes;
7. Undertakings and plans on compensation for ground clearance, infrastructure construction and resettlement;
8. Employment for laborers in the communes;
9. Other affairs which the commune administrations deem necessary,

**Article 11.-** Modes of implementing works discussed and commented by people before being decided by the commune administrations (or being submitted to competent authorities for decision)

1. Based on resolutions of the commune Party Committees and resolutions of the commune People's Councils, the commune People's Committees shall draft documents and plans and coordinate with the Vietnam Fatherland Front Committees and Vietnam Fatherland Front's member organizations of the same level in organizing the collection of public opinions in the following forms:

- a/ Organizing meetings of all people or household heads for discussion;
- b/ Distributing comment-gathering cards to each household,
- c/ Organizing meetings of economic organizations for discussion.
- d/ Placing letter-boxes for public comments.

2. The opinions of people at the meetings or their written comments must be summed up and reported fully and objectively for the commune People's Committees to consider and submit them to the commune People's Councils for decision according to

their competence or submission to superior competent authorities for consideration and decision.

## **Chapter V**

### **WORKS TO BE SUPERVISED AND INSPECTED**

#### **BY PEOPLE**

**Article 12.-** Works to be supervised and inspected by people in communes include:

1. Activities of the commune administrations, sociopolitical organizations, social organizations and professional organizations in the communes,
2. The results of the implementation of resolutions of the commune People's Councils and decisions as well as directives of the commune People's Committees;
3. Activities and moral quality of the chairmen of the commune People's Councils and presidents of the commune People's Committees, activities of deputies of the commune People's Councils, officials of the commune People's Committees as well as officials and public servants working in the localities;
4. The settlement of local citizens' complaints and denunciations.
5. The estimates and final settlement of commune budgets;
6. The process of organizing the construction, results of pre-acceptance tests and final settlement of projects built with people's contributions and projects directly invested in, or donated to, the communes by the State, organizations and/or individuals;
7. The projects implemented by superior authorities in the communes with direct impacts on the production, security, order, socio-cultural affairs, environmental sanitation and life of local people,
8. The management and use of land in the communes,
9. The collection and spending of various funds and fees according to the State regulations as well as various contributions of the people;
10. The results of the examination, inspection and handling of negative and corrupt cases involving commune officials;
11. The implementation of the regimes and policies on preferential treatment, care and assistance for war invalids, diseased soldiers, fallen heroes' families and people and families with meritorious services to the country, social insurance and social relief policies.

**Article 13,** Modes of implementing works to be supervised and inspected by people

The people shall supervise activities of agencies, organizations and individuals directly by themselves or indirectly through socio-political organizations, their representative

organizations or people's inspection boards in the following modes:

1. Attending personally (if being invited) or through their representative organizations the commune administrations' meetings on matters directly related to their rights and interests;
2. Contributing opinions on the evaluation of the biannual and annual reports on the activities of the commune administrations;
3. Giving comments on the work reports and selfcriticisms of the chairmen of the commune People's Councils and the presidents of the commune People's Committees at the year-end final review meetings.
4. Participating in the vote of confidence for posts elected by the commune People's Councils;
5. Detecting agencies, organizations and individuals that infringe upon the people's right to mastery and show signs of corruption or wastefulness, using budget revenues and expenditures and people's contributions for wrong purposes, realizing programs and projects, using and managing land, making compensation for ground clearance in contravention of law provisions, or committing other acts of law violation, lodging denunciations and petitions to the commune administrations and competent agencies for clarification and settlement thereof then announcement of the settlement results.

**Article 14.-** Responsibilities of agencies, organizations and individuals for the people's supervision and inspection

1. The commune People's Committees have the responsibility:

a/ To invite representatives of the Vietnam Fatherland Front Committees, Fatherland Front's member organizations of the same level and directly related subjects to attend the commune administration's meetings on matters related to the rights and interests of local people;

b/ To consider and settle proposals of agencies, organizations and individuals according to their competence and notify the settlement results to the proposers;

c/ To submit to competent agencies cases falling beyond their competence.

2. The chairmen of the commune People's Councils and the presidents of the commune People's Committees shall have to send to the village chiefs their reports on work performance and their selfcriticisms at the annual review meetings for the village chiefs to organize the collection of people's opinions thereon.

3. Annually, the commune Fatherland Front Committees shall organize the vote of confidence among the Front's member organizations for key positions elected by the commune People's Councils. If the proportion of votes of confidence represents less than 50% of the participants, the commune Fatherland

Front Committees shall propose the commune People's Councils to consider and remove such position holders.

4. The village chiefs shall coordinate with the heads of the Front's working boards in



organizing meetings to gather people's opinions on issues to be decided by the people; sum up and accurately, objectively and truthfully report the people's opinions in writing to the commune administrations.

5. The people must not rally in large numbers, make petitions to authorities of levels higher than the prescribed ones, cause disorder and insecurity and resist persons on duty while their petitions are being considered and settled according to law provisions.

## **Chapter VI**

### **BUILDING VILLAGE POPULATION**

#### **COMMUNITIES**

**Article 15.-** Villages are living places of the population communities where democracy is exercised in a direct and broad manner so as to promote forms of self-managed activities of the population communities and where people are organized to realize the Party's undertakings and lines, the State's policies and laws as well as tasks assigned by superior authorities. The commune People's Committees shall have to direct, guide, support, supervise and inspect activities of villages.

**Article 16,** Village meetings shall be organized once every six months or extraordinarily in necessary cases, with the participation of all voters, household heads or voters representing households, aiming:

1. To discuss and decide on internal affairs of the population communities regarding production, infrastructure construction, employment, hunger elimination and poverty alleviation, solidarity and mutual assistance in production and daily-life activities, as well as matters related to culture, social affairs, environmental sanitation, social order and safety in accordance with law provisions;

2. To discuss measures for the implementation of resolutions of the commune People's Councils, decisions of the commune People's Committees as well as the performance of citizens' obligations and tasks assigned by superior authorities;

3. To discuss and give comments on the reports on work performance and self-criticisms of the village chiefs, the chairmen of the commune People's Councils and the presidents of the commune People's Committees;

4. To elect and dismiss the village chiefs, elaborate village codes or conventions; appoint people to various boards, self-management groups or people's inspectors;

Resolutions of the meetings shall be valid only when they are approved by at least more than half of the participants and not contrary to law provisions.

**Article 17.-** Tasks and powers of the village chiefs

1. The village chiefs shall be directly elected by the people at village meetings, considered and recognized by the presidents of the commune People's Committees in their decisions and subject to the direction and management by the People's Committees. The presidents of the commune People's Committees may criticize, caution, temporarily suspend or dismiss the village chiefs when the latter fail to fulfill their tasks, infringe upon the people's right to mastery or commit corrupt or wasteful acts; fail

to obey the direction and administration of the commune People's Committees; violate laws and/or other regulations of superior authorities.

## 2. Tasks, responsibilities and powers of the village chiefs

a/ To assume the prime responsibility and coordinate with the Fatherland Front's working boards and mass organizations in the villages in carrying out such activities as: convening and chairing village meetings; organizing the implementation of decisions of the villages; organizing the people to well implement

the Regulation on democracy; organizing the elaboration and realization of the village codes or conventions~ maintaining unity, order and safety in the villages; organizing the performance of tasks assigned by the commune People's Committees; gathering and reporting on the people's legitimate aspirations and requesting the commune administrations to deal with them; signing service contracts for the production and infrastructure construction on the basis of the village meetings' resolutions;

b/ To make biannual and annual reports on their work performance and self-criticisms and present them before the village meetings. Annually, the Fatherland Front's working boards shall, together with the Front's member organizations in the villages, organize the vote of confidence on the village chiefs. If the number of votes of confidence represents less than 50% of the participants in the voting, they shall request the organization of the village meetings to consider and dismiss the village chiefs and report such to the presidents of the commune People's Committees for decision;

c/ To be invited by the commune People's Committees to attend meetings on related issues. To make monthly reports on work performance to the commune People's Committees;

d/ To be entitled to participate in training and fostering courses and enjoy allowances prescribed by the provincial/municipal People's Committees.

**Article 18.-** Villages shall elaborate codes or conventions on internal affairs of the population communities, inheriting and promoting the community's fine customs and practices in accordance with current law provisions so as to abolish bad customs, superstition and social evils, maintain security and order. traffic safety and environmental sanitation and build a new, prosperous and civilized countryside.

Village codes or conventions shall be discussed and adopted by the village people at the village meetings. The village chiefs shall send the adopted codes or conventions to the commune People's Committees. After reaching agreement with the chairmen of the commune People's Councils and the Fatherland Front Committees of the same level, the presidents of the commune People's Committees shall send official dispatches requesting the presidents of the district-level People's Committees to approve these codes or conventions. The district-level Justice and Culture Information Sections shall have to assist the presidents of the district-level People's Committees in appraising the village codes or conventions before approval.

**Article 19.-** Villages may establish conciliation teams, security teams, production protection teams and construction teams. These organizations shall be set up or dissolved according to the practical requirements of each locality. Members of these organizations shall be elected by the people and their operation shall be managed and

directed by the village chiefs in coordination with the Fatherland Front's working boards.

## **Chapter VII**

### **IMPLEMENTATION PROVISIONS**

**Article 20.-** All levels and branches shall have to build the grassroots administrations into clean, strong, effective and efficient ones, overcoming manifestations of red tape, irresponsibility or lack of democracy in the handling of works, to pay constant attention to the building of the contingent of grassroots officials; to work out plans on training and fostering in general education, professional knowledge and skills, political theory and working methods, thus meeting the requirements of tasks in the new revolutionary period.

**Article 21.-** Officials and employees of the administrations at various levels and people shall be obliged to strictly abide by the provisions of this Regulation.

**Article 22.-** The presidents of the People's Committees at various levels shall have to direct the implementation of this Regulation. Biannually, the presidents of subordinate People's Committees shall report on the implementation results to the presidents of the superior People's Committees, annually, the presidents of the provincial/municipal People's Committees shall report on the results of implementation of this Regulation to the Government (through the Ministry of the Interior).

**Article 23.-** The Ministry of the Interior shall have to direct, guide and monitor the implementation of this Regulation. The Ministry of Finance shall have to direct and guide its subordinate professional agencies to inspect the commune's finance as well as budget revenues and expenditures and provide professional fostering for financial staff in communes. The State Inspectorate shall have to provide guidance on the work of examination and inspection in communes, and professional fostering and guidance to the commune people's inspection boards. The Ministry of Justice and the Ministry of Culture and Information shall have to guide the elaboration of village codes or conventions.

**Article 24.-** The Vietnam Fatherland Front Central Committee and Vietnam Fatherland Front's member organizations are requested to direct, guide and inspect their subordinate agencies to well perform the tasks defined in this Regulation.

**Article 25.-** In the course of implementing this Regulation, organizations and individuals that record achievements shall be rewarded and/or commended; organizations and individuals that violate this Regulation shall be handled according to the current law provisions.

For localities which fail to implement this Regulation, or do implement this Regulation but in a formalistic and inefficient manner, the presidents of the commune People's Committees shall be held responsible therefor and disciplined depending on the seriousness of their violations. The forms of discipline applicable to the presidents of the commune People's Committees shall be considered and decided by the presidents of the district-level People's Committees.

**On behalf of the Government**

Prime Minister

PHAN VAN KHAI

**CIRCULAR No. 12/2004/TT-BNV Guiding the Implementation of Decree 79**

**CIRCULAR**

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**socialist republic of vietnam**

***Independence- Freedom-Happiness***

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**No. 12/2004/TT-BNV**

**FEBRUARY 20,2004**

**CIRCULAR No. 12/2004/TT-BNV OF FEBRUARY 20,2004 GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No.7942003IND CP OF JULY 7,2003 ON THE REGULATION ON EXERCISE OF DEMOCRACY IN COMMUNES AND APPLICABLE TO WARDS, DISTRICT TOWNSHIPS**

Pursuant to the *Government's Decree No.451 2003IND-CP* of May 9,2003 defining the functions, tasks, powers *and organizational structure of the Ministry of Home Affairs*;

Pursuant to Article 2 of the *Government's Decree No. 7912003IND-CP* of July 7, 2003 promulgating the *Regulation on exercise of democracy in communes*;

The *Ministry of Home Affairs* hereby guides the *implementation of a number of articles and clauses* in the *Regulation on exercise of democracy in communes and applicable to wards, district townships* as follows:

***Part One***

**GENERAL GUIDANCE ON IMPLEMENTATION OF A NUMBER OF ARTICLES AND CLAUSES IN THE REGULATION ON EXERCISE OF DEMOCRACY IN COMMUNES**

***Chapter II***

**THINGS NEED TO BE NOTIFIED TO PEOPLE**

**1. Point b, Clause 1, Article 5**

The law provisions on dossiers and administrative procedures falling under the settling competence of the commune-level administrations, which are related to people.

**2. Clause 3, Article 5**

The land-use plannings and plans, including those of districts, provinces or the central

Government, which are related to the life of local population, must be sent by the superior administrations to communes and the communelevel administrations have the responsibility to inform the people thereof.

### **Chapter III**

#### **THINGS TO BE DIRECTLY DISCUSSED AND DECIDED ON BY PEOPLE**

##### **3. Clause 4, Article 7**

Setting up Boards for supervising projects built with people's contributions

a) Competence to set up:

+ For communes' projects- The presidents of the commune People's Committees shall assume the prime responsibility for, and coordinate with the presidents of the commune Fatherland Front Committees in, setting up project- supervising boards, each comprising 5-7 members, including:

- Representatives of villages, elected by people or the commune People's Inspection Board member appointed by the commune People's Committee or representatives of the Fatherland Front Committee and other mass organizations in the commune, appointed by the commune Fatherland Front Committee.

+ For villages' projects- The village chiefs shall assume the prime responsibility for, and coordinate with the heads of the working boards of the Fatherland Front Committees in, setting up projectsupervising boards after having reported thereon to, and got the consents of, the commune People's Committees. Such a board shall consist of 3-5 members.

b) Requirements on members of the commune- or village project- supervising boards

The members are inhabitants of villages or communes where exist the projects, who are nominated by people at village meetings and voted for by over 50% of the number of households or household representatives being voters at such meetings; have zeal, responsibility, knowledge about construction techniques, materials and accounting; have the capability to supervise construction quality and examine and compare settlement, revenue and expenditure balancesupervising board members must not be members of the Steering Boards for construction of projects.

c) Tasks of village or commune projectsupervising boards:

+ To work out operation regulations for submission to the commune People's Committees for decision.

+ To organize the performance of supervising tasks strictly according to operation regulations, covering: the comprehensive supervision of all jobs of mobilizing, managing and using people's contributions for investment in the construction of projects; supervision of pre-acceptance tests, handover and settlement of projects strictly according to regulation and purposes in order to efficiently implement the projects; the responsibility to detect and notify in time to competent authorities for handling all acts of violating regulations in the course of organizing the construction of projects.

d) The project-supervising boards shall automatically dissolve when the projects are preacceptance tested and put to use and the warranty period has expired and at the same time the settlement of projects has been completed and the results thereof are made public.

e) For projects of districts, provinces or the central Government, which are directly related to, and affect, the local people's life, before the construction thereof, the levels owning the projects should discuss with the People's Committees in order to coordinate the implementation. The commune People's Committees shall appoint their people to monitor and promptly report thereon when necessary, contributing to ensuring the project quality and maintaining environmental safety for local population.

#### **4. Article 9**

Modes of implementing things to be decided directly by people.

a) Regarding participants to meetings: Depending on specific conditions of each village, after consulting with the head of the Front Committee's working board and consented by the secretary of the Party cell, the village chiefs shall decide on one of the three compositions of the meeting to be participated by: The entire voters; household masters; or voters representing households in the villages.

b) On making minutes of meetings: The village chiefs recommend secretaries of the meetings, who must be voted for by more than 50% of the participants before performing their tasks. The secretaries make minutes of the meetings, inscribing clearly: the composition of invitees, the number of invitees to the meetings, the number of participants representing in percentage (of the number of invitees); the meeting agenda; voting results.

c) Forms of gathering opinions: To be decided by the participants in the meetings, depending on the purposes, contents of the issues on which opinions should be gathered. If form of secret ballot is used to gather opinions of households, such can be carried out as follow:

The opinion-gathering cards must be signed at their backs by the village chiefs. The cards must be clearly inscribed with matters to be commented, the pro- or con-opinions of households must be reflected on their votes.

