

PN.ACP-457  
114480

*MINISTRY OF JUSTICE*

*ASIAN DEVELOPMENT BANK RETA 5640*

*UNDP PROGRAMME VIE 94/003*

*INTERNATIONAL DEVELOPMENT LAW INSTITUTE*

**BUILDING SUSTAINABILITY FOR  
LEGAL TRAINING  
OF GOVERNMENT LAWYERS  
IN THE SOCIALIST REPUBLIC OF  
VIET NAM**

**REPORT**

*May 1996*

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**BUILDING SUSTAINABILITY FOR LEGAL TRAINING  
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*Executive Summary*

*The Socialist Republic of Viet Nam is one of the most dynamic societies in the most dynamic region of the world on the eve of the next millennium. However, Viet Nam is hindered in its economic development by a deficit of trained legal professionals. The limited number of government lawyers well versed in the legal dimension of a market economy can only demand that these cadres be re-trained in both substantive legal knowledge and the legal skills that they lack. Such can only be done as part of a global legal training and re-training policy which the government authorities must design and conduct. Based upon the needs identified during the consultancy missions conducted in November/December 1995 and January/February 1996, this report provides the Vietnamese government with recommendations on the best approach to implement such policy.*

*Viet Nam is overflowing with short term training. Two or three day or one or two week seminars are very common. This is legitimate as Continuing Legal Education, is the only instrument available to re-train government officials whose legal education is not updated in line with today's knowledge and skills requirements. However, Senior officials simply do not have the time to attend long programs, i.e. several months in duration, and when they do it is seriously disruptive to the functioning for the office concerned.*

*Training assistance is provided by lawyers and scholars from different origins and different legal systems, creating problems of coherence as incompatibilities between solutions appear. With respect to legal training, the multiplication of inputs, in itself positive because of the resources it provides, also creates difficulties as methodologies may differ as curricula are designed without sufficient coordination among the cooperating agencies. The need for donor coordination is acknowledged by all. The role of the Ministry of Justice in the technical assistance process and in particular in Technical Assistance coordination should be reinforced again as the ministry is the only agency competent to assess the legal training and re-training needs of the country. Such could be done with a requirement that all foreign-assisted legal training activity in the country would have to be authorized by the Ministry of Justice. There is no question that the Ministry is best equipped to suggest initiatives,*

*recommend and oversee projects as part of a re-training policy which only they are in position to design.*

*As part of this design responsibility, the Ministry of Justice should impose the presence of at least one Vietnamese instructor in all foreign-sponsored training event. Such "minimum quota" would provide opportunities for Vietnamese instructors to experiment training methodology, interact with foreign experts and reinforce the Vietnamese ownership of legal re-training activities.*

*All analysts, along with the government itself, refer to the need for training the trainers as a top priority. Training methodology is a major shortcoming of today's legal education in Viet Nam. Traditional lecturing is still very much the only method used, with limited training material provided for lack of resources. Accordingly, it is suggested that law teachers and other trainers be trained in modern interactive law teaching methods found effective in other countries -especially for practical job-oriented training-- and also to make their lectures more effective. Such inter-active law teaching include the so-called "case method", effective use of questions and answers between trainees and trainers, use of hypothetical case studies, practical group exercises, clinical training, role-playing, panel discussions and the like.*

*However, such re-training of the trainers cannot be conceived as an end in itself. Vietnamese trainers need to improve their training skills in order to provide government lawyers with market economy substantive law knowledge which their education in the Soviet Union or Eastern Europe did not impart. Accordingly, in combination with the enhancement of their training methodology, the trainers will require further education in various areas of substantive law. Specifically, they will need to receive further training in Economic Law Reform, the role of the enterprise and of the banks in a market economy, the legal aspects of State-owned enterprises restructuring, the legal framework of investments and the new role of the State. Furthermore, the future trainers must be able to fully understand the functions of each of the categories of government lawyers they will be training: judges, legal advisors and legislative drafters.*

*A problem lies with the very limited knowledge of English (or other foreign language) by Vietnamese civil servants. Large scale English language training is not the mandate of legal technical assistance. Accordingly, and until sufficient number of Vietnamese instructors have been trained, the focus of agencies dealing with the reinforcement of local training capabilities should be on the legal training of some interpreters and the development of Vietnamese language training material. Providing training through translation means that the training material which must be translated is either reduced to a bare minimum or non existent. In either cases, the material falls short of its main purpose which is to be a source of reference for future use by the trainee. Only specially-designed Vietnamese language training material can meet this requirement.*

*Along with development of Vietnamese language training material, the use of video documents and in particular dubbed training videotapes should be promoted.*

*Training evaluation is a critical instrument to assess the impact of a particular training, legal or otherwise. To be effective, it must consider on-the-job performance-related criteria. This is feasible for training which focuses on practical skills with direct job applications. A standard format for legal training evaluations should be developed and used for all in-country legal training. Such evaluation should be compulsory.*

*The re-training policy of the country designed by the authorities should focus on the following priorities: Lawyering skills training, including but not limited to legislative drafting, Substantive law re-training with emphasis on Economic Law Reform issues and Training methodology for those who will be given the responsibility to implement the re-training program. Such program should gradually be offered to all government lawyers, wherever they work. It could be done through regular three to four week special courses conducted by Vietnamese instructors using modern interactive training methodology.*

*The institution best equipped to implement this legal re-training policy is the Hư Néi Law University. HLU should be the implementing agency of a project supervised by the Ministry of Justice in quality of Executing Agency.*

*Foreign expert assistance should be limited to the initial years of the program when the Vietnamese instructors are still being trained. A part-time, long-term legal training consultant could assist in identifying these foreign resources as well as the institutions abroad which could play a role in the Training of Trainers segment of the program. The long-term legal training consultant could also be asked to assist the Ministry of Justice in identifying financing for implementation of such program.*

## **1. INTRODUCTION**

1.1 This report is the result of a consultancy jointly sponsored by two separate projects: the Asian Development Bank "Institutionalizing Legal Training in Cambodia, Mongolia, The People's Republic of China and Viet Nam" Regional Technical Assistance project (RETA 5640) and the United Nations Development Programme "Strengthening the Legal Capacity in Viet Nam" project (VIE/94/003). The Terms of Reference for these projects are presented in Annex 1.

1.2 This report was prepared by Mr. Gilles BLANCHI, Deputy Director of the Rome-based International Development Law Institute and Head of the soon-to-be-established in Manila IDLI Asia Regional Training Office. This report is based on a Training Needs Assessment carried out with Dr. Le Hong HANH and Dr. Le Minh TAM, both Vice-Rectors of H $\mu$  Néi Law University, Dr. Ha Hung CUONG, Director of International Law and Cooperation of the Ministry of Justice, and Mr. Pham DUNG, Deputy Director for Policy of the Ministry of Finance. Together, these officials constitute the Training Team under Programme VIE/94/003 headed by Dr. Nguyen Ngoc HIEN, Vice Minister of Justice and Rector of H $\mu$  Néi Law University.