The meetings shall elect vote-counting teams, each comprising 3-5 persons who shall elect the team leaders. The vote-counting teams shall distribute, gather and count votes, make records on vote counting and announce the vote-counting results right at the meetings.

d) Regarding the validity of resolutions. A resolution shall be valid only when it is voted for by more than 50% of the household masters or voters representing households or the entire voters invited to attend the meetings. In cases where it is approved by less than 50%, another meeting should be organized. Where it is unable to organize another meeting, immediately after the meeting, cards should be distributed to eligible persons (household masters or household-representing voters) who were invited but did not attend the meetings (if any) in order to gather their opinions. Then, the pro-opinions of participants in the meetings shall be added with the pro-opinions expressed in the opinion-gathering cards; if it is approved by more than 50% of the representatives of households in the village, the commune People's Committee shall issue a decision to

recognize it.

#### **Chapter IV**

### **THINGS TO BE DISCUSSED AND COMMENTED BY PEOPLE, AND DECIDED BY COMMUNE ADMINISTRATIONS**

#### **5. Clause 7, Article 10**

The commune-level administrations have the

responsibility to put out for discussion or comments by people the undertakings and plans on ground clearance compensations, resettlement, and implement in strict accordance with law provisions the following specific contents: plannings; compensation prices for each land category, each land position; the scheme on compensation for each household; plans, location, time and conditions for resettlement, infrastructural construction.

#### **Chapter V**

### **THINGS TO BE SUPERVISED AND SCRUTINIZED BY PEOPLE**

#### **6. Clause 4, Article 13**

a) Posts to be elected by the commune People's Council, including:

- Chairman and vice-chairman of the commune People's Council;
- President and vice-president of the commune People's Committee;
- Member of the commune People's Committee.

b) The organization of vote of confidence on posts elected by the commune People's Councils: Under Article 65 of the Law on Organization of the People's Councils and the People's Committees. Then the commune administrations shall notify the results of confidence vote to people.

#### **7. Clause 3, Article 14**

a) Key posts under Decree No.79/2003/ND-CP of July 7, 2003 include:

- Chairman of the commune People's Council.
- President of the commune People's Committee.

b) Organization of implementation: To comply with the guidance of the Central Committee of Vietnam Fatherland Front.

#### **Chapter VI**

### **BUILDING OF VILLAGE POPULATION COMMUNITY**

*8. Point b, Clause 2, Article 17*

To comply with the guidance of the Vietnam Fatherland Front Central Committee and the Ministry of Home Affairs.

**Part Two**

**GUIDING THE APPLICATION OF THE REGULATION ON EXERCISE OF  
DEMOCRACY**

**IN COMMUNES TO WARDS, DISTRICT TOWNSHIPS**

Communes, wards and district townships are grassroots administrative units of the same level, of which district townships and wards constitute a form of urban administrative unit. However, besides wards in the hearts of cities or provincial capitals, which bear the development characters of a comprehensive urban center, there still exist new wards formed from communes in the process of urbanization, which are characterized by the mixture of urbanity and rurality, and at the same time in many district townships and a number of wards, there still exist a section of population engaged in agricultural production. Therefore, to suit the practical characters of wards and district townships, the Ministry of Home Affairs guide the application of the Regulation on exercise of democracy in communes to wards and district townships as follows:

**Specifying Article 5**

Contents of information to be supplied

The ward or district township administrations have the responsibility to notify in time and publicly the people of the following principal things:

1. The State's undertakings, policies and laws, which are directly related to the rights and interests of people in wards or district townships, including:
  - a) The resolutions of the People's Councils, decisions of the People's Committees of wards or district townships and of the superior levels, which are related to the localities;
  - b) The law provisions on administrative procedures, the settlement of matters related to people, which fall under the jurisdiction of wards, district townships;
  - c) The regulations of the State and the local administrations on the payers, collection levels of assorted taxes, charges, fees and other obligations for the people under the current law provisions;
2. Long-term and annual socio-economic development plans of wards, district townships;
3. Land-use plannings, plans; detailed construction plannings; land assignment and allocation; management and use of land funds in wards, district townships;
4. Annual estimates and settlement of budgets of wards, district townships;
5. Estimation and settlement of revenues and expenditures or assorted funds, programs,



projects, amounts contributed by people for construction of infrastructure, public-utility facilities of wards, district townships, population groups and the implementation results;

6. Programs, projects invested or financially supported by the State, organizations and/or individuals directly for wards, district townships;

7. Undertakings, plans on capital borrowing for production development, hunger elimination and poverty reduction;

8. The adjustment of administrative boundaries of wards, district townships and the relevant administrative units;

9. Results of inspection, examination and settlement of negative phenomena, corruption committed by officials in wards, district townships, population groups;

10. Cultural and social activities, social evil prevention and combat, maintenance of social security, order and safety of wards, district townships;

11. The preliminary and final reviews of activities of the People's Councils, the People's Committees of wards or district townships;

12. The selection through discussion of poor households entitled to borrow capital for production development and the construction of gratitude houses; the implementation of policies towards families with meritorious services to the revolution, martyrs' families, war invalids, diseased army men, that are presented with gratitude houses, savings books, medical insurance cards;

13. The selection results, priority order and implementation of works under programs or projects of the State, organizations and individuals directly investing in, or providing financial assistance to, wards, district townships;

14. The regulations on urban management (such as house and land management, construction management, traffic order and safety, water drainage, garbage collection and treatment, environmental sanitation, civil status and household registration management ... );

15. Ward or district township administrations and relevant units must notify at least 15 days in advance the people of works to be done in the wards or district townships, which affect the life and activities of people: Building, repairing power supply networks, roads, water drainage, telephone lines....

16. Other works which the administrations deem it necessary to notify and the people request to be notified thereof.

## **II. Form of information supply**

To comply with Article 6 of the Regulation on exercise of democracy in communes.

## **III. Specifying Article 7**

Contents to be discussed and decided on directly by people

People in wards, district townships and population groups shall directly discuss and decide on the following major things:

1. Undertakings, plans, contribution levels for construction, renovation, expansion of roads, alleys, spots for entertainment, recreation and cultural activities.
2. Elaboration of conventions on urban civilized lifestyle, maintenance of social order and security, sanitation, environmental protection, accident and social vice prevention and combat, the election of People's Inspection Board members.
3. Internal affairs of the population communities, population groups, in compliance with current law provisions.
4. Measures to realize the regulations of the administrations at all levels on urban management.
5. The establishment of boards for supervision of construction projects financed with people's contributions: To comply with the section on implementation guidance for communes (Clause 4, Article 7, Part One of this Circular).

**IV. Implementation modes:** To comply with the provisions of Article 9 of the Regulation on exercise of democracy in communes and the guidance in this Circular.

#### **V. Specifying Article 10**

Things the ward/district township administrations must introduce to people for discussion or comments before they are decided on (or submitted to competent authorities for decision shall include:

- 1 . Draft resolutions on socio-economic development, security and defense of the ward/district township People's Councils.
2. Draft plannings, long-term and annual plans on socio-economic development of wards, district townships; schemes on branch and craft development, job creation for laborers.
3. Draft schemes on delimitation and adjustment of administrative boundaries of wards, district townships, the establishment of population groups.
4. Undertakings and schemes on ground clearance compensations, resettlement time limits, construction of infrastructures in wards, district townships.
5. Detailed plannings on construction within administrative land boundaries of wards, district townships.
6. Draft plans on deployment of national target programs in wards, district townships.
- 7 Other things which the ward/district township administrations deem necessary.

**V1. Modes of implementation of things to be discussed or commented by people before they are decided by the ward/district township administrations:**

To comply with Article 11 of the Regulation on exercise of democracy in communes.

#### **V11. Specifying Article 12**

Things to be supervised and inspected by people in wards, district township shall include.

1. Activities and results of implementation of resolutions of the People's Councils; activities and results of implementation of decisions and directives of the People's Committees of wards or district townships,
2. Activities and moral qualities of the People's Council deputies, members of ward/district township People's Committees and officials and public employees working and living in wards or district townships;
3. The settlement of complaints, denunciations of citizens in the localities;
4. Ward/district township budget estimates and settlement and the revenues and expenditures related to people's contributions;
5. The course of organizing the implementation of projects, the results of pre-acceptance tests and settlement of projects constructed with people's contributions; programs and projects directly invested in wards or district township by the State, organizations and/or individuals and the State's projects deployed in wards, district townships;
6. Land management and use; management of elaboration of detailed plannings in wards, district townships,
7. Results of inspection, examination and settlement of negative phenomena and corruption cases involving ward/district township officials;
8. The implementation of regimes and policies towards to social-policy families and othersubjects (lonely elders, disabled people ... );
9. Supervision of activities of agencies and units stationing in localities in the observance of law and regulations on urban management via ward/district township People's Inspection Boards in coordination with People's Inspection Boards of the above-mentioned agencies and units.

#### **VIII. Modes of implementation of things to be supervised and inspected by people**

To comply with the provisions of Articles 13 and 14 of the Regulation on exercise of democracy in communes and the detailed guidance in this Circular.

#### **IX. Building population group communities**

To comply with Decision No.13/2002/QĐ-BNV of December 6, 2002 of the Minister of Home Affairs on the promulgation of the Regulation on organization and operation of villages and population groups as well as the guiding documents of the Vietnam Fatherland Front Central Committee.

***Part Three***

**IMPLEMENTATION ORGANIZATION**

1. This Circular replaces Circular No. 03/1998/ TT-TCCP of July 6, 1998 of the Government Commission for Organization and Personnel (now the Ministry of Home Affairs) guiding the application of the Regulation on exercise of democracy in communes to wards and district townships, and takes implementation effect 15 days after its publication in the Official Gazette.
2. The presidents of the People's Committees of the provinces and centrally-run cities shall direct and implementation, examination and constant urging of, and annual reporting on the results of, realization of the Regulation on exercise of democracy in communes, wards, district townships to the Ministry of Home Affairs (attached with appendices on general data under the guidance of the Central Steering Board for implementation of the Democracy Regulation).
3. On the basis of the provisions of the Regulation on exercise of democracy in communes and this guiding Circular, the provincial-level People's Councils shall elaborate specific provisions suitable to the practical situation of each type of ward, district township. If any difficulties and problems arise in the course of implementation, the provincial/municipal People's Committees are requested to send their opinions to the Ministry of Home Affairs for study and settlement.

***Minister of Home Affairs***

**DO QUANG TRUNG**

## Decree 29 - Regulations on the exercise of democracy in communes

**Comment - Decree 29/1998/ND-CP-Regulations on the exercise of democracy in communes**

*Overview of the Decree 29/CP on the Regulation of the Exercise of Democracy in Communes*

1. Fourteen (14) major areas where people must be kept informed of changes and revisions in areas such as law and policy; administrative procedures; local socio-economic development strategy; land use plan; budget planning and expenditures; state or other funded programmes; loan programmes for poverty reduction; (Chapter 2 in the Decree 29)
2. Six (6) major areas where people should discuss and directly decide, such as: people's contribution for infrastructure development; formulation of customary rules; formulation and monitoring the management of people created funds, etc. (Chapter 3 in the Decree 29)
3. Eight (8) major areas where people should discuss and be consulted before the local government make decision, such as: draft economic development plan; draft land use plan; draft plan for implementation of national programme on environment and clean water, etc. (Chapter 4 in the Decree 29)
4. Ten (10) major areas where people should monitor and check, such as: activities of the people councils; implementation of resolutions of the councils and decisions of the people committees; settlement of claims; land use; expenditure of funds, etc. (Chapter 5 in the Decree 29)

**Source:**

<http://www.un.org.vn/donor/civil.htm>

In order to implement the Directive of the Central Committee of the Vietnam's CP, the Government has passed a number of decrees concerning grassroots democracy, e.g. Grassroots Democracy at the Commune (Decree 29/1998/ND-CP issued May 11, 1998), at Grassroots Democracy at agencies (Decree 71/1998/ND-CP dated September 8, 1998) and Grassroots Democracy at state owned enterprises (Decree 07/1999/ND-CP issued February 13, 1999). In those decrees, the Grassroots Democracy Decree at Commune has been considered the legal basis for strengthening the participation of local communities at the local level. The article 4 of the Decree requested local government be responsible for providing information concerning policies, laws, long-term and annual socio-economic development plans of the communes, land-use plans and annual draft budget. Besides the rights to be informed, the Decree also stipulated the rights of citizen to be involved in discussing and deciding the level of their contribution, in establishing local committees monitoring construction projects contributed by citizen, and in assessing activities of People's Committee and People's Council of the communes. The Decree differentiates four levels of participation of citizen: sharing information, providing comments, participating in decision-making and monitoring.

**Source:**

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9)

**DECREE 29/1998/ND-CP - Regulations on the exercise of democracy in communes**

**REGULATIONS ON THE EXERCISE OF  
DEMOCRACY IN COMMUNES**

On 15 May 1998, the Government promulgated the Regulations on the exercise of democracy in communes in conjunction with Decree No. 29/1998/ND-CP. These regulations apply also to the wards and townships. These Regulations were to take effects 15 days after the date of signing. Follows the full text of the Regulations:

**FOREWORD**

Democracy is the nature of our regime and State. Our Party and State always respect and bring into full play the people's mastery, creating an enormous strength and making a decisive contribution to the success of our revolution.

The people's mastery in all domains has been prescribed in the Constitution, laws and legal documents of the State.

These Regulations only define the work to be informed and publicised by the local administration to the people, the work to be directly discussed and decided by the people, the work to be consulted by the people before being decided by the State agencies, the work to be supervised and inspected by the people as well as the forms of implementing the democracy regulations.

*Chapter I*  
**GENERAL PROVISIONS**

*Article 1.* The Regulations on the exercise of democracy in communes aim to bring into full play the commune people's mastery and creativeness, mobilise the peasants and people's great material and intellectual strengths for economic development, social and political stabilisation, to enhance the rural solidarity, improve the people's lives and knowledge, build clean and strong Party organisations, administration and mass organisations in communes, to prevent and overcome the problems of degradation, red tape and corruption, thus contributing to the cause of striving for a prosperous people, a strong country and a equitable and civilised society along the socialist orientation.

*Article 2.* Bringing into full play the people's mastery must be closely linked with the mechanism of the Party leadership, the State management and the people's mastery, the representative democracy regime<sup>1</sup> must be well promoted, the working quality and efficacy of the People's Councils and the People's Committees must be raised, the

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<sup>1</sup> A regime in which the people are supposed to exercise democratic rights through their representatives. [Translator]

direct democracy regime must be well implemented in localities so that the people can directly discuss and decide important and practical issues which are closely associated with their interests.

*Article 3.* Democracy must be within the framework of the Constitution and [other] laws; rights must go hand in hand with obligations; democracy must go hand in hand with order and discipline, any acts of abusing democracy to violate the Constitution and laws and infringe upon the people's democratic freedoms shall be firmly dealt with.

## *Chapter II*

### WORK TO BE INFORMED TO THE PEOPLE

*Article 4.* The local administration shall have to promptly and openly inform the people of the following major things:

1. The State's policies and laws.
2. The State's and local administration's regulations on the administrative procedures for settling matters concerning the people.
3. The communes' long-term and annual socio-economic development plans.
4. The master-plan and plans for land use.
5. Resolutions of the commune-level People's Councils and decisions of the commune-level People's Committees and those of the higher-levels relating to the localities.
6. The annual projections and settlements of the commune budgets
7. The projections and settlements of revenues and expenditures of funds, projects, mobilised contributions for infrastructure construction, and public facilities of communes, hamlets and villages as well as the results of their implementations.
8. Programs and projects directly invested or sponsored in the communes by the State, organisations or individuals.
9. Policies and plans on lending of capital for production development, hunger alleviation and poverty reduction.
10. Adjustments of the administrative boundaries of communes and administrative units related to communes.
11. The results of the inspection, supervision and settlement of negative or corrupt cases involving commune, hamlet or village officials.
12. The social and cultural activities, the prevention of and fight against social vices,

the maintenance of security, social order and safety in communes.

13. The preliminary and sum-up reviews of activities of the commune People's Councils and People's Committees.
14. Other things which the local administrations deem necessary and the people request to be informed of.

*Article 5.* The commune People's Councils and People's Committees shall have to co-ordinate with the Fatherland Front Committees and mass organisations in communes as well as with the village or hamlet chiefs in supplying the information mentioned in Article 4 to the people in the following forms:

1. Written documents.
2. Public posting at the offices of the People's Committees and residential quarters and cultural centres.
3. The public-address systems of communes, hamlets and villages and local cultural, information and propagation organisations.
4. Meetings/contacts between voters and members of the commune People's Councils.
5. Meetings of the commune People's Councils, meetings of the Fatherland Front Committees, mass organisations and associations, meetings of villages or hamlets.
6. Semi-annual and annual meetings to review activities of the commune People's Councils and People's Committees, activity reports and self-criticism statements before people by the chairpersons of the People's Committees and of the commune People's Councils.