1.3 The consultant benefited from the outstanding work and constant support of the Training Team and its individual members as well as strong and efficient support of the Ministry of Justice, the staff of the United Nations Development Programme Project VIE 94/003 and in particular of Resident Legal Advisor, Mr. John BENTLEY. The consultant also appreciated guidance of the ADB General Counsel Mr. Barry METZGER and the assistance of ADB Senior Counsel Ms. Eveline N. FISCHER.

## **2. OBJECTIVES AND METHODOLOGY**

### 2.1 Objectives:

2.11 The main objectives of this study are threefold: firstly, to assess the Training Needs of government lawyers of Viet Nam and in particular the re-training requirements of selected agencies of the country; secondly, to identify the current training available to these government lawyers, evaluate its adequacy and identify the institution(s) best equipped to undertake necessary re-training; and finally, based on the foregoing, to recommend a detailed, practicable rolling training program for institutionalized legal training and re-training which would meet the requirements of the Terms of Reference set forth in Annex 1a and 1b including specific concrete measures to strengthen existing programs as well as create new training opportunities.

2.12 These recommendations would include the outline of an initial training plan to be implemented by the Vietnamese authorities with government support and, as necessary, supplementary external technical and funding assistance.

2.13 The overall goal is to identify the means to enhance local re-training capacity for government lawyers. Eventually, what is aimed at is to achieve legal re-training self-sufficiency.

2.14 It is important to underline from the outset that self-sufficiency in legal training and re-training is not an option but an imperative. The sheer number of civil servants needing legal re-training and the Vietnamese language competence necessary are such that no development agency or combination of development agencies, assuming they would be given such mandate by the government, would ever be in position to undertake such task.

2.15 The Vietnamese authorities will have to take the lead in this undertaking. Only they have the capacity to train sufficient law teachers and trainers with the linguistic competence to teach the numbers of civil servants in need of re-training throughout the 53 provinces of Viet Nam. What the development agencies are in position to do is to provide assistance to help the authorities train the trainers and develop training material and curricula so that eventually the government lawyers of the Socialist Republic of Viet Nam will have the lawyering skills and legal substantive knowledge required for the economic development of the country.

## 2.2 Methodology:

2.21 In order to achieve the above objectives, the consultant conducted a series of interviews and meetings<sup>2</sup> during two separate in-country missions in Viet Nam, November 27 - December 15, 1995 and January 16 - February 10, 1996.

2.22 During these missions, thanks to the efforts of the Training Team and Programme staff of VIE/94/003, the consultant was able to meet with a number of Vietnamese and foreign officials in Hµ Néi, Hả ChÝ Minh City, CÇn Thá and Şµ N½ng and to finalize the report and recommendations below. During the mission out of Hµ Néi, the interviews were conducted together with Training Team Member, Dr. Le Hong Hanh, Vice Rector of Hµ Néi Law University.

2.23 Additionally, at the conclusion of the first mission, the Training Team organized and conducted a highly useful two-day workshop during which the consultant was able to test some of his initial conclusions and gather valuable input from trainers and training administrators from a broad spectrum of government legal departments and institutions.

2.24 A one-week Training of Trainers workshop concluded the second mission. It was an opportunity to test the relevance of some of the conclusions reached, especially

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<sup>2</sup> See the list of Persons met in Annex 2.

regarding the usefulness of in-country short term training and the relevance of Training of Trainers.

### 3. LEGAL ENVIRONMENT

3.1 Numerous reports have been devoted to the explanation of the Vietnamese Legal framework and legal system. Additionally, scholars' articles, journalists' papers and professional publications have regularly provided updates on the most recent developments of the laws in Viet Nam. The vast majority of these publications focus either on the impact such changes had or could have on "doing business" in Viet Nam (practitioners' contributions are the primary source for such approach<sup>3</sup>) or on the dimension which calls for further technical assistance (this has been the objective of development agency reports, sometimes combined with project proposals<sup>4</sup>).

3.2 Since our mandate is to focus on the interaction between the developments in the national legal system and training and re-training needs, we will limit our inquiry to the connections between the current legal context of the country and the demands this changing legal environment places on the government lawyers and in particular on their competence.

3.3 The main challenge to law professionals in Viet Nam since 1986 has come as much or more from the introduction of new concepts than in the sheer mass of new laws enacted. Introducing radical changes in property rights and the relationship between private citizens and the land they cultivate or the house they inhabit is much more fundamental than modifications of legal procedures. Accordingly, government lawyers have been confronted with issues that go well beyond the reading of newly enacted legislation.

3.4 Further to the Sixth National Congress of the Communist Party of Viet Nam, the 1992 Constitution introduced drastic changes, such as reference to the fact that "*The citizen enjoys freedom of enterprise as determined by law*"<sup>5</sup> and that "*The citizen enjoys the right of ownership with regard to his lawful income, savings, housing, chattels, means of production, funds and other possessions in enterprises or other economic organizations...*"<sup>6</sup> These provisions represent a major departure from the previous 1980 Constitution which provided that "*The State... institutes and consolidates the system of socialist ownership of the means of production with the aim of building a national economy with two essential components - the State sector under the ownership of the entire people and the collective economic sector under the collective ownership of the working people*"<sup>7</sup>.

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<sup>3</sup> The extensive work done by the Australian firm Phillips Fox on Investment Laws of Viet Nam is probably the first reference used by anyone interested in this business angle.

<sup>4</sup> See the World Bank Policy Research Working Paper n°1291, "A Survey of Viet Nam's Legal Framework in Transition" by Natalie G. LICHTENSTEIN and the SIDA-sponsored "Introduction to the Vietnamese Legal System" of Messrs. Hoang Phuoc HIEP, Nguyen Minh MAN, Hoang Thang TUNG, Per BERGLING, Erik PERSSON and Ms. Viola BOSTROM.

<sup>5</sup> 1992 Constitution, article 57.

<sup>6</sup> 1992 Constitution, article 58.

<sup>7</sup> 1980 Constitution, article 18.

3.5 In such context, lawyers have not only to study the new laws but also to understand how the very role of the State is being challenged and new economic entities are being created. Since very few of the law teachers had been previously exposed to the legal framework of a market economy, they had themselves to become familiar with these concepts. When the legal advisors of the technical ministries concerned drafted the laws on technology transfer (1988), on industrial property (1989), on private enterprises (1990) or, more recently, when they are working on taxation laws, they had to study these concepts without prior reference and knowledge of how they would operate and fit in the overall legal framework. The Ministry of Justice organized seminars on these issues, with the active support of foreign development agencies. However, during this consultant's interviews with these lawyers they expressed the desire for more training on these questions.

3.6 An important need which appeared in considering recent changes in the legal environment of the country, was for government lawyers to have knowledge of comparative law and, more importantly, capacity to conduct comparative legal analysis. (the latter being essential at a time when so many and so different models are being suggested by different experts originating from various legal systems).

#### 4. INSTITUTIONAL ENVIRONMENT

4.01 The purpose of this segment of the report is not to provide an exhaustive presentation of the structure, role and duties of each of the agencies concerned. Rather, the intent is to consider these institutions from the viewpoint of their needs in terms of legal competence.

4.02 For a complete presentation of the various government agencies, the relationships between institutions, structures and systems and their respective responsibilities in reinforcing the rule of law in the country, one could read the SIDA-funded draft report "Introduction to the Vietnamese Legal System"<sup>8</sup>. More recently, the report on "Legal Training in Viet Nam", also sponsored by the Swedish development agency, provides additional background information on the situation in Vietnamese law schools<sup>9</sup>. Mark Sidel's articles on "Law Reform in Viet Nam: The complex transition from Socialism and Soviet models in legal scholarship and training"<sup>10</sup> and on "The re-emergence of legal discourse in Viet Nam"<sup>11</sup> are excellent analyses of the environment which both facilitated and hindered the recent changes in Viet Nam vis-à-vis law and the role of lawyers

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<sup>8</sup> HIEP, MAN et al. Report cited in Note 1.

<sup>9</sup> Report by Messrs. Michael BOGDAN, Krister EDWARDS and Per FALK.

<sup>10</sup> Pacific Basin Law Journal, Vol. 11:221, 1993.

<sup>11</sup> International and Comparative Law Quarterly, Vol. 43, January 1994.

## 4.1 The Ministries

### 4.11 The Ministry of Justice:

4.111 The Decree N°38 of June 4th, 1993, provides that the Ministry of Justice's duties and powers are, among other things, to *"submit to the government for decision and work out long-term and annual programs for dissemination of legal information and legal education; to set up curriculum of legal education in schools in coordination with the Ministry of Education and Training; to make training program for judicial personnel of the whole country, train legal staff with law bachelor degree as assigned by the Government; to administer training and upgrading of qualification of staff of courts, departments of justice, law sections in the Ministries, lawyers, public notaries, expertise professionals, cadres of civil registry, executors; to conduct law researches, expand legal information activities."*

4.112 It is therefore not surprising that any study of the legal re-training needs and consideration of ongoing re-training activities would start with that particular agency. The fact that the National Director of the UNDP project on "Strengthening the Legal Capacity in Viet Nam" is no other than Vice-Minister Nguyen Ngoc Hien himself, is further evidence that the importance of this task is acknowledged at the highest level of the Government. The Ministry of Justice and its subdivisions at the provincial and district level, employs the largest number of law graduates in the country and the largest proportion of holders of post-graduate law degrees. The Ministry is also directly supervising the main law teaching institution in the country, the Hµ Néi Law University. One could accordingly argue that the largest quantity of best trained law oriented personnel is working in one capacity or another for the Ministry of Justice.

4.113 While this is statistically true, the re-training requirements remain however equally important. The Minister himself, Mr. Nguyen Dinh Loc, repeatedly affirms that all his staff is in need of re-training. Furthermore, what is certain is that, because of this commitment and because of the responsibilities outlined in Decree 38, the Ministry has been in the forefront of all initiatives aiming at enhancing legal capabilities among government lawyers.

4.114 The Ministry is directly responsible for the administration of the local People's Courts, it is not responsible for the Supreme Court which remains accountable to the National Assembly. Because of this responsibility, the Ministry of Justice is naturally most concerned with Judges' training. However, discussions with supervisors at the Ministry demonstrated that the need to enhance capability is not restricted to judges but concerns all legal officials and is regarded as a top priority.

4.115 As in all agencies, the legal skill immediately referred to when addressing the issue of re-training is drafting. Like every Vietnamese Ministry, the Ministry of Justice is regularly involved in drafting legislation. However, its role is undoubtedly more important since it has responsibility for drafting major texts such as the Civil Code, the amendments to the Criminal Code etc... Drafting of new laws is always the responsibility of the technical Ministry concerned with that particular legislation. Accordingly, the Ministry of Justice is the chief author of the law on lawyers, while

the Ministry of Science and Technology is responsible for the texts on consumer's protection and on control of atomic radiation. However, the Ministry of Justice is also responsible for overseeing all ministries' drafts. It must also be reminded that, further to a most recent decree<sup>12</sup>, drafting the legislative agenda is also the responsibility of the Ministry of Justice.

#### 4.12 The Ministry of Planning and Investment (MPI)

4.121 The recent merger of the Ministry of the State Planning Committee and of the State Committee for Cooperation and Investments (SCCI), created a very powerful institution which is the main counterpart of all foreign entities doing business in Viet Nam.

4.122 Drafting laws and decrees related to foreign investments in the country is naturally the main task of the Legislation Department. However, the Department must also regulate the activities of foreign invested companies, give guidance on the setting up of joint-ventures and organize seminars promoting the country for foreign investments. Even though the long experience of SCCI in legal issues of foreign investments is a major asset, the Department feels itself in dire need of re-training in the area of economic and international economic law, taxation and corporate law.

4.123 As they draft the treaties on protection of foreign investments, they need further specialized drafting skill training. Furthermore, working jointly with the Legal Department of the Ministry of Foreign Affairs, they have signed 28 agreements with foreign countries. That experience is undoubtedly rich but hardly sufficient. The legal education received in Eastern Europe and the Soviet Union by the ten lawyers of the Department did not give them the legal analysis tools for the adequate reviewing of these agreements. Only one of the Department's staff members received a Master's degree from the SOAS in London. Accordingly, re-training in legal aspects of a market economy is regarded as a most useful initiative, provided that Department lawyers could be released to attend such workshops.

#### 4.13 The Ministry of Trade

4.131 The nine lawyers of the Ministry of Trade are, like all other technical ministries, responsible for drafting laws and regulations dealing with international and domestic trade issues. They are also responsible for drafting standard model contracts for Vietnamese companies and enterprises participating in international transactions. To be able to do so more effectively, they need more information and knowledge on legal framework of trade with the European Union or the United States. Because of their responsibility for authorizing the importation of equipment or material, which they have to authorize, the Ministry is part of a Project Review Council, along with the Ministry of Planning and Investment, for considering foreign investment projects.

4.132 Even though these lawyers have all attended at one time or another in-country training, they feel they need regular updates through short duration workshops. Among the examples provided of topic which would warrant such re-training, the

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<sup>12</sup> Decree 189 of 30 March 1996.

Deputy Director of the Legal Department suggested that a workshop should address the issue of significance of signing of international contracts. It appears that training on basic concepts of commercial law, along with the overall significance of commercial transactions a market economy would be useful for legal staff whose mandate includes providing legal guidance to several government institutions involved in foreign trade. It must be recalled that the current Ministry of Trade is the result of the merger of the former ministries of Foreign Trade, of Domestic Trade and of Materials. The staffs of these ministries had little previous experience with international transactions and could thus usefully benefit from specialized training or re-training.

#### 4.14 The Ministry of Science and Technology

4.141 Also involved in drafting law proposals, the lawyers of the Legislation Department of the Ministry of Science, Technology and Environment (MOSTE) are, with the exception of their director, essentially recent graduates from Vietnamese schools of law. Because the MOSTE is involved in a wide variety of legislation, ranging from transfer of technology and intellectual property to environment protection, re-training is undoubtedly a priority. This is notably true in the area of environment protection where virtually no legal literature is currently available in Vietnamese language. The ministry's National Environment Agency is assisted by experts from the International Union for Conservation of Nature but the in-house expertise needs enhancement to meet the demands for legal drafting and advice.