### *Chapter III*

#### WORK TO BE DIRECTLY DISCUSSED AND DECIDED BY THE PEOPLE

*Article 6.* The people in communes, hamlets or villages shall directly discuss and decide the following major work:

1. Undertakings on the contributions and their levels for the construction of infrastructures and public welfare works (power supply, roads, schools, health centres, cemeteries, cultural and sport facilities etc.).
2. Raising of funds and their revenues and expenditures within the framework of laws.



3. Elaboration of village conventions, rules of cultural villages, building of a civilised life style, maintenance of security and order, abolishment of bad practices, superstition and social vices.
4. Internal affairs of the village or hamlet communities in compliance with the State's laws.
5. Setting up of boards in charge of supervising construction projects built with the people's contributions.
6. Organisation of the protection of production and business.

*Article 7.* Apart from the contributions mentioned in Article 6 the local administration, the Fatherland Front Committees, mass organisations and other social organisations may propagate and mobilise donations from the people for the mutual assistance, humanitarian or charity purpose on the principle of absolute voluntariness without imposing any compulsory and equal contribution on everyone.

*Article 8.* - Modes of doing work directly decided by the people:

The Party committees shall assume the leading role and the commune People's Communes shall elaborate options, programs and plans. The commune People's Committees shall co-ordinate with the local Fatherland Front Committees in directing and organising the discussion and decision-making by the people in one of the following forms:

1. Organising meetings of the people in each hamlet or village, who shall discuss and vote openly or by secret ballots then sending reports thereon to the commune People's Committees.
2. Organising meetings of household heads who shall discuss and vote openly or by secret ballots then sending reports thereon to the commune People's Committees.

The above-mentioned meetings shall only be held with the participation of at least two thirds of the people (or households) supposed to attend.

3. If meetings are not organised, public poll cards shall be distributed to households to collect their opinions.

With the approval of the majority of the people or households, the commune People's Committees shall organise the implementation of the work under the supervision and inspection of the commune people's inspection boards or the project supervision boards elected by the people. The people shall have the duty to strictly observe the decisions approved by the majority. If they deem the majority's decisions inconsistent with laws or regulations of the local administrations, the commune People's Committees shall propose them to the district People's Committees for consideration and decision.

*Chapter IV*  
WORK TO BE DISCUSSED OR CONSULTED BY THE PEOPLE AND  
DECIDED BY THE COMMUNE PEOPLE'S COUNCILS  
AND/OR PEOPLE'S COMMITTEES

*Article 9.* The major work to be discussed or consulted by the people before they are decided by the commune People's Councils and/or People's Committees (or submitted to the competent level for decision) includes:

1. Draft long-term master-plan and annual plans on the communes' socio-economic development, options on the economic and production restructuring, business development and job creation for people of working age.
2. Draft master-plan and plans on the land use in the localities and the efficient management and use of land funds for public welfare in the localities.
3. Draft master-plan on the residential areas and the schemes on sedentarization and new economic zones. Plans and schemes on the mobilisation and use of people's contributions to invest in the construction of infrastructure under the commune management.
4. Draft schemes on the demarcation and adjustment of communes administrative boundaries, plans on the division, split or establishment of villages or hamlets.
5. Draft plans on the implementation of national programs on health, clean water and environmental hygiene.
6. Undertakings and plans on compensation for ground clearance.
7. Nomination of candidates to stand for the commune People's Council election.
8. Other work deemed necessary by the People's Councils and/or People's Committees.

*Article 10.* Modes of doing the work discussed and consulted by the people and decided by the People's Councils and/or People's Committees (or submitted to the competent level for decision).

Basing themselves on the resolutions of the local Party Committees and the commune People's Councils, the commune People's Committees shall draft documents, plans, options and co-ordinate with the commune Fatherland Front Committees and mass organisations in organising the collection of public opinions in the following forms:

1. Distributing questionnaires to every household.

2. Organising meetings of the people or household heads in villages or hamlets for discussion, then sending minutes thereon to the commune People's Committees.
3. Organising meetings of mass organisations and economic organisations for discussion, then sending minutes thereon to the commune People's Committees.
4. Establishing mail boxes for public opinions. The collected opinions shall be summed up by the commune People's Committees.

The results of the meetings and public polls must be fully and objectively reported so that the commune People's Committees can consider and sum them up before submitting them to the commune People's Councils for decision according to their jurisdiction or submission to the higher-level for consideration.

### *Chapter V*

#### WORK TO BE SUPERVISED AND INSPECTED BY THE PEOPLE

*Article 11.* Work to be supervised and inspected by the commune people include:

1. Activities of the commune People's Councils and People's Committees.
2. Results of the implementation of the People's Councils resolutions and People's Committees decisions.
3. Activities of members of the commune People's Councils and officials of the People's Committees as well as state officials and employees working in the localities.
4. Settlement of citizens' complaints and denunciations.
5. Estimates and final settlement of accounts of the commune budgets.
6. Results of the take-over tests and final settlement of accounts of projects constructed with the people's contributions and the communes' programs and projects directly, invested or financed by the State organisations and/or individuals.
7. Land management and use.
8. Revenues and expenditures of various funds and fees according to the State regulations as well as various contributions of the people.
9. Results of the inspection, supervision and handling of negative and corrupt cases involving commune officials.
10. The implementation of the regimes and policies on preferential treatment, care and support for war invalids, sick soldiers, war martyrs' families, people and

families with meritorious services to the country, social insurance and social relief policies.

*Article 12.* Modes of implementing work to be supervised and inspected by the people:

1. The people shall supervise the activities and conducts of members of the People's Councils and the People's Committees. They shall be entitled to make proposals, lodge complaints or denunciations about acts of infringing upon the people's mastery or violating laws, corrupt or negative acts committed by members of the People's Councils or the People's Committees.
2. Representatives of mass organisations and people' shall be invited as observers to the meeting sessions of the commune People's Councils.
3. Through such organisations as the Fatherland Front Committee, the Ho Chi Minh Communist Youth Union, the Women's Union, the Peasants' Association, the War Veterans' Association and the Association of the Aged.
4. Through the people's inspection boards established and operating in accordance with law.
5. The commune People's Committees shall have to organise the reception of people, promptly deal with citizens' proposals, complaints and denunciations in accordance with the provisions of law.
6. When detecting signs of corrupt or negative acts, acts of using for a wrong purpose or squandering budget revenues or expenditures, contributions or funds and the mismanagement of land, the people shall be entitled to request the clarification thereof, the People's Councils, the People's Committees and the direct managers must supply information and fully explain the above-mentioned problems without any restrictions being imposed.

#### *Chapter VI*

#### BUILDING OF VILLAGE OR HAMLET COMMUNITIES

*Article 13.* Though villages or hamlets do not constitute a level of administration, they are the places where the communities live and where democracy is exercised in a direct and broad manner so as to address internal affairs of the communities, ensure solidarity, maintain social order and safety and preserve environmental hygiene; build a new life; render mutual assistance in production and life; preserve and bring into full play the community's fine traditions, customs and practices to well implement the Party's undertakings, the State's laws; well exercise citizens' rights and fulfil citizens' obligations as well as the tasks assigned by the higher levels.

*Article 14.* Village or hamlet meetings shall be organised once every six months or extraordinarily with the participation of all voters or household heads. They shall be convened and presided over by the village or hamlet chiefs in co-ordination with the local

Fatherland Front's working board and mass organisations to:

1. Discuss and decide the internal affairs of the communities regarding production, infrastructure construction, job creation, hunger elimination and poverty alleviation, solidarity and mutual assistance in production and life, cultural and social issues, environmental hygiene, security, social order and safety in accordance with the State's laws.
2. Discuss the methods to materialise the commune People's Councils' resolutions and the commune People's Committees' decisions, to fulfil citizens' obligations and the tasks assigned by the higher levels.
3. Discuss and contribute opinions to the reports on the working results, and self-criticisms of village or hamlet chiefs, of the chairmen of the People's Councils and the presidents of the People's Committees.
4. Elect or dismiss the village or hamlet chief(s); elaborate village or hamlet conventions and rules; appoint people to various boards, self-managed groups or the people's inspectorate.

The meeting resolutions shall be valid only when they are approved by at least more than half of the participants in the meetings and not at variance with law.

*Article 15.* Village or hamlet chiefs shall represent the communities and the commune People's Committees, place themselves under the management and direction of the commune People's Committees. Village or hamlet chiefs are elected by the people and recognised by the presidents of the commune People's Committees.

Village or hamlet chiefs shall have the following tasks and powers:

1. Guiding, urging, organising and mobilising people to fulfil their obligations and exercise their rights, materialise the People's Councils' resolutions and the People's Committees' decisions and perform the tasks assigned by the commune People's Committees.
2. Co-ordinating with the village or hamlet Fatherland Front's working boards in chairing village or hamlet meetings; organising the implementation of the population community's decisions.
3. Co-ordinating with the economic organisations, the Fatherland Front, mass organisations and associations in guiding the people to develop economic activities, improve their living standards, maintain social order and safety and build the infrastructures in the villages or hamlets.
4. Co-ordinating with the village or hamlet Fatherland Front's working boards in guiding the operations of conciliation boards, security boards, production protection teams and construction boards.

5. Promptly detecting and reporting to the commune People's Committees any acts of violating laws, infringing upon citizens interests and democratic freedoms.
6. Making semi-annual reports on the working results, self-criticisms or reviews and present them before the village or hamlet meetings.
7. Being entitled to participate in training and refresher courses and to enjoy allowances prescribed by the provinces or cities directly under the Central Government.

The People's Committees of the provinces or cities directly under the Central Government shall specify the tasks, powers, terms of office and allowances for village or hamlet chiefs.

*Article 16.* Villages or hamlets shall elaborate their own conventions and rules on internal affairs of the communities, with the community's fine customs and practices being inherited and brought into full play in compliance with the provisions of law so as to abolish bad customs, superstition and social evils. build a new, prosperous, beautiful and civilised countryside. Village or hamlet conventions and rules shall be elaborated by the people, proposed by the presidents of the commune People's Committees and approved by the chair persons of the district People's Committees.

*Article 17.* Villages or hamlets may establish conciliation boards, security boards, production protection teams and construction boards. These organisations shall be elected by the people, managed and directed by the village or hamlet chiefs in co-ordination with the Fatherland Front's working board.

## *Chapter VII* IMPLEMENTATION PROVISIONS

*Article 18.* All levels and branches shall have to build the grassroots administration into a clean, strong, effective and efficient one. Any manifestations of red tape, irresponsibility or lack of democracy in the handling of work must be overcome.

*Article 19.* Regular attention must be paid to the building of a contingent of grassroots officials. There must be plans on training and re-training to raise their educational levels, professional skills, political theory and methods of work, enabling them to satisfy the requirements of their tasks in the requirements of their tasks in the new revolutionary stage.

*Article 20.* Officials of the administration at all levels and the people shall have the duty to strictly abide by the provisions of these regulations.

*Article 21.* The provinces and cities directly under the Central Government, rural and urban districts provincial towns and cities shall have to organise and direct the pilot

implementation of these regulations before expanding such implementation in a stable manner.

*Article 22.* The Chairpersons of the People's Committees of all levels shall have to direct the implementation of these regulation. Quarterly, the chairpersons of the lower-level People's Committees shall report the implementation results to the higher level People's Committees. Once every six months the chairpersons of the People's Committees of the provinces and cities directly under the Central Government shall report the results of the implementation of the Regulations to the Government through the Government Commission for Organisation and Personnel.

*Article 23.* The Government Commission for Organisation and Personnel shall have to direct, guide and oversee the implementation of these regulations. The Ministry of Finance shall have to direct and guide their subordinate specialised agencies to examine the communes' finance and budget revenues and expenditures and provide professional fostering for commune financial staff. The State Inspectorate shall have to guide the inspection and supervision in communes, provide professional training and guidance for the commune people's inspection boards. The Ministry of Justice and the Ministry of Culture and Information shall have to guide the drafting of village or hamlet conventions and rules.

*Article 24.* The Central Committee of the Vietnam Fatherland Front and mass organisations are requested to direct, guide and inspect their subordinate agencies for a good fulfilment of the tasks stipulated for in these regulations.

*Article 25.* In the course of implementation of these regulations, and organisations, and individuals that record merits shall be commended and violators shall be handled in accordance with laws currently in force.

ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER

*Phan Van Khai*

## Decree 25

### **Comment - Decree 25/ND-CP –Support Centers (2001)**

The Government issued Decree 25/ND-CP on 30 May 2001 on regulations of organisation and operation of support centres. The Decree stipulates that support centres are not for profit institutions set up by governmental, non-governmental or social organisations. Support centres can receive people with difficult circumstances, for example, orphans, lonely elderly who has no income, people with disability having no income or resource for living, etc. Support centres may also provide vocational training, involve people in production and provision of service for income and help them to rehabilitate to the community. Financial resources of a support centre may include contribution of its members, donation from government or social organisations, individuals inside and outside the country, contribution of the family or sponsors, income from production or services, etc.

#### **Source:**

<http://www.un.org.vn/donor/civil.htm>

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9)



## Decree 177- Charity Funds

**Comment - Decree No.177- Regulation of organizations, and operation of the social funds and charity funds (1999)**

Another important document is the Decree No.177/1999/ND-CP of 22 December 1999 promulgating the regulation of organisations, and operation of the social funds and charity funds.(Click here for VNese version) According to the Decree, all Vietnamese aged eighteen or more and having full capacity for civil acts may participate in the establishment of the funds. The funds, established by the permission of the presidents of the People's Committees of the provinces, should have formal structure and can operate within the framework of its Charters ratified by the State agency competent to permit its establishment. The regulation also sets up several concrete conditions of the organisation as well for the management of the fund's operation.

**Source:**

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9)

### **DECREE 177/1999/ND-CP - Regulations of Organization and Activities of Charity Funds**

**The Government**  
No: 177/1999/ND-CP

**Socialist Republic of Vietnam**  
**Independence-Freedom-Happiness**  
*Hanoi, December 22, 1999*

**Governmental Decree**  
**On promulgating the Regulation on organization and operation**  
**of the Social Funds and Charity Funds**

**THE GOVERNMENT**

Pursuant to the Law on Organization of the Government of September 30, 1992;  
Pursuant to the Civil Code of October 28, 1995;  
At the proposal of the Minister of Finance,

**DECREES:**

**Article 1-** To promulgate together with this Decree the Regulation on Organization and Operation of the Social Funds and Charity Funds.

**Article 2 -** This Decree takes effect 15 days after its signing.

**Article 3 -** The Minister of Finance, the Minister, Head of the Government Commission for Organization and Personnel shall have to guide the implementation of this Decree.

**Article 4 -** The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

**On behalf of the Government**

**For the Prime Minister**  
**Deputy Prime Minister**  
**NGUYEN TAN DUNG**

**REGULATION ON ORGANIZATION AND OPERATION OF THE SOCIAL FUNDS AND CHARITY FUNDS**

*(Issued together with the Government's Decree No. 177/1999/ND-CP of December 22, 1999)*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1- Scope of application**

This Regulation stipulates the establishment and operation of the social funds and charity funds under the provisions of the Civil Code.

#### **Article 2 - Establishment and operation purposes**

The social funds and charity funds (hereafter called the funds for short) shall be set up and operate for humanitarian and charity purposes to promote the cultural, sport, scientific and social development.

**Article 3** - A fund is a non-governmental organization that has the legal person status, its own name, head office and seal, and opens its bank account(s) at bank(s) or State Treasury(ies).

The fund shall operate according to its Charter ratified by the State agency competent to permit its establishment.

#### **Article 4 - Operation and financial management principles**

1. The funds are set up and operate for non-profit purposes.
2. The funds operate according to the principle of self coverage of expenses for their social and charity activities and taking self-responsibility with their own properties.
3. The funds shall have to comply with the provisions of this Regulation and other law provisions on the establishment, operation, financial management, merger, consolidation, division, splitting and dissolution of funds. They shall also have to make public all their revenues and expenditures according to the law provisions on financial publicity.
4. Organizations and individuals are strictly prohibited to take advantage of the establishment and operation of the funds to gain profit and operate unlawfully.

## **Chapter II**

### **ESTABLISHMENT OF THE SOCIAL FUNDS AND CHARITY FUNDS; THE FUND' POWERS AND RESPONSIBILITIES**

#### **Article 5 - Founding members and conditions for the fund establishment**

##### **1. Founding members**

All organizations established according to laws; all individuals aged full 18 or more and having full capacity for civil acts may participate in the establishment of the funds.

##### **2. The establishment of a fund must fully satisfy the following conditions:**

- a/ There are at least 3 members in their capacity as the founding members, who apply for the fund establishment. Where an organization participates in the establishment, it must nominate its representative(s) to participate therein;
- b/ There is a complete dossier of application for the fund establishment as stipulated in Article 6 of this Regulation;
- c/ There's a working office for the to-be set up fund.

#### **Article 6- Establishment procedures**

The founding members shall have to send the dossier of application for the fund establishment to the competent authority prescribed in Article 7 of this Regulation. Such a dossier includes:

1. The application for the fund establishment (attached with the fund establishment project);
2. The draft Charter of the fund;
3. The list of the founding members, the brief curricula vitae of members of the Fund

Management Board, the director and the chief accountant;

4. The plan on the collection, management and use of the fund's capital and properties.

#### **Article 7 - Competence to permit the establishment**

1. The Prime Minister authorizes the presidents of the People's Committees of the provinces and centrally-run cities to permit the establishment and ratify Charters of the social funds and charity funds in their respective localities.

2. Depending on each specific case, the presidents of the People's Committees of the provinces and centrally-run cities may authorize the presidents of the People's Committees of districts, provincial towns and cities to permit the establishment and ratify Charters of the small-size funds.

3. The agencies and administrations at all levels shall assume the prime responsibility and coordinate with the finance agencies of the same level to evaluate dossiers of application for the fund establishment and submit them to the authorities competent to permit the fund establishment as stipulated in Clauses 1 and 2 of this Article.

#### **Article 8. - The funds' powers and responsibilities**

A fund shall have the following powers and responsibilities:

1. To mobilize domestic and foreign organizations and individuals to provide financial support for activities according to the fund's principles and purposes;

2. To receive money and properties lawfully provided as financial support by organizations and individuals for the fund;

3. To elaborate and implement financial support projects according to the fund's principles and purposes;

4. To use the fund's money and properties in strict accordance with the fund's principles and purposes;

5. To effect the publicity on the fund's revenues and the use thereof, to supply necessary information to the State's functional agencies when so requested as prescribed by law;

6. To operate in strict compliance with the fund's Charter already ratified by the competent State agency;

7. To be subject to the inspection and examination by the State agencies as prescribed by law;

8. To exercise other rights and performs other obligations prescribed by law.

### **Chapter III**

#### **ORGANIZATION AND MANAGEMENT OF THE FUNDS' OPERATION**

#### **Article 9.- The Fund Management Board**

1. Each social or charity fund must have a Fund Management Board, whose members shall be nominated from the founding members and approved by the authorities competent to permit the fund establishment.

2. The Fund Management Board shall have the following tasks and powers:

a/ To consider and approve the orientations and plans for the fund's operation;

b/ To issue regulations on the management and use of the fund's revenue sources; to elaborate the norms of spending on the fund management within the total funding to be used under the provisions of Clause 4, Article 14 of this Regulation;

c/ To supervise and inspect the implementation of the fund's Charter;

d/ To ratify the fund's financial plans and examine its final account settlement reports;

e/ To decide the establishment of specialized sections of the fund.

3. The Fund Management Board shall work according to the collective regime to decide matters under its competence. The Fund Management Board's working regulations shall be stipulated in the Fund's Charter.

4. The Fund Management Board has standing members being its chairman and vice-chairmen. The Board's standing members have the responsibility to represent, the Board

to manage the fund's activities and settle matters proposed by the fund's executive director. The tasks and powers of the standing members of the Fund Management Board shall be specified in the fund's Charter.

**Article 10 - The fund's director and functional sections.**

1. The fund's director is the fund's representative at law, who shall be appointed by the chairman of the Fund Management Council.
2. The director is assisted in the administration of the fund by the deputy director(s), chief accountant, cashier and a number of the specialized sections. The fund's deputy director(s) shall be appointed by the chairman of the Fund Management Board at the proposal of the director.
3. The fund's chief accountant shall be appointed by the chairman of the Fund Management Board at the proposal of the fund's director and on the basis of the criteria set by the Finance Ministry.
4. The heads and deputy heads of the specialized sections shall be appointed by the fund's director.

**Article 11 - Tasks and powers of the fund's director**

1. To be answerable before the Fund Management Board and before law for the entire operations of the fund.
2. To administer and manage the fund's activities; to observe the fund's spending norms in strict compliance with the resolution of the Fund Management Board, the fund's Charter and law.
3. To sign legal documents within his/her administrative responsibility and be accountable for his/her decisions.
4. To regularly report on the fund's operation to the Management Board and the agency competent to decide the fund establishment.
5. To manage the fund's capital and property according to its Charter and law provisions on financial and property management.

**Article 12- The Fund Control Board**

1. Each fund must have the Fund Control Board. For a fund set up by decision of the president of the People's Committee of the district, provincial town or city, the Fund Management Board shall perform the control function.
2. The Fund Control Board must be composed of at least 3 members, including the head, the deputy head(s) and member(s). The chairman of the Fund Management Board shall decide the establishment of the Control Board and appoint its members.
3. The Fund Control Board shall operate independently and have the following tasks:
  - a/ To inspect and supervise the fund's operation in strict compliance with the Charter and law provisions
  - b/ To report and propose to the Fund Management Board on the results of the control of the fund's activities and its financial situation.

**Article 13- The funds' revenue sources**

A fund shall have the following revenue sources:

1. The revenue from the voluntary contributions and financial supports of domestic and foreign agencies, organizations and individuals;
2. Financial supports with concrete purposes and addresses for implementation under the authorization of the organizations and/or individuals that provide the financial support;
3. The deposit interests and other lawful revenues (if any).

**Article 14 - Use of funds**

The contents of fund using include:

1. To provide the financial support for programs and projects for humanitarian and

charity purposes, promoting the cultural, sport, scientific and social development according to the fund's principles, purposes and Charter.

2. To provide the financial support for organizations and individuals' activities which conform to the fund's principles and purposes;

3. To provide the financial support under the authorization of organizations and/or individuals and implement the financial- support projects with clear addresses according to law provisions;

4. To spend on the fund's management activities, which must not exceed 5% of the total fund's revenue.

#### **Article 15 - Organization and implementation of the accounting and statistical work**

1. A fund shall have to organize and implement the accounting and statistical work according to law provisions on accounting and statistics.

2. It shall have to open books to record the full list of contributing and donating organizations and individuals as well as the list of the subjects receiving financial support.

3. It shall have to elaborate and send fully and on time the periodical financial statements and annual final account settlement reports as prescribed for the finance agency by the authority competent to permit its establishment.

#### **Article 16.- Fund's responsibility toward State agencies**

1. Social funds and charity funds shall be subject to the State financial management by the finance agencies of the levels competent to permit their establishment.

2. The fund shall also be subject to the State professional management of their operations by the specialized management agencies.

#### **Article 17- The funds' relations with organizations and individuals related to their activities**

1. Funds may set up relations with domestic and foreign organizations and individuals in order to mobilize financial supports for the funds or their specific projects according to the provisions of law.

2. Funds may set up relations with localities, organizations and/or individuals that need financial supports in order to elaborate financial support projects according to the funds' operation principles and purposes.

3. Funds shall have to provide financial support in strict compliance with the authorization of the organizations and individuals that provide financial supports with concrete purposes, objects and addresses.

4. Funds shall be subject to super-vision by the financially supporting organizations and individuals as well as people.

#### **Article 18 - Establishment and operation of the funds' branches and representative offices**

1. A fund may set up its branches and/or representative offices in places other than the location of its head office and must notify this to the People's Committees of the provinces or districts where it establishes branches and/or representative offices as well as the agency competent to permit the establishment of the fund. The Fund Management Board shall decide the establishment and determine the powers and responsibilities of branches and representative offices at the proposal of the fund's director.

2. The fund's branches and representative offices are its dependent units, which shall operate according to the fund's purposes and principles. The fund shall take responsibility for all activities of its branches and representative offices.

3. The fund's branches and representative offices shall take responsibilities towards the

State agencies in localities as prescribed in Article 17 of this Regulation.

#### **Chapter IV**

### **MERGER, CONSOLIDATION, DIVISION, SPLITTING, DISSOLUTION OF FUND AND SUSPENSION OF FUNDS' OPERATIONS**

#### **Article 19 - Merger, consolidation, division, splitting and dissolution of a fund**

1. Depending on the requirements and operation capacity of the fund, the Fund Management Board may propose to the competent agency for the merger, consolidation, division, splitting or dissolution of the fund.
2. The fund is forced to dissolve in the following cases:
  - a/ Within 6 months after the issuance of its establishment decision, the fund fails to start its operation;
  - b/ The fund is not allowed by the competent authority to resume its operation after its was suspended for more than 6 months from the suspension date.

#### **Article 20 - Stopping or suspending operations of a fund**

1. A fund shall be stopped from operation when it has seriously violated laws or infringed upon the State's and/or people's interests.
2. A fund shall be suspended from operation when:
  - a/ Operating for the wrong purposes and not in accordance with its principles and Charter already ratified by the competent State agency;
  - b/ Violating the financial management regulations of the fund and the State;
  - c/ Organizing the fund management and administration in contravention of the current law provisions;
  - d/ Using the purposed financial supports of organizations and individuals wrongly in a systematic or serious manner;
  - e/ Mobilization of financial support in contravention of law.
3. For the violations mentioned in Clauses 1 and 2 of this Article, in addition to the operation stoppage or suspension, a fund can, depending on the nature and seriousness of its violations, also be sanctioned administratively and, if causing damages, has to pay compensation therefor as prescribed by law. Depending on the seriousness of its violations, persons who manage the fund management shall also be handled according to law provisions.
4. The authority competent to permit the fund establishment shall also be competent to decide the operation stoppage, suspension and resumption.  
Within 6 months after being suspended from operation, if the fund corrects and redresses its violations stipulated in Clause 2 of this Article, the competent authority may consider and allow it to resume operation.

#### **Article 21- Handling of a fund's properties upon its dissolution**

Upon the fund's dissolution, after paying all debts and dissolution expenses, all the remaining properties and money of the fund shall be remitted to the State budget of the level that has permitted the fund establishment. To strictly prohibit the illegal disbursement of the fund's money and properties.

#### **Article 22 - Application to the funds established before this Regulation takes effect**

The social funds and charity funds which were established before this Regulation takes effect shall not have to apply for re-establishment but must supplement and complete their dossiers according to the stipulations of Article 6 within 60 (sixty) days from the effective date of this Regulation and must fully abide by the provisions of this Regulation.

**On behalf of the Government**

**For the Prime Minister**

**Deputy Prime Minister**

**NGUYEN TAN DUNG**

## Decree 35- Scientific Organizations

### Comment - Government Decree No 35 (1992)

the Government Decree No 35/HDBT issued on 28 January 1992 set up the scope of activities and procedure for setting up non-profit scientific organisations. According to this Decree, Vietnamese citizens can set up non-profit scientific organisations after getting approval of Vietnam Union of Scientific and Technology Association (VUSTA) or its member association and the approval of the Ministry of Science, Technology and Environment. Most local NGOs in Vietnam now are operating under this Decree. An application to the VUSTA for the formation of an NGO should accompany the following:

- a statement about the rationale of the organisation,
- its objectives and work plan,
- a list of 7 to 10 scientists with at least university degrees,
- a draft charter,
- copies of the CVs and certificates of the directors,
- a proof that the newly set up organisation has a capital for operation in an amount of VND150 million (US\$ 10,000), and the
- documents proving that the organisation has a working office and facilities, etc.

Upon getting approval from VUSTA, the proposed organisation must get registered to the Ministry of Science, Technology and Environment. With the license, the newly set up organisation can open its bank account and start to operate. In principal, the organisation operates independently and submits an annual report to the umbrella organisation (VUSTA). The organisations can get funds from international donors and collaborate with international organisations. According to the Law of Science and Technology, scientific and technology activities are encouraged by the Government and are free of tax.

The Civil Code passed in 1996, recognizes the following types of not-for-profit legal persons: Social and socio-professional organizations, social and charitable funds and other organizations, as provided by law. Requirements for the contents of a VNGO charter are also found in the Civil Code. Given its explicit language, the Civil Code of Vietnam seems to be the leading authority for the right to establish VNGOs and may have superseded the previous law on associations.

#### Source:

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9),

**DECREE 35/CP in 1992 on Some Measures to Encourage Scientific and Technological Activities (hardcopy)**

( in hard copy )

## Law on Science and Technology (2000)

### LAW ON SCIENCE AND TECHNOLOGY

(No. 21/2000/QH10 of June 9, 2000)

Science and technology constitute a top national policy, play the key role in the cause of national construction and defense and serve as foundation and driving forces for industrialization, modernization, fast and sustainable development of the country;

In order to develop science and technology, raise the efficiency of scientific and technological activities and enhance the effectiveness of the State in management there over, as well as to ensure the legitimate rights and interest, of organizations and individuals engaged in scientific and technological activities:

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

This Law provides for scientific and technological organizations as well as activities,

#### Chapter I

#### GENERAL PROVISIONS

##### Article 1.- Scope of regulation

This Law provides for scientific and technological organizations, individuals involved in scientific and technological activities and the organization of scientific and technological activities.

##### Article 2- Interpretation of terms

In this Law, the following terms shall be construed as follows:

1. Science is a system of knowledge about phenomena, things and laws of the nature, society and thought;

2. Technology is a combination of measures, processes, skills, know-hows, implements and means used to turn resources into products;

3. Scientific and technological activities include scientific research, technological research and development, scientific and technological services, innovation promotion, technical improvement, production rationalization and other activities aimed to develop science and technology-.

4. Scientific research is the activity of discovering and inquiring into phenomena, things and laws of the nature, society and thought-, and creating solutions for practical application. Scientific research includes basic research and applied research;

5. Technological development is the activity aimed to create and perfect new technologies or new

products. Technological development includes experimental development and trial production;

6. Experimental development is the activity of applying the results of scientific research to experiments in order to create new technologies or new products:

7. Trial production is the activity of applying the results of experimental development to small-scale trial production in order to perfect new technologies or new products before putting them into production and life \_.

8. Scientific and technological services are activities which serve scientific research and technological development-- activities related to intellectual property and technology transfer-, services on information, consultancy, personnel training and fostering, popularization and application of scientific and technological knowledge as well as practical experiences.



**Article 3. - objectives of scientific and technological activities**

The scientific and technological activities aim to build an advanced and modern science and technology so as to develop the production forces and raise the managerial skills: rationally use natural resources and protect the environment; step up the national industrialization and modernization-; build an advanced culture deeply imbued with national identities; build the new-typed Vietnamese'. contribute to the fast and sustainable socio-economic development, raise the quality of the people's life, and ensure the national defense and security

**Article 4.- Tasks of scientific and technological activities**

Scientific and technological activities have the following tasks:

1. To creatively apply and develop the theory of Marxism-Leninism and Ho Chi Minh thought: build up Vietnam's theory on socialism and path to socialism: build up scientific grounds for elaboration of undertakings, policies and legislation on socio-economic development, ensuring national defense and security-, contribute to the building of an advanced national education and Vietnamese of new type-, inherit and bring into play traditional values of the national culture, absorb the quintessence of mankind's culture and ,contribute to the world's cultural and scientific treasure:
2. To raise the scientific and technological capacity so as to master advanced and high technologies as well as advanced managerial measures- rationally use natural resources, protect the environment and people's health-, promptly forecast, prevent, combat, restrict and overcome consequences of natural calamities:

3. To absorb the world's scientific and technological achievements in order to create and fruitfully apply new technologies; create new products with high competitiveness; develop Vietnam's science and technology to the advanced level in the region and approach the world's level, which shall serve as a firm basis for the development of modern industries; and boost the popularization and application of scientific and technological achievements to production and life.

**Article 5. - Principles of scientific and technological activities**

The following principles must be ensured in scientific and technological activities:

1. Scientific and technological activities must serve the task of socio-economic development, the maintenance of national defense and security-.
2. The building and promotion of internal scientific and technological resources be combined with the selective absorption of the world's scientific and technological achievements in accordance with Vietnam's practical conditions;
3. Natural sciences, technical sciences and technologies shall be combined with social sciences and humanities-- scientific research and technological development shall be linked to education and training as well as to production, business and development of the technological market;
4. The creative labor capability of all organizations and individuals shall be brought into full play-,
5. Being honest and objective,, heightening the professional ethics, freedom to creation, democracy, self-control and self-responsibility.