#### 4.15 The Ministry of Interior

4.151 At a time when whole segments of the society are restructured with the shift to market economy, a new role is being devised for the State. However, one area where the role of the State is not changed is the domain of security and police. Criminal activities are evolving. For the police to keep up with these changes, the Ministry that is supervising, among other things, police at central and provincial and district levels, must be equipped to deal with new delinquent activities, in particular white-collar crimes.

4.152 The responsibilities of the Legislation Department include the drafting of security-related laws as well as all regulations and circulars. They are also responsible for providing guidelines on legal issues to all levels, provincial and district, on the implementation of laws and ordinances relating to police and security matters.

4.153 Though the Head of the Department expressed the wish that his staff would be expanded to approximately 26 lawyers, he acknowledged that the average level of qualification was adequate. Naturally, with respect to re-training, emphasis should be placed on civil and criminal procedure and new techniques for fighting crimes.

4.154 Commenting on the usefulness of in-country workshops which his staff attended, the Head of the Department stressed that the selection of the participants was not always done properly and some of those attending had been selected on the basis of their title and position rather than their interest for the topic of the training. Furthermore, there was also a tendency to design workshops with too many purposes

and objectives which eventually reduced their impact and usefulness. Re-training for the Department should be limited to Ministry of Interior staff with only the possibility of having some participants from the relevant departments of the Ministry of Justice.

#### 4.16 The Ministry of Finance

4.161 As in all countries, the Ministry of Finance is responsible, in close cooperation with the central bank, the State Bank of Viet Nam, for the financial policy of the State. However, parting with the centrally-planned economy renders this exercise much more delicate and calls for competence which were not required before. In fact, the Department of Financial Policies itself, which has some legal staff, was only created in April 1995. The competence of the Department staff are divided between those, the majority with economic and finance experience and the few (5) who have legal skills. What is actually needed is a combination of both areas of competence, until such is available, professionals within the Department will have to complement each other.

4.162 The Director of the Financial Policy Department stressed in his remarks that re-training should be organized taking into account the different levels of responsibilities--and availability-- of the personnel concerned.

4.163 In his view, public officials have been exposed too long to the previous policies and "old ideas", it is for them too late to drastically change through long re-training courses --which they would be too busy to attend--, they should be participating in short seminars focusing on the new role of the State and the relationship with the legal framework. Mid-career professionals should, if bright, be given the opportunity to study for sustained periods abroad and acquire both technical knowledge and language skills as well as the possibility to improve their language proficiency. All must be given the occasion to study English to get greater benefit of the workshops which they attend in-country. In this respect, the policy of the Ministry of Finance is to provide language training opportunity to all staff and courses are organized within the ministry after hours.

#### 4.17 Ministry of Foreign Affairs

4.171 The Vietnamese Ministry of Foreign Affairs' Law and Treaty Department has excellent international law specialists. The Department responsibilities, and in particular the economic negotiations to which they contribute, imperatively requires that the lawyers would be well versed in market economy laws. Accordingly, the Department embarked early on a systematic re-training program. Today it is virtually completed and of the 20 lawyers of the Department, ten have completed their education with an LLM, mostly from educational institutions in western countries.

4.172 The Department is one of the few agencies which has an introductory program of training for new hires. While it does not seem that this training deals specifically with practical skills, it provides new recruits with updating information on recent problems and developments of international economic relations and law.

## **4.2 Other National Agencies**

### 4.21 Office of the Government:

4.211 The Legal Department of the Office of the Government (OOG) provides legal advice to the Prime Minister's Office. In particular, the Department reviews the draft laws proposed by all Ministries before their submission to the Prime Minister and the National Assembly. Most importantly, the Legal Department of OOG contributes to the government's legislative agenda which is drafted by the Ministry of Justice<sup>13</sup>.

4.212 In such context the legal capabilities of the Legal Department must not only be multisectorial but also of a very high level. According to its Director, the 17 lawyers on the staff represent hardly half of the resources which would be required to perform the tasks required.

### 4.22 Office of the National Assembly:

4.221 The duties of the Legal Department of the Office of the National Assembly (ONA) can only be explained considering the way the Assembly functions and the composition of the National Assembly.

4.223 The Viet Nam National Assembly meets twice yearly for one-month long sessions. Furthermore most Deputies are part time and have other job responsibilities either in local government or business entities and few of them (24) are lawyers by training. It is no surprise that Viet Nam National Assembly is only in a position to consider 4-5 drafts of legislation for each session or 10 per year (27 laws enacted since 1992). The National Assembly has given authority to its Standing Committee to pass Ordinances because the Assembly does not have sufficient time and resources to consider and enact enough laws. These time constraints are compounded by the fact that the capabilities in law drafting in the ONA are far from being sufficient.

4.224 In such context, ONA lawyers are asked to be experts in all fields of law (budget, family, international or mining law) for the legislative analysis which is their mandate. The Legal Department has 18 lawyers. They are helping the Law Commission of the National Assembly to supervise the implementation of the legislative program of the National Assembly. Thus, they are contributing to the coordination role of the Ministry of Justice.

4.225 The re-training priority of the Legal Department is essentially legislative analysis and drafting because they are often responsible for synthesizing and presenting to the Standing Committee the views of the provincial officials on draft laws (recently for the Civil Code which was "discussed" for eight months and lead to a 100-page report (600 articles were subsequently amended and more than one hundred were added to the original draft). Accordingly, training in advocacy, advising and legal writing should definitely be considered. Since most basic concepts, legal and

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<sup>13</sup> See Note 12 above.

non-legal, relating to a market economy are not fully understood by lawyers, let alone non-lawyer Members of the National Assembly, substantive training in economic law would be most useful<sup>14</sup>.

#### 4.23 The Central Institute of Economic Management (CIEM):

4.231 CIEM is the research branch of MPI. Its exact name, the "Institute for Economic Research" reflects its activities: conducting research to help the government define its economic policy. The Institute contributes through its research to the development of steps towards a market economy. They participate in the preparation of such laws as the Company law, the law on State enterprises, on Bankruptcy law, etc. They have no legally-trained personnel and have recommended to all staff to self-study law because they find it absolutely necessary for their own research. Because of the lack of legal expertise on the staff, they find it difficult to draft economic legislation. They are particularly interested in comparative approaches and need to know better how other countries regulate their market economies.

4.232 The Director of the Macroeconomics Policy Department said that among the practical skills in which he would welcome re-training for his staff, advocacy would certainly be a priority. While before it was easier to have one's views adopted since one was then in position to decide. Today, one must convince, which is much harder. Any assistance in having the proper tools to reach such consensus, would thus be most appreciated.

#### 4.24 The General Department of Land Administration

4.241 Like a number of agencies and offices, the General Department of Land Administration has responsibility for drafting laws, regulations and ordinances. More specifically it has to deal with land use regulations. This has become a complex task in Viet Nam after the 1993 Land Law (drafted in 1988 by the Department) and the Civil Code, Chapter 5 of which deals with land use rights conveyance.

4.242 Legal competence is particularly needed because of the importance of this "special sort of property" in the Vietnamese economy. One must recall that 80% of the country's population is still living in rural areas. The management of land and agricultural, forestry and underground mineral resources are deeply affected by the legal framework. Naturally Đổi Mới represented a revolution for the economy and social structure of the rural areas since Vietnamese are today allowed to lease, pass on to their children or use as collateral right to use land which has been assigned to them.

4.243 The Department's legal staff consists of six law graduates. The other experts are engineers from the Agricultural University. The major issue which the Department faces is the insufficient knowledge its legal staff has of all the implications of land use. This is particularly true outside of the capital where, at each provincial or district level, the departments and divisions of land administration must deal not only with land disputes but also with inspection and assessment of land resources and assignment of land to citizens.

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<sup>14</sup> For further information, see the soon-to-be available UNDP VIE 95/016 report of M. Sidel et al.

#### 4.25 The State Bank of Viet Nam

4.251 The Legal Department of the central bank has 14 lawyers, whose tasks are naturally related to banking matters and international financial questions. Furthermore, they are responsible for providing guidelines to other institutions of the banking system of Viet Nam. While they request, like a number of other agencies, drafting skills training, it is worth noting that the main concern of the State Bank with respect to re-training has to do with its necessary specialization. The Department is very keen to have banking law re-training, organized for their sole benefit. If required, officers from the Ministry of Finance might join such workshops but to broaden the audience to other ministries would, in their view, diminish the focus on banking policy legal issues.

#### 4.26 The Government Committee of Organization & Personnel

4.261 The Committee is the competent authority for the organization of the structure of the government at the national and local level and for management and organization of high and middle-ranking civil servants. Accordingly, the Department of Legislation is not only responsible for drafting the laws and ordinances on civil servants at the national level but also for overseeing the texts presented by the local entities, such as the People's Committees at the provincial levels. In December 1995, the Department was preparing an ordinance on duties and supervision of the Standing Committee of the National Assembly. The Department's area of specialization is thus not only administrative but also constitutional law. The seven lawyers of the Department share the responsibilities for legislative drafting and, providing guidelines on the legal issues relating to the Government organization matters.

4.262 The interaction between local and central government entities is one of their major concerns and they would want re-training to focus on such issues. According to them, the workshops on administrative reform which staff members have had the opportunity to attend in Viet Nam and abroad, have not been sufficient to give them the knowledge they feel is needed to undertake their supervising mandate.

4.263 It is interesting to note that the Deputy Director of the Department was keen to point out that to secure more impact of the training which they receive, they should be involved in the training design and choice of the topics addressed. All too often, they are "invited to participate", with little say over the issues considered. Workshops are always useful inasmuch as they provide new information and exposure to foreign experience, as well as an opportunity to practice foreign languages. However, the Department's experience has also been with instructors whose limited knowledge of the Vietnamese context hindered significantly the impact of the training. This is particularly true when one is dealing with administrative reform.

4.264 The Department is interested in being associated with every future initiative of legal re-training of government lawyers, since that task is directly part of its mandate of managing and supervising all civil servants.

#### 4.27 The Internal Affairs Bureau of the Vietnamese Communist Party's Central Committee

4.271 The Department of Law is advisor to the Internal Affairs Bureau, it takes part in the drafting of all legal documents. Their duty is to check that the draft law fits with the policy of the Party. As the advisory arm of the Internal Affairs Bureau of the Vietnamese Communist Party's Central Committee, it maintains close relationship with many drafting committees in the different technical ministries. This is done before the texts are examined by the National Assembly since important texts have first to be submitted to the Political Bureau. The Internal Affairs Bureau of the Central Committee is responsible for such task. If the document proposed embodies the policy of the VCP, and in particular of §æi Mii, the text is agreed upon.

4.272 Of the 30 lawyers of the IAB, seven are in the Department and four of them have Doctorate degrees. However, since training was essentially obtained in Viet Nam or in Socialist countries, the need for re-training is important, particularly in the field of economic law. The new legal framework makes reference to legal concepts which are new to them, e.g. the Stock Market, for which only foreign expertise can provide them with the necessary information.

### **4.3 The Courts and Civil Judgments Enforcement Offices**

#### 4.31 Local People's Courts:

##### 4.311 Supreme People's Court:

4.3111 The President of the Supreme Court, its five Vice-Presidents and 70 judges are assisted by a staff of more than 300 lawyers. Their main functions are to review decisions of lower provincial and district courts and to give guidance to these courts.

4.3112 At a time where policy is evolving toward the market economy and cases evolve accordingly, the Supreme Court feels itself in need of re-training. For this reason the Supreme Court is creating its own Institute which will have responsibility for re-training. The UNDP Programme in Viet Nam has a special project supporting this initiative.

4.3113 With respect to the areas of training which are regarded as priorities, the Supreme Court is placing the emphasis on legislative drafting and advocacy. However, the problem put forward as a major constraint is the existence of gaps in the current legislation. Providing guidance or reviewing economic courts' decisions is complicated by the fact that loopholes exist. Furthermore, the lawyers, whose experience over the past ten years was essentially with family and criminal cases, are not prepared to deal with the contracts and property issues, which are becoming an increasingly important of the caseload today.

#### 4.312 The People's Courts:

4.3121 Before 1992, all judges were elected at the local level. Since the 1992 Constitution, judges are to be appointed by the President upon the recommendation of a high-level judicial selection committee chaired by the Minister of Justice. Eventually, Viet Nam plans to have 4,773 judges, not taking into account the judges of the Supreme Court. So far only 2,661 have been appointed. The appointment of the others has to be completed by the end of 1996. In principle, the District People's Courts are courts of first instance, their decisions can be appealed to the Provincial People's Courts. The appellate body for the decisions taken by the Provincial People's Courts, is the Supreme Court.

4.3122 In line with the new Constitution, all judges must have "knowledge of the law". Until recently, such requirement was not upheld because of the absence of training resources. However, a decree of the Prime Minister is now enforcing this requirement and, by the end of 1996, all judges must be holders of a Law degree to be reappointed or appointed.

4.3123 In 1993, before the new ordinance on judges, still 30% of the Provincial Courts judges and 50% of the District Courts judges did not have a law degree. This situation shows the importance of judicial participation in the part time education programs. Judges are appointed for a limited period; for example, five years for the District Courts. While this lack of permanent tenure represents a definite threat to their independence, it is also a way to make sure of the legal competence of the tribunals.

4.3124 Another problem with the training of the judges is the creation of the Economic, Labor and Administrative Courts, for which very few judges have competence. While labor courts do not yet have a significant role, the situation is bound to change quickly and efforts are being made, through seminars and conferences, to provide information on the functioning of such courts in other countries. The issue of economic courts is more urgent and a number of officials call for training as cases materialize and judges feel ill-equipped to handle them. It is surprising to see that in some courts, for instance in Cần Thơ, the economic court building is brand new and adequately equipped but the judges have not yet received systematic specialized training to handle the economic contract disputes or the industrial property and securities cases which will be put before them. Administrative as well as Labor courts will also require specialized judges, but it may take some years before people feel confident enough to bring before them cases which until recently were hardly considered.

#### 4.32 Civil Judgments Enforcement Offices:

4.321 A key element in the administration and implementation of justice, these offices are present in every province and district. According to the Civil Judgments Enforcement Officers themselves, the mechanism created for enforcement of decisions is adequate and its supervision by the Ministry of Justice and the different Departments locally is further guarantee that proper standards are maintained.