**Article 6. The State's responsibility for scientific and technological activities**

1. The State shall elaborate and implement the following policies and measures to develop science and technology:

a/ Ensuring that science and technology shall be the foundation and an important content in the elaboration and implementation of strategies, planning, plans, programs and projects, on socio-economic development, and national defense and security maintenance-,

b/ Making investment in building and development of the internal capacity, personnel training, fostering and well treating of science and technology talents; intensifying international cooperation: encouraging all organizations and individuals to invest in scientific and technological development; efficiently using all scientific and technological resources-

c/ Ensuring the stable and constant development

of basic research in sciences.. particularly in a number of Vietnam's particular scientific domains; stepping up the applied research in the fields of science and technology.  
, paying attention to development of technologies.. especially high technologies and technologies of important significance;

d/ Promoting the application of the results of scientific and technological activities: developing scientific and technological services; building and developing the technological market; encouraging activities of innovation promotion, technical improvement, production rationalization and popularization of scientific and technological knowledge as well as practical experiences: and creating favorable conditions for scientific and technological societies to well fulfill their responsibilities-

c/ Encouraging activities of scientific research and technological development as well as popularization and application of scientific and technological achievements, strengthening scientific and technological human sources, and transferring technologies to the grassroots.. paying attention to the areas meeting with difficult or exceptionally difficult socio-economic conditions.

2. On the basis of particularities of each scientific and technological field, the Government shall specify the application of the provisions of this Law to social sciences and humanities, natural sciences, technical sciences and technologies with a view to ensuring the synchronous development of all scientific and technological domains.

**Article 7.- Responsibilities of organizations and individuals for scientific and technological activities**

1. All organizations and individuals have the responsibility to take part in the cause of scientific and technological development; the popularization of knowledge, the raising of the people's intellectual level, personnel training and fostering of talents in science and technology: innovation promotion, technical improvement and production rationalization: as well as in the application of scientific and technological achievements to the socio-economic development and the maintenance of national defense and security.

2. Scientific and technological societies shall have to organize and encourage their members to take part in consultancy, criticism. social evaluation and conduct scientific and technological activities.

**Article 8.- Strictly prohibited acts in scientific and technological activities**

To strictly prohibit the following acts:

1. Taking advantage of scientific and technological activities to distort or oppose undertakings and policies

of the Communist Party of Vietnam and laws of the State of the Socialist Republic of Vietnam-, disrupting the great national unity;

2. Taking advantage of scientific and technological activities to infringe upon the State's interests or the legitimate rights and interests of organizations and/or individuals-, causing harm to natural resources. environment and/or people's health: acting against the morals and fine traditions and customs of the nation-;

3. Infringing upon the intellectual property rights: appropriating, illegally assigning or transferring scientific and technological results: disclosing scientific and technological

materials or results on the list of the State secrets-, committing frauds and/or forgery in scientific and technological activities:

4. Hindering lawful scientific and technological activities of other organizations and/or individuals.

## Chapter II

### SCIENTIFIC AND TECHNOLOGICAL ORGANIZATIONS, INDIVIDUALS INVOLVED IN SCIENTIFIC AND TECHNOLOGICAL ACTIVITIES

#### Section 1. SCIENTIFIC AND TECHNOLOGICAL ORGANIZATIONS

##### **Article 9.** -Scientific and technological organizations

1. Scientific and technological organizations include:

a/ Scientific research institutions, scientific research and technological development institutions (hereafter referred collectively to as research and development institutions);  
b/ Universities, institutes, colleges (hereafter referred collectively to as universities);

c/ Scientific and technological service organizations.

2. On the basis of the tasks of socio-economic development, ensuring the national defense and security maintenance as well as the scientific and technological development plan in each period, the Government shall work out the planning of the system of scientific and technological organizations throughout the country so as to ensure the synchronous development of all scientific and technological domains and fruitfully conduct scientific and technological activities.

##### **Article 10.** -Research and development institutions

1. The research and development institutions shall be organized in forms of research and development institutes, research and development centers, laboratories, research stations, observation stations, experiment stations and other research and development establishments.

2. Depending on their objectives as well as organization and operation scale, the research and development institutions are classified into:

a/ The national-level research and development institutions;

b/ The research and development institutions of ministries, ministerial-level agencies and agencies attached to the Government (hereafter referred collectively to as the ministerial-level research and development institutions); the research and development institutions of the provinces and centrally-run cities (hereafter referred collectively to as the provincial-level research and development institutions); the research and development institutions of other State agencies, political organizations or socio-political organizations at the central level;

c/ The research and development institutions at the grassroots level.

3. The competence to set up the research and development institutions is stipulated as follows:

a/ The national-level research and development institutions shall be set up by decisions of the Government;

b/ The ministerial- and provincial-level research and development organizations shall be set up by decisions or authorization of the Prime Minister-. the research and development institutions of other State agencies, political organizations or socio-political organizations at the central level shall be set up by decisions of such agencies or organizations.

c/ The research and development institutions at the grassroots level shall be set up and operate according to law provisions.

The authority that has the competence to set up a research and development institution shall be competent to decide the merger, division, splitting, dissolution or termination of operations of such research and development institution as prescribed in this Clause.

**Article 11.- Tasks of the research and development institutions**

1. The national-level research and development institutions shall perform mainly the State's priority and key scientific and technological tasks, aimed to provide scientific foundations for the elaboration of undertakings, policies and laws, create new scientific and technological results of important significance for socio-economic development and the national defense and security maintenance-, train personnel and foster talents for science and technology.

2. The ministerial- and provincial-level research and development institutions shall perform mainly scientific and technological tasks in service of the attainment of the branch and local socio-economic development targets'. train personnel and foster talents for science and technology.

3. The research and development institutions of other central-level State agencies prescribed at Point b, Clause 2, Article 10 of this Law shall mainly conduct scientific and technological activities according to their respective functions, tasks and powers: the research and development institutions of political organizations and socio-political organizations at the central level shall mainly conduct scientific and technological activities according to their own objectives and respective statutes.

4. The research and development institutions at the grassroots level shall mainly conduct scientific and technological activities according to the targets and tasks determined by their respective founding organizations and/or individuals.

**Article 12. - Scientific and technological tasks of universities**

1. Universities are tasked to conduct scientific research and technological development activities, combine training with scientific research and production as well as scientific and technological services according to the provisions of this Law, the Education Law and other law provisions.

2. Universities shall also perform the tasks of basic research as well as the State's priority and key scientific and technological tasks and conduct scientific research on education.

**Article B.- Tasks of scientific and technological service organizations**

Scientific and technological service organizations are tasked to conduct activities in service of scientific research and technological development; activities related to intellectual property and technology transfer; and provide services on information, consultancy, personnel training and fostering, popularization and application of scientific and technological knowledge as well as practical experiences.

**Article 14.- Conditions for establishment and registration of operation of scientific and technological organizations**

The research and development institutions, scientific and technological service organizations shall be set up when the following conditions are met: -

1. Their objectives and operation orientations conform to the provisions of law:

2. They have organization and operation statutes:

3. Their scientific and technological personnel as well as material-technical bases meet the requirements according to their objectives, orientations as well as organization and operation statutes.

The research and development institutions, scientific and technological service organizations shall have to register their operations at the competent State agencies

according to the provisions of law.

**Article 15.- Rights of scientific and technological organizations**

Scientific and technological organizations shall

have the following rights:

1. To enjoy autonomy and take self-responsibility in conducting the registered scientific and technological activities; conclude scientific and technological contracts; train personnel and foster talents for science and technology; and register participation in selection for performance of scientific and technological tasks-
2. To set up dependent research and development institutions, scientific and technological service organizations and enterprises according to the provisions of this Law and other law provisions-
3. To enter into cooperation or joint venture with, and receive aids from, organizations and/or individuals: contribute capital in cash, assets or value of intellectual property rights in order to conduct scientific and technological activities as well as production and business activities according to law-
4. To have their intellectual property rights protected: transfer or assign scientific and technological results in accordance with the provisions of law-
5. To announce scientific and technological results according to the provisions of the Press Law, the Publication Law and other provisions of law:
6. To have other rights as provided for by law.

**Article 16.- Obligations of scientific and technological organizations**

Scientific and technological organization shall have the following obligations:

1. To perform the concluded scientific and technological contracts as well as scientific and technological tasks assigned by the competent agencies and/or organizations-, efficiently use investment finding for scientific and technological development and transfer the results of scientific research and technological development for which the State budget has been used;
2. To contribute to building and developing scientific and technological potential of the country;  
well as the legitimate rights and interests of individuals involved in scientific and technological activities within their respective organizations: keep scientific and technological secrets as prescribed by law-
4. To exercise democracy, equality and publicity in the assignment and performance of scientific and technological tasks-
5. To perform other obligations prescribed by law.

**Section 2. RIGHTS AND OBLIGATIONS OF  
INDIVIDUALS INVOLVED IN SCIENTIFIC AND TECHNOLOGICAL ACTIVITIES**

**Article 17.- Rights of individuals involved in scientific and technological activities**

Individuals involved in scientific and technological activities shall have the following rights:

1. To conduct scientific and technological activities by themselves or in cooperation with organizations and/ or other individuals; conclude scientific and technological contracts; set up scientific and technological organizations in a number of fields according to the Government's stipulations: and register participation in the selection for the performance of scientific and technological tasks-
2. To have the industrial property rights protected-, enjoy equality and freedom to creation in scientific and technological activities-, transfer or assign scientific and technological results according to the provisions of law;
3. To announce the results of scientific and technological activities according to the provisions of the Press Law, the Publication Law and other law provisions;

4. To take part in scientific and technological organizations and societies as well as in training, consultancy, scientific and technological conferences-, contribute capital in cash, assets and value of the industrial property rights to scientific and technological activities as well as production and business. and receive financial supports for scientific and technological activities according to the provisions of law-,

5. To propose opinions for elaboration of the State's policies, laws and socio-economic development plans to the competent authorities-. as well as the scientific and technological development plans of scientific and technological organizations of which they are members, and take part in the supervision of the implementation thereof

6. To have other rights as provided for by law.

**Article 18.-** Obligations of individuals involved in scientific and technological activities

Individuals involved in scientific and technological

activities shall have the following obligations:

1. To contribute their intellects and talents to the cause of scientific and technological development, socio-economic development, and the maintenance of national defense and security;

2. To perform the concluded scientific and technological contracts as well as scientific and technological tasks assigned by the competent agencies and/or organizations; transfer the results of scientific research and technological development funded with the State budget according to the stipulations of the competent State agencies'.

3. To keep scientific and technological secrets according to law provisions; protect interests of the State and society;

4. To perform other obligations prescribed by law.

Chapter III

SCIENTIFIC AND TECHNOLOGICAL  
ACTIVITIES

Section 1. ORGANIZATION OF PERFORMANCE OF SCIENTIFIC AND  
TECHNOLOGICAL TASKS

**Article 19-** Determination of scientific and technological tasks and modes of the implementation thereof

1. On the basis of the State's strategies and plans for socio-economic development as well as national defense and security maintenance, the Government shall set targets and decide plans for scientific and technological development, priority fields as well as major scientific and technological tasks.

2. The ministries, ministerial-level agencies and agencies attached to the Government shall base themselves on the scientific and technological development targets and plans as well as the assignment of the Government to determine scientific and technological tasks in service of the development targets of their respective branches and domains.

3. The People's Committees of the provinces and centrally-run cities shall base themselves on the scientific and technological development targets and plans as well as the responsibility assignment by the Government and the socio-economic development plans of their respective localities to determine scientific and technological tasks in service of the local socioeconomic development objectives.

4. In addition to the agencies and organizations prescribed at Clauses 1'. 2 and 3 of this Article, other agencies and organizations shall base themselves on the Government's scientific and technological targets and plans as well as the practical requirements to determine their respective scientific and technological tasks.

5. Scientific and technological tasks defined in Clauses 1. 2, 3 and 4 of this Article must be determined on the basis of consultative opinions of the scientific and technological councils. The establishment, tasks and powers of the scientific and technological councils shall be decided by the heads of agencies and organizations at different levels.

The scientific and technological councils shall comprise prestigious scientists and administrators with professional qualifications compatible to their assigned tasks. The councils shall take responsibility for their consultancy.

6. Scientific and technological tasks financed by the State budget shall be organized in form of programs, subjects, projects and other forms, and performed by the mode of selection or direct assignment with financial support from the scientific and technological development funds according to the Government's stipulations.

**Article 20-** Selection of organizations and individuals to perform scientific and technological tasks

1. The competent scientific and technological State management agencies at all levels shall have to announce on the mass media lists of scientific and technological tasks to be carried out by mode of selection,, ensuring that all organizations and individuals may register and participate therein.

2. The selection must ensure the openness, fairness, democracy and objectivity-, the selection results thereof must be made public.

3. The heads of the State management agencies in charge of science and technology at all levels shall set up councils for the selection of organizations and/ or individuals to perform scientific and technological tasks and define tasks and powers of such councils. The councils shall have to provide consultancy and take responsibility therefor. The councils' members must have the capabilities, ethical quality and professional qualifications compatible with the scientific and technological tasks.

**Article 21.-** Directly assigned scientific and technological tasks

The competent State management agencies in charge of science and technology shall select organizations and/or individuals that have the capabilities, ethical quality and proper professional qualifications for direct assignment to perform particular scientific and technological tasks and shall take responsibility for such assignment.

**Article 22-** Scientific and technological tasks to be performed with financial support from scientific and technological development funds

Organizations and individuals may propose scientific and technological tasks to the scientific and technological development funds so that the latter considers the financial support for the performance of such tasks. The consideration of financial supports shall comply with the organization and operation charter of the scientific and technological development funds.

**Article 23-** Scientific and technological contracts

1. Scientific and technological tasks as well as scientific and technological service activities shall be carried out through scientific and technological contracts.

2. Scientific and technological contracts include the following types:

a/ Scientific research and technological development contracts'.

b/ Technology transfer contracts;

c/ Scientific and technological service contracts.

3. On the basis of the law provisions on contracts, the Government shall specify different types of contract prescribed in Clause 2 of this Article.

**Article 24. -** Evaluation and after-test acceptance of the results of performance of scientific and technological tasks

1. The evaluation and after-test acceptance of the results of performance of scientific and technological tasks must be based on the contents of scientific and technological contracts, ensuring the objectivity and accuracy on the basis of consultative opinions of the specialized scientific and technological councils, which shall be set up and provided

with tasks and powers by the heads of agencies of all levels which exercise the State management over science and technology. The specialized scientific and technological councils are composed of capable experts with professional qualifications compatible with their assigned tasks. The councils shall take responsibility for the results of their evaluation and after-test acceptance.

2. The scientific research and technological development results, which are not brought about through the use of the State budget but widely applied throughout the country, in a branch or locality or affect the national interests, defense, security, environment or people's health and life, must also be expertized before application by the competent agencies which exercise the State management over science and technology.

**Article 25-** Registration, donation, presentation and keeping of scientific research and technological development results

1. The results of scientific research and technological development funded with the State budget must be registered at the competent State agencies and kept at the State archives.

2. The results of scientific research and technological development not funded with the State budget may be registered at, or donated or presented to, the competent State agencies and kept at the State archives.

**Article 26.-** Ownership right and copyright over the scientific research and technological development results

1. Organizations and/or individuals investing in the performance of scientific and technological tasks shall be the owners of the scientific research and technological development results; organizations and/or individuals directly carrying out scientific and technological works shall be the authors of such works, except where it is otherwise agreed upon in the scientific and technological contracts by the parties.

2. The competent agencies which exercise the State management over science and technology shall decide the use, transfer and assignment of the results of scientific research and technological development funded with the State budget.

3. The owners of the results of scientific research and technological development not funded with the State budget shall be entitled to use, transfer or assign such results according to the provisions of law.

4. The authors of scientific and technological works may enjoy rights prescribed by this Law and other law provisions.

**Section 2. APPLICATION OF SCIENTIFIC RESEARCH AND TECHNOLOGICAL DEVELOPMENT RESULTS**

**Article 27.-** Encouragement of the application of scientific research and technological development results

1. The State shall work out policies and measures to encourage all organizations and individuals to actively apply the scientific research and technological development results to socio-economic development, national defense and security maintenance and improvement of people's material and spiritual life.

2. Organizations and individuals that apply the scientific research and technological development results to the renewal of socio-economic management, technological renovation and raising of the products' competitiveness shall be entitled to tax and credit preferences as well as other preferences.

3. Political organizations, socio-political organizations, social organizations and socio-professional organizations shall, according to their functions and tasks, encourage their members to apply scientific research and technological development results to innovation promotion, technical improvement and production rationalization.



4. The State shall create conditions for scientific and technological organizations as well as individuals involved in scientific and technological activities to transfer the results of scientific research and technological development for their widespread application to production and life.

5. The owners, authors and successful appliers of scientific research and technological development results shall benefit from the application of such results to production and life under scientific and technological contracts and according to the provisions of law.

**Article 28-**Application of scientific research and technological development results to the renewal of policies and socio-economic management mechanism

The State shall work out policies to step up the application of scientific research and technological development results to building models and solutions for the national industrialization and modernization process-. renew and perfect the socio-economic management mechanism at all levels and in all branches-, build an advanced culture deeply imbued with national identities and new-typed Vietnamese.