4.322 However, the actual weakness of these offices stems from their lack of resources, both in terms of equipment and trained personnel. The Civil Judgments Enforcement Office of Hả ChÝ Minh City for example, has a staff of 25 with ten executors (all graduates of the Hµ Néi Law University), six executor assistants and support staff. The executors claim that they are not prepared to handle enforcement of complex cases, particularly economic cases, and that their role is not well understood.

4.323 In CÇn Thá province, 20% of the 1,300 judgments presented monthly to the 52 enforcement officers distributed in different enforcement teams, cannot be enforced. Oftentimes, parties take advantage of the absence of sufficient knowledge by the enforcement officers and of the loopholes existing in the law. Bankruptcy cases are often cited as instances where assets are transferred before filing for bankruptcy, with little recourse for the executor except to send the judgment back to the plaintiff.

4.324 Enforcement officers would greatly benefit from specialized training, including handbooks on their jobs which show the limits of their power and the resources that they may call upon. Since emphasis is being placed today on persuasion, executors would also favor training in advocacy-related skills. The addition of basic equipment, such as computers, would facilitate the task of case review<sup>15</sup>.

4.325 Language training is also regarded as a priority in jurisdictions such as HCMC, Şµ N½ng, H¶i Phßng and other cities with important foreign investment and trade. In view of the crucial role played by the Civil Judgments Enforcement Offices in the country, this report recommends a special project to deal with the training requirements of that category of government lawyers<sup>16</sup>.

## **5. ASSESSMENT OF TRAINING NEEDS**

5.01 Based on the discussions and interviews conducted during the November '95 and January '96 sojourns, the consultant was able to define three major elements on which to base his recommendations. This segment of the report thus focuses on the beneficiaries who are most in need of such re-training, on the categories of re-training activities which should be envisaged and finally, on the type of training material and equipment which these re-training activities would require.

### **5.1 Beneficiaries**

#### **5.11 Government Lawyers and Legal Advisors**

5.111 As seen above, the responsibilities of the lawyers and legal advisors of the Vietnamese administration cover a wide range of legal areas and call for a number of technical skills. Because of their role in the supervision and the creation of the legal

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<sup>15</sup> All District Courts judgments are sent to the Provincial Courts within 15 days. However, civil cases are seldom reviewed except in instances where bribery is suspected.

<sup>16</sup> See 8.6 below.

framework for the market economy of the country, they have to be familiar with legal concepts and techniques which are totally new to them.

5.112 The *Şçi Mii* policy calls for a lesser role of the administration in releasing authorizations and clearing decisions pertaining to the functioning of the economy. Nevertheless, the process is lengthy and today ministry officials are still very much in a position to facilitate -- or hinder -- investments and other economic initiatives. Similarly, even if all sectors of the economy of Viet Nam are gradually entering the market economy, the state owned enterprises are still playing a major role. Thus it is of crucial importance for lawyers and legal advisors in key positions to be competent in market economy law and to master skills necessary to deal with today's economic and legal challenges. However, this goal is difficult to achieve as the vast majority of the mid-career and senior officials have throughout the basic education which most of them received more than ten years ago, they have only been exposed to centrally planned economy mechanisms and, for those who a legal education, to Socialist law.

5.113 This situation stems from the simple fact that virtually all the legal personnel of the Vietnamese administration, irrespective of the specific agency where they are working, received their legal education in the Soviet Union or Socialist countries of Central and Eastern Europe. A number of those who combine English language skills with foreign relations studies and a legal background, received their Bachelor degrees in the Law Department of the Institute of International Relations in Moscow. This is the case of all the lawyers of the Treaty and Law Department of the Ministry of Foreign Affairs but also of a number of officials of the Ministry of Justice.

5.114 In the Ministry of Finance, where the need for thorough knowledge of the functioning of the legal framework for the market economy is self-evident, the majority of the staff graduated from the Economic University and Financial College and did post-graduate work in the Soviet Union, Hungary, DDR or Bulgaria. The lawyers received their education at *Hµ Néi* Law University. Only one Department staff member is currently studying for a Bachelor of Finance in Australia.

5.115 It is thus not surprising that in assessing the training needs and in particular the target population of re-training, the first priority is for officials of the different sectors of the agency, especially the legal personnel of the Ministry of Justice and the law departments of the Office of the Government, the Office of the National Assembly and the different ministries concerned with various aspects of the economy.

## 5.12 Judges

5.121 As in all countries undergoing major changes in their economies, judicial training is a major priority. New courts are being set up (e.g. labor courts, economic courts and administrative courts) and judges have to be trained to consider cases and problems which are entirely new to them. As seen above, the educational level of the Vietnamese judges is relatively low. The change brought by the appointment of all judges will bring an enhancement of quality but cannot be regarded as sufficient.

5.122 What makes this situation somewhat more complex in Viet Nam today is that the exact delineation of responsibilities is not clear. The Ministry of Justice, arguing

on the basis of Decree 38, is qualified in its dual capacity of supervisor of all courts and of responsible for all legal training. However, the Supreme Court's recently instituted its Continuing Training Institute is challenging this overriding competence. Discussions with officials in both entities and with others such as a representative of the Party or with a consultant working on the same question<sup>17</sup>, enabled us to reach some conclusions.

5.123 The training of judges, until they become judges, is the sole responsibility of the Ministry of Justice. This is done today by Hµ Néi Law University, until recently in the Faculty of Judicial Studies, now in the recently-created Judicial Training Centre, still under the jurisdiction of the Ministry<sup>18</sup>. Once a judge, that person's subsequent re-training, in the format of "up-dating seminars" is going to be the responsibility of the Supreme Court Training Institute. The activities of the Supreme Court's Institute should have the format of one, two or three day seminars and be close to what is better defined as Continuing Legal Education<sup>19</sup>.

5.124 Until most recently, administrative judges training was even more complex. Both the Ministry of Justice's Judicial Training Centre and the National Institute of Public Administration claimed to have been given such mandate. This question has been now clarified and Hµ Néi Law University has been given the responsibility to manage the training which will be physically organized in the premises of NIPA. What remains critical is that training be provided to help the government lawyers understand what are the basic tenants of administrative law and administrative court proceedings.

### 5.13 Prosecutors

5.131 Prosecutors, should also benefit from specialized training. However, until the exact structuring of responsibilities with respect to training, between the General Procuracy and the Ministry's Judicial Training Centre, is clarified, it will be difficult to assess to what extent the needs are being met. The UNDP project with the General Procuracy<sup>20</sup>, like the same effort with the Supreme Court, should provide a most useful contribution in this regard.

### 5.14 Civil Judgment Enforcement Officers

5.141 The situation of the Civil Judgment Enforcement Officers is much clearer. However, this does not put them in a more enviable position. Their lack of training, already mentioned<sup>21</sup>, combined with their lack of basic equipment, qualifies them for urgent action if one wants to make sure that the rule of law, as guaranteed by properly drafted legislation, due process and good decisions by competent judges, is not challenged by the bottleneck of execution of judgments. For these reasons, this report

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<sup>17</sup> Prof. Mark SIDEL of the University of Iowa (USA) Law School, is as part of UNDP-sponsored projects, studying with a team of experts, the Supreme Court and General Procuracy. For further information see the soon-to-be available UNPD VIE/95/017 and UNDP VIE/95/018 reports.

<sup>18</sup> See below 6.6

<sup>19</sup> Ibid. UNDP VIE 95/017 report of M. Sidel et al.

<sup>20</sup> UNDP VIE 95/018

<sup>21</sup> See 4.322-4 above

recommends a specific project<sup>22</sup> to focus on training and providing technical assistance to judgment executors, taking into account the experience and functioning of bailiffs and huissiers de justice of other legal systems.

#### 5.15 Teachers and Trainers

5.151 Because of the sheer number of Vietnamese lawyers and government legal professionals needing re-training, the task will have to be essentially undertaken by the Vietnamese themselves. Accordingly, the persons who will have to be called upon to re-train the government lawyers or the court personnel mentioned above, will have to be primarily recruited among those who are today teaching law, as part of the full-time or part-time curricula. The first priority will be to train the trainers and would-be trainers<sup>23</sup>.

5.152 The Law school teachers whom this consultant had the opportunity to meet during his mission have not received methodology training to meet their professional responsibilities. Methodology training is a major priority of legal training institutions of the country<sup>24</sup>. However, the task of re-training is somewhat different from basic legal education. Addressing civil servants who may have many years of experience, but no formal legal education, is quite different from the teaching of the law to young high school graduates. Not only must the methods be different because of the age of the persons considered, but one must also take into account -- and call upon -- the experience of the trainees. Accordingly, it will be essential to include future trainers among the categories of beneficiaries of re-training activities. Furthermore, they will have to be trained first as only completion of their training will enable to address larger numbers as part of more ambitious and comprehensive programs.

### 5.2 Content

#### 5.21 Substantive Knowledge

5.211 As mentioned above (3.3-6), the Vietnamese legal system is undergoing drastic changes with respect to the role of the State, the rights of the individual and the legal framework of the economy. In such context, government lawyers need training on new laws and on the role of laws in a market economy. Whether their responsibilities lie in the decision of cases as judges, in the drafting of laws as Ministry legal advisors or in the overseeing the legality of contracts and agreements in the various People's Committees at the provincial or district levels, they all need to enhance their legal knowledge.

5.212 While the new legal framework is gradually being explained and taught in the universities of the country, the same is not true for the broader issues of changes and the role of law. Basic concepts of economic and commercial law, including contracts and corporate and labor law are in great demand.

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<sup>22</sup> See 7.71 below

<sup>23</sup> See below 7.31

<sup>24</sup> See below 5.24 and 7.31

5.213 The Ministry of Justice provides documentation and material on new laws and texts of the laws with supplementary notes. However, there are areas of the law which are altogether new for Vietnamese lawyers. Creating economic courts or labor courts requires the training of judges who decide on such cases and of government lawyers on the role of labor law and the interaction between new legislation and economic activity. There is accordingly, a requirement to consider the legal and institutional issues connected with the reform process in the transition from a centrally-planned to a market economy.

5.214 More specifically, these include the role of the enterprise in market economies, understanding enterprise structure, governance and regulations, the mechanism of State-owned enterprises restructuring. The new role of the State as a regulator instead of being an entrepreneur, must also be explained as well the role of banks and the importance of capital and securities markets. It is essential that Vietnamese government lawyers would have a good understanding of the laws and regulations which define and limit the range of actions of enterprises, including those which protect the investor and the market. Similarly, encouraging private entrepreneurship requires lawyers familiar with legal concepts of bankruptcy and the legal technicality of financial markets. These issues should accordingly be a major of the re-training program suggested for the country government legal officers<sup>25</sup>.

5.215 These concepts are gradually being inserted into the curricula of the schools of law of the country but this does not solve the problem of the government lawyers who received their legal education years ago, at a time when none of these issues had yet any relevance for the country.

## 5.22 Legal Skills

5.221 While all elements of the Vietnamese legal community require specific training in their respective areas of activity, they also need to improve their basic lawyering skills to grasp the legal issues and work effectively in the new legal context of the country. In order to perform effectively his tasks, a lawyer must not only have the knowledge of the law but also the capacity to analyze a set of facts and confront them to the relevant laws and regulations, this legal analysis is a skill that must be acquired. Similarly, the knowledge of the law is a prerequisite to be able to draft a contract or the proposal of a legislation but it is not sufficient. Lawyers and legal advisors need to learn the specificity of legal writing and drafting where the choice of words, syntax and style is most relevant to the outcome of the transaction and the soundness of the agreement. Advising and interviewing a client also calls for specific skills, including listening skills so that the advisor makes certain that he/she has all the information he/she needs to provide legal guidance, these advising include also the capacity to present to one's client all the options legally feasible and the skill to let the client take the final decision based on the information provided by the legal advisor. Eventually a lawyer must have the skills necessary to participate in legal negotiations. Here again, basic education as provided in universities of Viet Nam do not include negotiation training and it would be most important to provide such to all government legal personnel.

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<sup>25</sup> See below 7.2

5.222 Discussions with lawyers inside the ministries and other government agencies, made multiple reference to their need for drafting skills training. This is consistent with the legislative drafting responsibility which, as we have seen, rests with all technical ministries. However, other lawyering skills are seldom mentioned spontaneously by the government lawyers as a priority. It is for example significant that skills training was not mentioned as one of their priorities by the Vietnamese on their views regarding problems facing Viet Nam's legal education and research sector<sup>26</sup>. On the other hand, all practicing lawyers, and in particular the foreign firms present in the country, who hire Vietnamese lawyers or law graduates, place the absence of legal analysis skills as the foremost shortcoming of these legal professionals. Other basic legal skills of problem-solving, legal research and factual investigation, mediation and dispute resolution, legal management and organization are recognized as important when one lists and explains them.

5.223 Without dealing in depth with the content of the law school curriculum<sup>27</sup>, it is clear that legal education in Viet Nam is not yet providing skills training. Today the law schools confine themselves to the teaching of substantive law, essentially through formal lectures. Skills training is regarded by the law teachers (involved in part-time or full-time education) and trainers participating in Ministry of Justice-sponsored seminars, as useful, but they do not consider themselves equipped to offer such training.

### 5.23 Language:

5.231 Most of the training offered with foreign assistance is conducted by or with foreign instructors. Only seldom do such instructors have command of the Vietnamese language. Accordingly, the presentations or lectures are usually translated sequentially.

5.232 In translated training programs, the quality of interpreter skills determines the quality of the program itself. The Ministry of Justice has two well-qualified experts who combine English competence with knowledge of the legal terminology. Furthermore, it calls on other interpreters, often from the Hư Néi College of Foreign Languages or the Ministry of Foreign Affairs. While many are undoubtedly qualified, most do not always have sufficient understanding of the legal terminology. It has been this consultant's own experience in a banking law seminar that participants later complained that one of the interpreters had not been up to the task.