**Article 29-**Application of scientific research and technological development results kv enterprises

The State encourages enterprises to boost the application of scientific research and technological development results, especially the application of home-made technologies. Enterprises applying the home-made technologies shall enjoy preferences provided for by the Government.

**Article 30.-**Application of scientific research and technological development results to agriculture and rural development

1. The State shall work out priority policies and measures to step up the wide application of scientific and technological achievements so as to boost the agricultural industrialization and modernization as well as rural development, with attention being paid to geographical areas meeting with difficult or exceptionally difficult socio-economic conditions.

2. The People's Committees at all levels shall have to create favorable conditions for organizations and individuals to transfer technologies, organize the wide application of scientific and technological achievements to agriculture and rural development, and provide scientific and technological services suitable to farmers' demands and conditions.

**Article 31-** Investment projects, socio-economic development programs

The elaboration and implementation of investment projects and socio-economic development programs must be based on the scientific grounds, comprise necessary scientific research and technological development items', and must be evaluated scientifically and technologically according to the Government's stipulations.

**Article 32.-** Development of high technologies

1. The State shall work out policies for development of high technologies, make concentrated investment, intensify international cooperation for hi-tech research and development-. build a number of hi-tech parks in order to raise the technological capacity and develop hi-tech industries of the country.

2. Scientific and technological organizations and enterprises applying high technologies and producing hi-tech products shall enjoy special tax and credit preferences as well as other preferences.

**Article 33-** Building and development of the technological market

The State shall adopt the following policies and measures to build and develop the technological market:

1. Encouraging all activities of assigning or transferring technologies on the principle of voluntariness equality and mutual benefit;
2. Perfecting policies and legislation on industrial property ownership and technology transfer;
3. Applying preferential policies to products being under trial production by new technologies-, products made by new technologies applied for the first time in Vietnam-, scientific and technological consultancy activities; imported hi-tech equipment and the technology export-.
4. Applying the reward regime to labor collectives and individuals that have patents.. innovations or technical improvements, rationalize production and apply newly-transferred technologies;
5. Scientific and technological organizations are allowed to setup dependent scientific and technological service organizations and/or enterprises; and enter into cooperation or joint venture with other organizations and/or individuals in order to conduct the technology transfer activities.

#### Chapter IV

#### MEASURES TO ENSURE SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENT

##### **Article 34.-** Training personnel fostering talents for science and technology

1. Annually, the State reserves a budget amount for scientific and technological personnel training and retraining at home and abroad, paying attention to the training and fostering of talents, people with high professional qualifications and skilled technicians.
2. Organizations and individuals shall be given conditions for self-training and participation in scientific and technological personnel training and talent fostering, shall send or grant scholarships to Vietnamese citizens for study at home or abroad to raise their professional qualifications under the Government's stipulations.

##### **Article 35-** Employment of scientific and technological personnel

1. The State shall well treat talents and give them all favorable conditions for creation and devotion-, work out policies and measures to attract talents to performance of the State's priority and key scientific and technological tasks; adopt incentive policies for the training and employment of female laborers in scientific and technological activities; build strong scientific and technological collectives up to regional and international standards: apply the regime of treatment commensurate with the contributions of and the regime of special preferential treatment for ` individuals who have particularly excellent scientific and technological works and have made great contributions to the country.
2. Organizations and individuals employing scientific and technological personnel shall have to arrange and employ them according to their capabilities and fortes and create favorable conditions for them to promote their professional capacities for the performance of scientific and technological tasks.
3. The State shall work out appropriate policies on wages, working and housing conditions for individuals involved in scientific and technological activities.
4. The Government and the People's Committees at all levels shall have to work out and implement policies of preference for individuals involved in scientific and technological activities at the grassroots level, paying attention to geographical areas meeting with difficult and exceptionally difficult socio-economic conditions.

##### **Article 36.-** Scientific posts

1. The scientific posts shall be effected uniformly throughout the country, including assistant researcher, researcher, principal researcher and senior researcher. Individuals involved in scientific and technological activities and taking part in graduate or post-

graduate teaching or training shall be considered for the award of the professor or associate professor title according to the provisions of the Education Law.

2. People holding the doctor degree or having outstanding scientific and technological research projects or winning high scientific and technological prizes shall be considered with priority for appointment to high scientific posts.

The Government shall specify criteria and procedures for consideration and appointment to scientific posts.

**Article 37.- Scientific and technological development investment**

1. Investment in science and technology is the development investment. The State gives top priority to the arrangement of budget for science and technology, ensuring that the State budget proportion for science and technology increase gradually according to the requirements of the scientific and technological development cause.

2. The finance agencies shall have to fully and promptly allocate science and technology funding in accordance with the scientific and technological plan tempo. The agencies which exercise the State management over science and technology shall have to manage and efficiently use the State budget invested in science and technology.

3. The State budget invested in science and technology shall be used for the following purposes:

a/ Performing priority and key scientific and technological tasks as well as scientific and technological tasks in service of the common interests of the society;

b/ Conducting orientated basic research in various scientific fields:

c/ Maintaining and developing scientific and technological potentials:

d/ Being allocated to the State's scientific and technological development funds according to the provisions of Articles 39 and 40 of this Law;

e/ Building material and technical bases for the State's research and development institutions;

f/ Supporting enterprises in conducting applied research and technological development in priority and key fields.

4. The State encourages organizations and individuals to invest in science and technology.

**Article 38.- Enterprises investing in scientific and technological development**

1. Enterprises are entitled to reserve part of their capital for investment in scientific and technological development, aimed at renewing technologies and raising the products' competitiveness. The enterprises' scientific and technological development investment capital shall be accounted in their production costs.

2. Enterprises may set up scientific and technological development funds to take initiative in scientific and technological development investment.

3. Enterprises that make investment in scientific and technological research in the State's priority and key fields shall be considered for partial financial support for such research.

**Article 39.- The national scientific and technological development fund**

1. The Government shall set up the national scientific and technological development fund to be used for the following purposes:

a/ Financially supporting the basic research,

b/ Financially supporting the urgent or newly-arising scientific and technological tasks of important scientific and practical significance, as well as scientific and technological tasks with good prospect but also risks;

c/ Providing low-interest or non-interest loans for application of scientific research and technological development results to production and life.

2. The national scientific and technological development fund shall be created from the

following sources:

a/ Capital initially allocated in lump-sum and capital supplemented annually from the State budget reserved for scientific and technological development-,

b/ Voluntary contributions, donations and presents of organizations and/or individuals:

c/ Other sources.

3. The organization and operation charter of the national scientific and technological development fund shall be stipulated by the Government.

**Article 40-** Scientific and technological development funds of the ministries, provinces or centrally-run cities

1. The ministries, ministerial -level agencies, agencies attached to the Government and People's Committees of the provinces and centrally-run cities shall set up scientific and technological development funds to meet their scientific and technological development requirements.

2. The scientific and technological development funds prescribed in Clause I of this Article shall be created from the following sources:

a/ Capital initially allocated in lump-sum from the State budget reserved for scientific and technological development of the ministries, ministerial-level agencies, agencies attached to the Government and provinces and centrally-run cities: capital supplemented annually from the results of scientific and technological activities-,

b/ Voluntary contributions, donations and presents of organizations and/or individuals:

C/ Other sources.

3. The promulgation of the organization and operation charters of the funds prescribed in Clause I of this Article shall be stipulated by the Government.

**Article 41.-** Scientific and technological development funds of organizations or individuals

1. The State encourages organizations and individuals to set up scientific and technological development funds under the provisions of law. The scientific and technological development funds are non-profitable organizations that provide nonrefundable or refundable aids, low-interest or non-interest loans in order to support organizations and individuals involved in scientific and technological activities.

2. The scientific and technological development funds of organizations or individuals shall be created from the following sources:

a/ Capital contributed by founding organizations or individuals, which is not originated from the State budget;

b/ Voluntary contributions, donations and presents of organizations and/or individuals-,

c/ Other sources.

3. The organization and operation charters of the funds prescribed in Clause 1 of this Article shall be decided by the founding organizations or individuals and must be registered at the competent State management authorities.

**Article 42.-** Tax policies for scientific and technological activities

1. The incomes from the performance of scientific research and technological development contracts shall not be subject to the enterprise income tax.

2. Machinery equipment, spare parts, supplies and transport means, which cannot be produced in the country-, technologies which cannot be created in the country: documents, books and newspapers imported for direct use in scientific research and technological development shall not be subject to import tax and value added tax.

3. Products being in the period of trial production: products made by new technologies

applied for the first time in Vietnam; scientific and technological consultancy activities; technology transfer, imported hi-tech equipment; and the technology export shall enjoy tax preferences prescribed by law.

4. Enterprises renewing technologies or raising the technological standards shall enjoy tax preferences prescribed by law.

**Article 43- Credit policy for scientific and technological activities**

1. Organizations and individuals borrowing medium- or long-term capital to conduct scientific and technological activities shall enjoy preferential interest rates and terms.

2. Scientific and technological programs, subjects or projects demanding large capital amounts shall be given priority in consideration for the use of the official development assistance (ODA).

The Government shall specify credit preferences for scientific and technological activities.

**Article 44- Material-technical bases for scientific and technological development**

The Government shall work out plans to mobilize capital sources for investment in the construction of material and technical bases of important scientific and technological organizations; encourage organizations and individuals to invest in building material and technical bases in service of scientific research and technological development-, make investment in building a number of key laboratories up to regional and international standards in the priority and key scientific and technological fields-, and issue the Regulation on the use of key laboratories to attract scientists to work therein.

**Article 45- Scientific and technological information**

The Government shall invest in building a modern national system of scientific and technological information, ensuring full, accurate and timely information on important scientific and technological achievements at home and in the world; issue the technological information, and annually announce the list and results of implementation of domestic scientific and technological tasks.

Chapter V

INTERNATIONAL COOPERATION ON  
SCIENCE AND TECHNOLOGY

**Article 46- Development of international cooperation on science and technology**

1. The State shall expand exchanges and international cooperation on science and technology-, create conditions for Vietnamese organizations and individuals to enter into scientific and technological cooperation with foreign organizations and/or individuals as well as international organizations: make full use of the assistance from foreign countries and international organizations on the principle of respect for each other's independence and national sovereignty, equality and mutual benefits.

2. The State shall adopt policies to attract Vietnamese intellectuals residing overseas and the world's brilliant experts to take part in scientific and technological development in Vietnam.

**Article 47.-, Promotion of international cooperation on science and technology**

1. Vietnamese scientific and technological organizations as well as individuals involved in scientific and technological activities may receive aids, join scientific and technological organizations or societies, take part in research, training, consultancy or scientific and technological conferences of international organizations or foreign organizations and/or individuals: and enter into cooperation for the performance of Vietnam's scientific and technological tasks in foreign countries.

2. Overseas Vietnamese, international organizations, foreign organizations and/or individuals may set up scientific and technological development funds in Vietnam under

the Government's stipulations; and may make contributions to the setting up of Vietnam's scientific and technological development funds prescribed in Articles 39, 40 and 41 of this Law.

3. Overseas Vietnamese, international organizations, foreign organizations and/or individuals that enter into cooperation for scientific and technological development in Vietnam shall be encouraged and have their legitimate rights and interests protected by the State.

The Government shall detail the implementation of this Article.

**Article 48.- Foreign-in vested scientific and technological organizations**

1. Overseas Vietnamese, international organizations, foreign organizations and/or individuals that establish or cooperate with Vietnamese organizations and/or individuals to establish scientific and technological organizations in Vietnam shall enjoy tax and land-use preferences as well as other preferences under the provisions of law

2. The State shall work out policies and measures to efficiently use foreign loans and aid for investment in scientific and technological development.

The Government shall special the organization and operation of scientific and technological organizations defined in this Article.

#### Chapter VI

#### STATE MANAGEMENT OVER SCIENCE AND TECHNOLOGY

**Article 49. - Contents of State management over science and technology**

The contents of State management over science and technology include:

1. Elaborating and directing the implementation of., scientific and technological strategies, policies, planning, plans and tasks:

2. Promulgating legal documents on science and technology and organizing the implementation thereof..

3. Organizing the science and technology management apparatus;

4. Organizing and guiding the registration of operations of scientific and technological organizations as well as scientific and technological development funds-,

5. Protecting the intellectual property rights.

6. Providing for the evaluation, after-test acceptance, application and announcement of the results of scientific research and technological development: scientific posts; scientific and technological prizes and other forms of acknowledgement of scientific and technological contributions of organizations and individuals:

7. Organizing and managing the scientific and technological evaluation work;

8. Organizing and directing the scientific and technological statistical and information work;

9. Organizing and directing the personnel training and fostering to raise their professional skills as well as scientific and technological qualifications-,

10. Organizing and managing international cooperation on science and technology-,

11. Examining and inspecting the observance of the legislation on science and technology: settling disputes, complaints and denunciations in scientific and technological activities-, handling violations of the legislation on science and technology.

**Article 50.- Agencies exercising the State management over science and technology**

1. The Government shall exercise the unified State management over science and technology.

Annually, the Government shall report to the National Assembly on the implementation of policies and measures for scientific and technological development: the use of the State budget for investment in scientific and technological development-, and the results of scientific and technological activities.

2. The Ministry of Science, Technology and Environment shall take responsibility before

the Government for exercising the State management over science and technology.  
3. The ministries, ministerial-level agencies and agencies attached to the Government shall take responsibility for the State management over science and technology according to the Government's assignment.

The Government shall special, the responsibilities of ministries, ministerial-level agencies and agencies attached to the Government for coordination with the Ministry of Science, Technology and Environment in exercising the unified State management over science and technology.

4. The People's Committees of all levels shall exercise the State management over science and technology in their respective localities according to law provisions.

#### **Article 51.-Scientific and technological statistics**

The system of scientific and technological statistical criteria shall be uniformly set for the whole country. The ministries, ministerial-level agencies, agencies attached to the Government, the People's Committees of all levels, scientific and technological organizations and individuals involved in scientific and technological activities shall have to fully and honestly report scientific and technological statistical data to the competent agencies which exercise the State management over science and technology according to the Government's division of responsibility

#### **Article 52. - Science and technology inspectorate**

1. The science and technology inspectorate is the

specialized science and technology inspectorate. The organization and operation of the science and technology inspectorate shall be stipulated by the Government.

2. The science and technology inspectorate shall have the tasks:

a/ To inspect the implementation of policies and legislation on science and technology,-

b/ To verily conclude and propose settlement of complaints and denunciations about law violations in the field of science and technology.

3. The science and technology inspectorate shall have the rights:

a/ To request the subjects under inspection and concerned parties to supply documents and evidences and answer necessary matters related to the inspection contents:

b/ To ask for expertise in necessary cases;

c/ To apply measures to prevent and handle violations according to law provisions.

4. The inspection delegations and inspectors shall take responsibility for their conclusions, decisions and handling measures in the inspection course according to the provisions of law.

### **Chapter VII**

#### **COMMENDATION AND HANDLING OF VIOLATIONS**

##### **Article 53.- Commendation**

Organizations and individuals that make many achievements and contributions to the scientific and technological cause shall be commended, rewarded, conferred or awarded the State's honorable titles as prescribed by law.

##### **Article 54- Scientific and technological prizes**

1. The State shall consider and award Ho Chi Minh Prize on science and technology to exceptionally outstanding scientific and technological works.

2. The State shall consider and award the State's Prize on science and technology to outstanding scientific and technological works.

3. The ministries, ministerial -level agencies, agencies attached to the Government and the People's Committees of the provinces and centrally-run cities shall consider and award scientific and technological prizes to outstanding scientific research and

technological development works within the managerial scope of their respective ministries, branches and localities.

The Government shall prescribe the criteria and procedures for consideration and award of prizes prescribed in this Article.

**Article 55- Scientific and technological prizes of organizations and individuals**

1. Domestic organizations and individuals, overseas Vietnamese, international organizations as well as foreign organizations and individuals shall be entitled to make and award scientific and technological prizes with a view to promoting the scientific and technological development in Vietnam according to the provisions of law.

2. Enterprises shall be entitled to deduct part of their profits gained from the application of scientific and technological results to reward organizations and individuals that successfully apply such scientific and technological results.

3. Scientific and technological organizations as well as individuals involved in scientific and technological activities shall be entitled to receive prizes awarded by foreign organizations and/or individuals as well as international organizations in accordance with the provisions of Vietnamese law.

**Article 56- Receiving titles from foreign organizations and for individuals and international organizations**

Scientific and technological organizations as well as individuals involved in scientific and technological activities shall be entitled to receive scientific and technological titles conferred or awarded by foreign organizations and/or individuals as well as international organizations in accordance with the provisions of Vietnamese law

**Article 57- Handling of violations**

Those who commit one of the following acts shall, depending on the nature and - seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability- and pay compensation if causing damage:

1. Committing one of the prohibited acts defined in Article 8 of this Law-.
2. Using for wrong purposes the State budget investment in scientific and technological development;
3. Committing frauds to enjoy preferences or rewards in scientific and technological activities-.
4. Violating the regulations on the selection and assignment of scientific and technological tasks-, on expertise, evaluation or after-test acceptance of scientific and technological programs, subjects or projects:
5. Committing other acts of violating the legislation on science and technology.

Chapter VIII

IMPLEMENTATION PROVISIONS

**Article 58- Implementation effect**

The Law on Science. and Technology takes effect as from January 11, 2001.  
The earlier provisions contrary to this Law shall all be annulled.

**Article 59.- Detailing and guiding the implementation**

The Government shall detail and guide the implementation of this Law.

This Law was passed by the X<sup>th</sup>, National Assembly of the Socialist Republic of Vietnam at its, 7<sup>th</sup>, session on June 9, 2000.

National Assembly Chairman

NONG DUC MANH



## Association Law of 1957

### Comment - The Association Law - President Order (1957)

The Association Law (issued by the President Order No 102-SL 20 May 1957) in articles 1 and 2 confirm the right of Vietnamese citizens to establish association. The articles 3, 4 and 5 define the procedure of setting up associations. The Articles 6,7 and 8 define punishment in case of violation. The last four articles suggest that the mass organisations are member of United Nation Front, (the economic associations are not subject of this law). To provide concrete guideline for implementing the Laws, the Government issued the Decree No 258/Ttg, 14 June 1957. The Decree has four chapters with 25 articles. Chapter I defines procedure of forming or extending associations. The Chapter II defines the scope of activities of associations. The Chapter III defines the procedure of association dissolution. The Chapter IV defines general articles. According to this Decree, permission for creating a new association is given by the Prime Minister if the organisation is to operate nationwide or in more than one provinces, and by the provincial authority if it is to operate in a province.

However, the 1957 Association Law and the Government Decree 258/Ttg did not provide clear guidelines on a number of items, such as the minimum number of founders and members required to form an organisation, the scope of activities, the duration of time the responsible authority has to respond to the application for setting up an association, the right of citizen to discuss with the authority in case their application is not approved. In reality due to these unclear issues, the process of forming an association has been slow, and in many cases forming an association is impossible.

The shift of Vietnam from the centrally planned economy to the market oriented economy since the late 1980s have significantly increased the role of the third sector in Vietnam. Recognizing the important contribution of the third sector and its role in the future, the Government of Vietnam in the 1990s issued some legal documents supporting third sector development.

#### Source:

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9)

### Association LAW (1957)

#### DECREE-LAW

No 102/SL-L

May 20, 1957

### **Regulations on the Rights to Set Up Associations. The President of the Democratic Republic of Vietnam Issues the Decree:**

**On Enacting the Law on the rights to set up associations voted for  
by the National Assembly at the 6th Session as follows:**

**Article 1.**

The rights to set up associations of people are respected and secured. Setting up associations should have legitimate goals being appropriate to the interests of people, having impact on popular solidarity and contribution to the establishment of people's democratic system in our country.

**Article 2.**

All but those having been relieved of citizen rights and prosecuted have the rights to set up associations.

All people have the right to enter and exit the legal associations.

Nobody is allowed to violate the rights to set up associations, and to enter/exit associations of others.

**Article 3.**

To guarantee the legitimate goals of association foundation, defend and consolidate people's democratic system, permits should be applied for setting up associations.

The procedures for setting up associations will be stipulated by the government.

**Article 4.**

The associations having been set up before the issuance of this Law and operational in the occupied areas should apply again for permits, if they wish to continue the operation.

**Article 5.**

Associations legally founded are to operate in line with the association regulations and current laws, allowed to charge association fees from the association members, to buy, sell and trade off assets as required for the operation of associations and file law suit at courts.

Depending upon individual case, the mainly responsible people of associations are the founders or the members of the executive boards of associations.

**Article 6.**

If violating the above-mentioned Articles of 3, 4 and 5, the responsible people will, depending upon the severity of the case, be reprimanded or prosecuted at courts, and the associations risk being dissolved and assets confiscated.

In the case of being prosecuted at court, the responsible people will be fined from VND 100,000 to VND 500,000 and sentenced from 1 to 12 months imprisonment', or forced to suffer from one of two kinds of the penalties.

In the case of continuous illegal operation or re-organisation despite the dissolution, the responsible people will be prosecuted at courts and fined from VND 200,000 to VND 1,000,000 and sentenced from 1 to 24 months imprisonment, or forced to suffer from one of two kinds of the penalties with the associations dissolved and assets confiscated.

**Article 7.**

Those who violate the rights to set up associations, or the freedom to enter/exit associations of others can be reprimanded or prosecuted at courts and sentenced from 1 to 12 months imprisonment.

**Article 8.**

Those who misuse the rights to set up associations to damage the interests of the country and people, national customs and tradition; go against the laws, regime, people's democratic administration; divide the nations; destroy the struggle for national peace, unification, independence, and democracy; ruin the friendship between our people and other peoples; propagate for wars, will be prosecuted at courts and fined under current laws with the associations dissolved and assets confiscated.

**Article 9.**

This Law is not applicable to the democratic and popular movements which had participated in the National Fatherfront during the resistance recognised by the National Assembly and Government.

**Article 10.**

This Law is not applicable to the associations with economic goals.

**Article 11.**

All other laws in contrast with this Law are repelled.

**Article 12.**

The detailed instructions on implementing this Law will be issued by the Government.

## **Comment - Decision No. 340/TTg INGO regulation (1996)**

The second important document is the regulations of the operation of international NGO in Vietnam promulgated in accordance with Decision No. 340/TTg dated 24 May 1996 of the Prime Minister. According to the Regulations, INGO can operate in Vietnam after getting approval of the Committee for INGO activities. The Regulations define in detail the conditions which an INGO should follow as well as those privileges they can enjoy. It also exempts the third sector activities of all taxes (import, business and income tax). The INGOs have to submit to PACCOM annual report on the projects and activities.

**Source:**

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9,](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9)

## The 1992 Constitution

### Comment - The 1992 Constitution

The 1992 Constitution provides for VNGOs by guaranteeing citizens rights to become involved in organizations that benefit society and recognizes international organizations. The Civil Code of Vietnam, adopted in 1996, provides a more detailed system for dealing with domestic VNGOs. Under the Civil Code, a domestic NGO can be legally formed in Vietnam if:

"It is authorized by a competent State authority; has an organizational structure; independently owns and is liable for property; and, independently enters into legal relations in its own name".

#### Source:

[http://www.asianphilanthropy.org/countries/overview\\_details.cfm?country=15&id=9](http://www.asianphilanthropy.org/countries/overview_details.cfm?country=15&id=9),

### The Vietnam Constitution of 1992

#### Chapter I

#### THE SOCIALIST REPUBLIC OF VIETNAM

#### THE POLITICAL REGIME

##### Article 1

The Socialist Republic of Vietnam is an independent and sovereign country enjoying unity and territorial integrity, including its mainland, islands, territorial waters and air space.

##### Article 2

The Socialist Republic of Vietnam is a State of the people, from the people, for the people. All State power belongs to the people and is based on an alliance between the working class, the peasantry, and the intelligentsia.

##### Article 3

The State guarantees and unceasingly promotes the people's mastery in all fields, and severely punishes all acts violating the interests of the motherland and the people; it strives to build a rich and strong country in which social justice prevails, all men have enough to eat and to wear, enjoy freedom, happiness, and all necessary conditions for complete development.

##### Article 4

The Communist Party of Vietnam, the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people, and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the force leading the State and society.

All Party organizations operate within the framework of the Constitution and the law.

#### Article 5

The Socialist Republic of Vietnam is the unified State of all nationalities living on the territory of Vietnam.

The State carries out a policy of equality, solidarity and mutual assistance among all nationalities, and forbids all acts of national discrimination and division.

Every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture.

The State carries out a policy of comprehensive development and gradually raises the material and spiritual living conditions of the national minorities.

#### Article 6

The people make use of State power through the agency of the National Assembly and the People's Councils, which represent the will and aspirations of the people, are elected by them and responsible to them.

Democratic centralism is the principle governing the organization and activity of the National Assembly, the People's Councils, and all other State organs.

#### Article 7

Elections to the National Assembly and the People's Councils are held in accordance with the principles of universal, equal, direct, and secret suffrage.

A member of the National Assembly shall be removed from office by the electors or the National Assembly, a member of a People's Council by the electors or the People's Council, when this member is no longer worthy of the confidence of the people.

#### Article 8

All State organs, cadres and employees must show respect for the people, devotedly serve them, maintain close links with them, listen to their opinions and submit themselves to their control; all manifestations of bureaucratism, arrogance, arbitrariness and corruption shall be vigorously opposed.

#### Article 9

The Vietnam Fatherland Front and its member organizations constitute the political base of people's power. The Front promotes the tradition of national solidarity, strengthens the people's unity of mind in political and spiritual matters, participates in the building and consolidation of people's power, works together with the State for the care and protection of the people's legitimate interests, encourages the people to exercise their right to mastery, ensures the strict observance of the Constitution and the law, and supervises the activity of State organs, elected representatives, and State officials and employees.

The State shall create favourable conditions for the effective functioning of the Fatherland Front and its component organizations.

#### Article 10

The Trade Unions, being the socio-political organization of the working class and the toiling people, joints State organs, economic and social bodies in looking after and safeguarding the rights and interests of cadres, workers, employees and other labouring people, it participates in State administration and social management, in the control and supervision of the activity of State organs and economic bodies; educates workers, employees and other labouring people to work well for national construction and defence.

#### Article 11

The citizen exercises his right to mastery at the grassroots by participating in State and social affairs; he is dutybound to help protect public property, legitimate civil rights and interests, maintain national security and social order, and organize public life.

#### Article 12

The State exercises the administration of society by means of the law; it shall unceasingly strengthen socialist legality.

All State organs, economic and social bodies, units of the people's armed forces, and all citizens must seriously observe the Constitution and the law, strive to prevent and oppose all criminal behaviour and all violations of the Constitution and the law.

All infringements of State interests, of the rights and legitimate interests of collectives and individual citizens shall be dealt with in accordance with the law.

#### Article 13

The Vietnamese motherland is sacred and inviolable.

All machinations and acts directed against the independence, sovereignty, unity, and territorial integrity of the motherland, against the construction and defence of the socialist Vietnamese motherland, shall be severely punished in accordance with the law.

#### Article 14

The Socialist Republic of Vietnam carries out a policy of peace and friendship, seeks to expand its relations and cooperation with all countries in the world regardless of political and social system on the basis of respect for each other's independence, sovereignty and territorial integrity, non-interference in each other's internal affairs, equality, and mutual interests; it seeks to strengthen solidarity, friendship and cooperation with socialist countries and neighbouring countries; it actively supports and participates in the common struggle of the peoples of the world for peace, national independence, democracy and social progress.

#### Chapter VI

#### THE NATIONAL ASSEMBLY

#### Article 83

The National Assembly is the highest representative organ of the people and the highest organ of State power of the Socialist Republic of Vietnam.

The National Assembly is the only organ with constitutional and legislative powers.

The National Assembly shall decide the fundamental domestic and foreign policies, the socio-economic tasks, the country's national defence and security issues, the essential principles governing the organization and activity of the State machinery, the social relations and the activities of the citizen.

The National Assembly shall exercise supreme control over all activities of the State.

#### Article 84

The National Assembly has the following obligations and powers:

1. To make and amend the Constitution, to make and amend laws; to work out a programme for making laws decree-laws.
2. To exercise supreme control over conformity to the Constitution, the law and the resolutions of the National Assembly, to examine the reports of the country's President, the Standing Committee of the National Assembly, the Government, the Supreme People's Court, the Supreme People's Office for Supervision and Control;
3. To decide the country's plan for socio-economic development;
4. To decide the national financial and monetary policies; to decide the draft State budget and budgetary appropriations; to approve the accounts of the State budget, to establish, change, or abolish taxes;
5. To decide the nationalities policy of the State; 6. To regulate the organization and activity of the National Assembly, the country's President, the Government, the People's Courts, the People's Office of Supervision and Control and the local administrations;
7. To elect, release from duty, remove from office the country's President and Vice-President, the Chairman of the National Assembly, the Vice-Chairman and members of the Standing Committee of the National Assembly, the Prime Minister, the President of the Supreme People's Court, the Head of the Supreme People's Office of Supervision and Control; to sanction the proposals of the country's President on the establishment of the Council of National Defence and Security; to sanction the proposals of the Prime Minister on the appointment, release from duty and removal from office of Vice-Premiers, Cabinet Ministers and other members of the Government.
8. To set up or suppress government ministries and government organs of ministerial rank; to establish, merge, divide, or adjust the boundaries of provinces and cities under direct central rule; to set up or disband special administrative-economic units;
9. To abrogate all formal written documents issued by the country's President, the Standing Committee of the National Assembly, the Government, the Prime Minister, the Supreme People's Court, and the Supreme People's Office of Supervision and Control, that run counter to the Constitution, the law, and resolutions taken by the National Assembly;
10. To proclaim an amnesty;



11. To institute titles and ranks in the people's armed forces, in the diplomatic service and other State titles and ranks; to institute medals, badges and State honours and distinctions;

12. To decide issues of war and peace; to proclaim a state of emergency and other special measures aimed at ensuring national defence and security;

13. To decide fundamental policies in external relations; to ratify or annul international agreements that have been signed or participated in on the proposal of the country's President;

14. To hold a referendum.

#### Article 85

The duration of each National Assembly is five years.

Two months before the end of its tenure, a new National Assembly shall have been elected. The electoral procedure and the number of members of the National Assembly shall be established by law.

In special cases, with the approval of at least two-thirds of its members, the National Assembly can either reduce or prolong its period of tenure.

#### Article 86

The National Assembly shall hold two sessions each year, to be convened by its Standing Committee.

When so required by the country's President, the Prime Minister, or at least one-third of the total membership of the National Assembly, or in pursuance of its own decision, the Standing Committee may convene an extraordinary session of the National Assembly.

The first session of the newly-elected National Assembly shall be convened two months after its election at the latest; it shall be opened and presided over by the chairman of the outgoing National Assembly until the election by the incoming National Assembly of its chairman.

#### Article 87

The country's President, the Standing Committee of the National Assembly, the Nationalities Council and Committees of the National Assembly, by the Government, the Supreme People's Court, the Supreme People's Office of Supervision and Control, the Vietnam Fatherland Front and its member organizations may present draft laws to the National Assembly.

Members of the National Assembly may present motions concerning laws and draft laws to the National Assembly.

The procedure for the presentation to National Assembly of draft laws and motions concerning laws shall be established by law.

#### Article 88

Laws and resolutions of the National Assembly must be approved by more than half the total membership of the National Assembly; but decisions taken by the National Assembly to remove from office one of its members as stipulated in Article 7, to reduce or prolong its tenure as stipulated in Article 85 and to amend the Constitution as stipulated in Article 147 must be approved by at least two-thirds of its total membership.

Laws and resolutions of the National Assembly must be made public fifteen days after their adoption at the latest.

#### Article 89

The National Assembly shall elect a Credentials Committee and base itself on the report of the Committee to confirm the capacity of its members.

#### Article 90

The Standing Committee of the National Assembly is its permanent committee.

It is composed of:

- the Chairman of the National Assembly;
- the Vice-Chairman of the National Assembly;
- the members.

The membership of the Standing Committee shall be determined by the National Assembly. A member of the Standing Committee of the National Assembly cannot be at the same time a member of the Government.

The Standing Committee of each legislature shall fulfil its tasks and exercise its powers until the election by the new legislature of a new Standing Committee.

#### Article 91

Following are the duties and powers of the Standing Committee of the National Assembly:

1. To call and preside over the election of the National Assembly;
2. To prepare for, to convene, and preside over the sessions of the National Assembly;
3. To interpret the Constitution, the law, and decree-laws;
4. To enact decree-laws on matters entrusted to it by the National Assembly;
5. To exercise supervision and control over the implementation of the Constitution, the law, the resolutions of the National Assembly, decree-laws, the resolutions of the Standing Committee of the National Assembly; over the activities of the Government the Supreme Peoples Court, the Supreme People's Office of Supervision and Control, to suspend the execution of the formal written orders of the Government, the Prime Minister, the Supreme People's Court, the Supreme People's Office of Supervision and Control, that contravene the Constitution, the law, and resolutions of the National Assembly; to report the matter to the National Assembly for it to decide the abrogation of

such orders; to repeal the written orders of the Government, Prime Minister, the Supreme People's Court, the Supreme People's Office of Supervision and Control that are contrary to the decree-laws and resolutions of the Standing Committee of the National Assembly;

6. To exercise supervision and control over, and to give guidance to, the activities of the People's Councils; to annul wrong resolutions by the People's Councils of provinces and cities under direct central rule, to disband People's Councils of provinces and cities under direct central rule whenever such Councils cause serious harm to the interests of the people;

7. To direct, harmonize, and co-ordinate the activities of the Nationalities Council and the Committees of the National Assembly, to give guidance to, and ensure good working conditions for, members of the National Assembly;

8. In the intervals between sessions of the National Assembly, to sanction proposals of the Prime Minister concerning the appointment, release from duty, and dismissal of a Vice-Premier, a Cabinet Minister, and other members of the Government, and to report such matters to the nearest session of the National Assembly;

9. In the intervals between sessions of the National Assembly, to proclaim the state of the war in case of foreign aggression and report the matter to the National Assembly for its approval at its nearest session;

10. To proclaim general or partial mobilization; to proclaim a state of emergency throughout the country or in a particular region;

11. To carry out the National Assembly's external relations;

12. To organize a referendum following decision by the National Assembly.

#### Article 92

The Chairman of the National Assembly shall preside over its sessions; authenticate through his signature laws and resolutions of the National Assembly; give leadership to the activities of its Standing Committee; organize the carrying out of its external relations; maintain relationship with its members.

The Vice-Chairmen of the National Assembly shall assist the Chairman in the fulfillment of his duties as required by him.

#### Article 93

The decree-laws and resolutions of the Standing Committee of the National Assembly must be approved by more than half of its membership. They must be made public fifteen days following their adoption at the latest, except in case they are presented by the country's President to the National Assembly for review.

#### Article 94

The National Assembly shall elect a Nationalities Council comprising the Chairman, Vice-Chairmen, and members.

The Nationalities Council studies and makes proposals to the National Assembly on

issues concerning the nationalities; supervises and controls the implementation of policies on nationalities, the execution of programmes and plans for socio-economic development of the highlands and regions inhabited by national minorities.

Prior to promulgation of decisions related to nationalities policies, the Government must consult the Nationalities Council.

The Chairman of the Nationalities Council can sit in on meetings of the Standing Committee of the National Assembly and meetings of the Government at which are discussed ways of putting into effect policies on nationalities.

The Nationalities Council has also other duties and powers as assigned to the Committees of the National Assembly in Article 95.

A number of members of the Nationalities Council are in charge of special tasks.

Article 95

The National Assembly shall elect its Committees.

The Committees of the National Assembly study and check draft laws, make proposals concerning laws, draft decree-laws and other drafts, and reports entrusted to them by the National Assembly or its Standing Committee; present to the National Assembly and its Standing Committee their views on legislative programmes; exercise supervision and control within the bounds determined by law; make proposals concerning issues within their fields of activity.

A number of members of each Committee are in charge of special tasks.

Article 96

The Nationalities Council and the Committees of the National Assembly can require members of the Government, the President of the Supreme People's Court, the Head of the Supreme People's Office of Supervision and Control, and other State officials to report or supply documents on certain necessary matters. Those to whom such requests are made must satisfy them.

It is the responsibility of State organs to examine and answer the proposals made by the Nationalities Council and the Committees of the National Assembly.

Article 97

The deputy to the National Assembly represents the will and aspirations of the people, not only of his constituency but of the whole country.

The deputy to the National Assembly must maintain close ties with the electors; submit himself to their control; collect and faithfully reflect their views and aspirations for the consideration of the National Assembly and the State organs concerned; maintain regular contacts with and make reports to the electors on his own activities and the National Assembly's; answer the requests and proposals of the electors; examine, activate and keep track of the way citizens' complaints and denunciations are dealt with, and give guidance and assistance to citizens seeking to exercise their rights.

The deputy to the National Assembly shall popularize and urge the people to implement the Constitution, laws and resolutions of the National Assembly.

#### Article 98

The deputy to the National Assembly has the right to interpellate the country's President, the Chairman of the National Assembly, the Prime Minister, Cabinet Ministers and other members of the Government, the President of the Supreme People's Court, and the Head of the Supreme People's Office of Supervision and Control. The officials interpellated must give an answer at the current session; in case an inquiry is needed the National Assembly may decide that the answer should be given to its Standing Committee or at one of its own subsequent sessions, or may allow the answer to be given in writing.

The deputy to the National Assembly has the right to request State organs, social organizations, economic bodies, and units of the armed forces to answer questions on matters with which he is concerned. The people in charge of those organs, organizations, bodies and units have the responsibility to answer questions put by the deputy within the time limit set by the law.

#### Article 99

A member of the National Assembly cannot be arrested or prosecuted without the consent of the National Assembly and, in the intervals between its sessions, without the consent of its Standing Committee.

In case of a flagrant offence and the deputy is taken into temporary custody, the organ effecting his arrest must immediately report the facts to the National Assembly or its Standing Committee for its examine them and take a decision.

#### Article 100

The deputy to the National Assembly must devote the necessary time to his work.

It is the responsibility of the Standing Committee of the National Assembly, the Prime Minister, the Cabinet Ministers, the other members of the Government, and the other State organs to supply him with the material he requires and to create the necessary conditions for him to fulfil his duty.

The State shall ensure that he has the money necessary to his activities.

### Chapter VIII THE GOVERNMENT

#### Article 109

The Government is the executive organ of the National Assembly, the highest organ of State administration of the Socialist Republic of Vietnam.

The Government shall carry out overall management of the work for the fulfillment of the political, economic, cultural, social, national-defence, security and external duties of the State. it shall ensure the effectiveness of the State apparatus from the centre to the grassroots; it shall ensure respect for and implementation of the Constitution and the law; it shall promote the mastery of the people in national construction and defence, it

shall ensure security and the improvement of the people's material and cultural living conditions.

The Government is accountable to the National Assembly and shall make its reports to the National Assembly, its Standing Committee, and the country's President.

#### Article 110

The Government shall be composed of the Prime Minister, the Vice-premiers, the Cabinet Ministers, and other members.

With the exception of the Prime Minister, its members are not necessarily members of the National Assembly.

The Prime Minister is accountable to the National Assembly and shall make his reports to the National Assembly, its Standing Committee, and the country's President.

The Vice-Premiers shall assist the Prime Minister in the performance of his duties, as required by him. In the absence of the Prime Minister, one of his deputies shall be delegated by him to direct the work of the Government.

#### Article 111

The Chairman of the Central Committee of the Vietnam Fatherland Front, the Chairman of the Vietnam Federation of Labour and the heads of mass organizations shall be invited to attend the sessions of the Government when relevant problems come up for discussion.

#### Article 112

Following are the duties and powers of the Government:

1. To direct the work of the ministries, the organs of ministerial rank and the organs of the Government, the People's Committees at all levels; to build and consolidate the unified system of the apparatus of State administration from the centre to the grassroots; to guide and control the People's Councils in their implementation of the directives of superior organs of State administration; to create favourable conditions for the People's Councils to fulfil their duties and exercise their powers as laid down by law, to train, foster, dispose and use State officials and employees;
2. To ensure the implementation of the Constitution and the law in State organs, economic bodies, social organizations, units of the armed forces, and among citizens; to organize and direct propaganda and educational work among the people concerning the Constitution and the law;
3. To present draft laws, decree-laws and other projects to the National Assembly and its Standing Committee;
4. To ensure the overall management of the building and development of the national economy; to carry into effect national financial and monetary policies; to manage and ensure the effective use of property in the ownership of the entire people; to promote the development of culture, education, health care, science and technology; to carry out the plan for socio-economic development and to give effect to the State budget;

5. To take measures to protect the rights and legitimate interests of the citizen, to create conditions for him to exercise his rights and fulfill his duties, to protect the property and interests of the State and society; to protect the environment;
6. To consolidate and strengthen national defence by the entire people and the people's security; to ensure national security and social order; to build the people's armed forces; to carry into effect general mobilization; to proclaim the state of emergency and all other necessary measures to defend the country;
7. To organize and direct the conduct of State inventories and statistics; State inspection and control, to fight bureaucratism and corruption in the State machinery; to settle complaints and denunciations by citizens;
8. To ensure the overall management of the State's external relations; to sign, approve international agreements on behalf of the Government; to direct the implementation of international agreements subscribed to or joined by the Socialist Republic of Vietnam; to protect the interests of the State and the legitimate interests of Vietnamese citizens and organizations in foreign countries;
9. To implement social policies, nationalities policies, policies on religion;
10. To take decisions on the adjustment of the boundaries of administrative units below the level of the province and the city under direct central control;
11. To coordinate its efforts with those of the Vietnam Fatherland Front and all mass organizations in the fulfillment of their duties and exercise of their rights; to create conditions for their effective functioning.

#### Article 113

The tenure of the Government is the same as that of the National Assembly. When the latter's tenure ends the Government shall continue in office until the new legislature establishes a new Government.

#### Article 114

Following are the duties and powers of the Prime Minister:

1. To direct the work of the Government, the Government members, the People's Councils at all levels; to chair Cabinet meetings;
2. To propose to the National Assembly to set up or disband ministries and organs of ministerial rank; to present to the National Assembly or, when the latter is not in session, to its Standing Committee for approval, proposals on the appointment, release from duty, or dismissal of Vice- Premiers, Cabinet Ministers and other members of the Government;
3. To appoint, release from duty, or dismiss Vice-Ministers and officials of equal rank; approve the election, release from duty, secondment, and dismiss the Chairmen and Vice-Chairmen of People's Committees of provinces and cities under direct central rule;
4. To suspend or annul decisions, directives and circulars of Cabinet Ministers and other Government members, decisions and directives of People's Councils and Chairmen of People's Committees of provinces and cities under direct central rule that contravene the

Constitution, the law, and other formal written documents of superior State organs;

5. To suspend the execution of resolutions of People's Councils of provinces and cities under direct central rule that contravene the Constitution, the law, and formal written orders of superior State organs; at the same time to propose to the Standing Committee of the National Assembly to annul them;

6. To make regular reports to the people through the mass media on major issues to be settled by the Government.

#### Article 115

On the basis of the Constitution, the law, and the resolutions of the National Assembly, the decree-laws and resolutions of the latter's Standing Committee, the orders and decisions of the country's President, the Government shall issue resolutions and decrees, the Prime Minister shall issue decisions and directives and shall supervise the execution of those formal written orders.

Major issues within the jurisdiction of the Government shall undergo collegial discussion and decisions shall be taken in conformity with the will of the majority.

#### Article 116

Cabinet Ministers and other Government members shall be responsible for State administration in the fields and branches under their respective authority throughout the country; they shall ensure the autonomy of grassroots units in production and trading according to the provisions of the law.

On the basis of the Constitution, the law, and the resolutions of the National Assembly, the decree-laws and resolutions of the latter's Standing Committee, the orders and decisions of the country's President, the written orders of the Government and the Prime Minister, the Cabinet Ministers, the other Government members, the heads of Government organs shall issue decisions, directives and circulars and shall control the execution of those formal written instructions by all branches, regions and grassroots units.

#### Article 117

Cabinet Ministers and the other Government members shall be responsible to the Prime Minister and the National Assembly for the fields and branches under their respective authority.

### Chapter IX

### THE PEOPLE'S COUNCILS AND THE PEOPLE'S COMMITTEES

#### Article 118

The administrative units of the Socialist Republic of Vietnam are distributed as follows:

The country is divided into provinces and cities under direct central rule;

The province is divided into districts, provincial cities, and towns; the city under direct central rule is divided into urban districts, rural districts, and towns;



The district is divided into communes and townlets; the provincial city and the town are divided into wards and communes; the urban district is divided into wards.

The establishment of People's Councils and People's Committees in administrative units is determined by law.

#### Article 119

The People's Council is the local organ of State power; it represents the will, aspirations, and mastery of the people; it is elected by the local people and is accountable to them and to the superior State organs.

#### Article 120

On the basis of the Constitution, the law, and the formal written orders of superior State organs the People's Council shall pass resolutions on measures for the serious implementation of the Constitution and the law at local level; on the plan for socio-economic development and the execution of the budget; on national defence and security at local level; on measures for stabilizing and improving the people's living conditions, fulfilling all duties entrusted by the superior authorities and all obligations to the country as a whole.

#### Article 121

The deputy to the People's Council represents the will and aspirations of the local people; he must maintain close ties with the electors, submit himself to their control, keep regular contact with them, regularly report to them on his activities and those of the People's Council, answer their requests and proposals; look into and activate the settlement of the people's complaints and denunciations.

It is the duty of the deputy to the People's Council to urge the people to abide by the law, State policies, and the resolutions of the People's Council; and to encourage them to join in State administration.

#### Article 122

The deputy to the People's Council has the right to interpellate the Chairman of the People's Council, the Chairman and other members of the People's Committee, the President of the People's Court, the Head of the People's Office of Supervision and Control, and the heads of organs under the People's Committee. The officials interpellated must answer this interpellation within the time determined by law.

The deputy to the People's Council has the right to make proposals to local State organs. The officials in charge of these organs have the responsibility to receive him, and to examine and settle the issues raised in his proposals.

#### Article 123

The People's Committee elected by the People's Council is the latter's executive organ, the organ of local State administration. It is its responsibility to implement the Constitution, the law, the formal written orders of superior State organs and the resolutions of the People's Council.

#### Article 124

Within the bounds of its duties and powers the People's Committee shall issue decisions and directives and supervise their execution.

The Chairman of the People's Committee shall give leadership and operational guidance to the activities of the People's Committee.

When deciding major local matters, the People's Committee shall undertake collegial discussion and its decisions must conform to the will of the majority.

The Chairman of the People's Committee can suspend or annul the wrong decisions of organs under the People's Committees and People's Councils of a lower rank; it can suspend wrong resolutions of People's Councils of a lower rank and at the same time propose to the People's Council at his own level to annul such resolutions.

#### Article 125

The Chairman of the Vietnam Fatherland Front and the heads of mass organizations in the locality shall be invited to attend sessions of the People's Council and to attend meetings of the People's Committee at the same level when relevant problems are discussed.

The People's Council and the People's Committee shall make regular reports on the local situation in all fields to the Fatherland Front and the mass organizations; shall listen to their opinions and proposals on local power building and socio-economic development; shall cooperate with them in urging the people to work together with the State for the implementation of socio-economic, national defence, and security tasks in the locality.

First Source Document Status List		
Number	Name	Status
1	The Association Law (issued by the President Order No 102-SL 20 May 1957)	Included
2	The Decree No 258/TTg, 14 June 1957	N/a
3	Directive 01/CT dated 05/01/1989 on the mangement of operation and activities of people associations	n/a
4	Guidelines 07/TCCP on 6/1/1989 of the GCOP on the implementation of the Directive 01/CT on 05/1/1989	n/a
5	Constitution 1992	
6	Civil Code 1996	n/a
7	Budget Law	n/a
8	Decree 35/CP in 1992 on Some Measures to Encourage Scientific and Technological Activities	Hard copy- Viet Nam only
	Directive 30/CT issued by the Central Committee of the Vietnam's CP on Grassroots Democracy	n/a
9	Decree 177 on 22/2/1999 on the regulations of organisation and activitites of the charity fund	Included
10	Decree 25/ND-CP on 30 May 2001 on regulations of organisation and operation of support centres	n/a
11	Decree 29/1998/ND-CP - Regulations on the exercise of democracy in communes	Included
12	Grassroots Democracy at agencies (Decree 71/1998/ND-CP dated September 8, 1998	n/a
13	Grassroots Democracy at state owned enterprises (Decree 07/1999/ND-CP issued February 13, 1999	n/a
14	Law on Science and Technology in 2000	Included
15	Decree No. 79/2003/ND-CP of July 7, 2003 Promulgating the Regulation on the Exercise of Democracy in Communes	included
16	Circular no. 12/2004/tt-bnv of february 20,2004 guiding the implementation of the government's decree no.79/2003/nd cp of july 7,2003 on the regulation on exercise of democracy in communes and applicable to wards, district townships	Included
17	Decision 21/2003/QD-TTg, 29/01/2003 on the government budget support for professional and social associations toward their activities that related to the tasks of the government	n/a
18	Law on Government organisation, 25/12/2001	n/a
19	Decree No. 88/2003/ND-CP	Included
20	Circular 123/2003 TT-BTC on 16/12/2003, on the guidelines for the supporting the professional and social association	n/a
21	Circular 01/ 2004/TT-BNV on 15/01/2004 on the regulation of decree 88	included