5.233 To meet the translation challenge, an interesting scheme has been developed by the Fulbright in-country training program in Hả ChÝ Minh City. Along with the substantive legal training which is organized, resources are devoted to the training of the interpreters so that they can be more familiar with the terminology of the field or subject being taught. A similar effort, where the interpreters are actually part of the training team and regularly called upon for related training would result in enhancing the impact of the training event. This is the surest way to improve the quality of the

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<sup>26</sup> Sidel's article in PBLA p. 255.

<sup>27</sup> See Annex 5

actual message conveyed, as opposed to what the trainer would have liked the trainees to receive but cannot be certain was in fact transmitted. The recommendations below address this particular question with options that might be considered.

5.234 Considering the language question in training and re-training in Viet Nam, one must examine the use of experts from the large community of overseas Vietnamese. The issue is important if we are to meet re-training needs which go far beyond the limited number of government lawyers who have sufficient command of the English language.

5.235 Quite rightly, the Terms of Reference of UNDP for this mission mention that *"No short-term, in-country training should make proficiency in a foreign language a prerequisite for participation"*.

5.236 Accordingly, the training must be conducted in the Vietnamese language or through translation. It seems therefore logical to call upon those who have had their education and training abroad and are familiar with the legal concepts of market economy while having retained --or acquired-- through family and community relationship, their knowledge of this complex language. The Prime Minister himself, Mr. Vn Kiöt, has defined overseas Vietnamese experts, as a primary resource which the country should call upon.

5.237 The vast majority of this consultant's counterparts have objected to the use of Vietnamese-speaking foreign instructors because their "command of the language is insufficient for them to teach". Overseas Vietnamese "have been away too long". It is important to acknowledge that such reluctance is not a politically-tinted view. In fact, it is very much recognized by Vietnamese-speaking foreign professionals working today in Viet Nam. They confirm that to be able to function in a trainer's role, one needs to revamp significantly his knowledge of the language as the vocabulary has evolved, in particular technical terminology. What remains certain is that, to quote a foreign lawyer working in Hú Néi, "Vietnamese-speaking ability is not a credential in itself". However, it is also certain that the potential of skilled and available instructors with sufficient command of current Vietnamese language, is present but limited.

5.238 In such context, and because of the number of trainers needed in the near future, relying on the overseas Vietnamese is not the solution. Nevertheless, there might be occasions where the knowledge of such language, however imperfect from the viewpoint of residents and nationals of Viet Nam today, will definitely be an additional asset for an instructor otherwise qualified and available.

5.239 As to the usefulness of providing language training, one has naturally to take into account the fact that it is requested by every single official interviewed, but one must also inquire whether it is truly the mandate of legal technical assistance. It is the view of this consultant that language training should certainly be promoted and development agencies in position to provide it should be encouraged. However, it is not the duty of a program concerned with the legal training needs and aiming at reinforcing legal training capability, to embark in language training except marginally through support to English language legal terminology training for officials who

already have a solid knowledge of English and English-Vietnamese interpreters who will be called upon for legal training provided by foreign experts.

#### 5.24 Training Skills

5.241 The inclusion of skills training to meet the legal dimensions of a market economy will require the revision of curricula in the part-time education but also changes in the teaching methods used. Similarly, the organization anew of re-training activities requires that Vietnamese law teachers familiarize themselves with training techniques based upon specific objectives which enhance on-the-job performance and, in contrast to faculty-based methods, are trainee-centered. Such techniques build upon existing knowledge and skills of individuals through interactive sessions --i.e. dialogue and discussions-- with instructors and the use of question and answer sessions, problem-solving exercises and case-study scenarios.

5.242 Though lecturing is not the most effective method to teach the law, it is still the most widely used in basic legal education in Viet Nam as in the majority of law schools in the world. Academics are devoting time and resources to improve legal training techniques of basic education<sup>28</sup> but what has been demonstrated decades ago is that practical skills can only be acquired through practical training. Modern training methodology is highly participatory and encourages the adult learner to focus on his/her individual needs in order to optimize the benefits of the training. Experience has taught us that trainees who play an active role in the learning process and learn by doing achieve more out of the process than passive listeners. As mentioned above, the re-training of government lawyers of Viet Nam will focus on skills that are today not mastered by these lawyers. Accordingly, the methods of training have to be adapted alongside the content.

5.243 Training of Trainers is thus needed to enable law teachers and trainers to adapt their methods and to utilize practical problem-solving exercises and case studies. This consultant's experience of providing Training of Trainers in Viet Nam, as well as in several other countries of Asia, has been that, after some initial reluctance, Vietnamese teachers and trainers are most willing and enthusiastic to experiment with different training methods. With exposure to new techniques -- and given the necessary time to prepare themselves and their material -- future Vietnamese trainers will conduct re-training using the latest methods of adult education.

#### 5.3 Training materials:

5.31 In the absence of training material specially designed for re-training (which has yet to be produced) one must look into the textbooks and other support documents used to teach law and train lawyers in today's Viet Nam.

5.32 The various law teaching institutions publish textbooks for use in connection with notes taken by the law students during classes. There is a textbook for virtually every subject taught, with the marginal exception of few non-law subjects. The books

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<sup>28</sup> See in particular the work of Australian academics and the publications "Journal of Legal Education" and "Journal of Professional Legal Education".

are published by the universities and the student buy them for a fraction of the cost (prices range between US\$ 1.50 and US\$ 12). New editions are published every year or at most every two years. The Swedish agency SIDA assisted HLU in publishing three such textbooks on Civil Law, Civil Procedure and Theory of State and Law. The authors are law professors who receive some royalty for their work (5-10 million \$ông or US\$ 500-1,000).

5.33 The textbooks are essentially theoretical presentations of the law with few practical examples. However, there are attempts at publishing "Nutshell" type of training material but no casebooks as common lawyers are used to. Some practical books have been published focusing on the legal profession itself. Considering the table of contents and organization of the book on "Procedure and Enforcement of Civil Judgments" (Thủ Túc Kiển vụ Thi Hính ,n D©n Sù), this seems a good example of the kind of material which should be promoted and further developed, gradually providing resource material for all government lawyers contributing to the legal framework and a market economy.

5.34 Video equipment is available in the different law schools. However, its use is limited, usually restricted to the recording of training events, workshops or conferences. In the absence of facilities and resources for professional editing of such material, it is hard to see how video can be regarded as a useful tool for subsequent training. This consultant has experienced the complete audio recording of a two-week workshop. One remains skeptical as to the use that can be made of the dozens of cassettes then collected. Video recording is certainly preferable but without editing, it seems also difficult to use it as substitute for actual instructor presence and explanations.

5.35 On the other hand, training films are a most effective training material. For this reason purchase and dubbing of such films is recommended<sup>29</sup>. It would thus be useful to have, as part of the project to develop genuine Vietnamese language training material, someone trained in making such training videos.

5.36 Other equipment, such as computers, for use in computer-aided teaching seems premature. Computers could be provided in support of the libraries, an undertaking already begun by donors which assist the universities at the basic legal education level (especially Swedish SIDA).

## **6. ASSESSMENT OF TRAINING INSTITUTIONS AND ACTIVITIES**

### **6.1 Overview:**

6.11 The first thing to underline is that most of the re-training activities currently undertaken, particularly the short-term (half, one or two day) workshops, are organized upon the initiative of the governmental authorities themselves. As previously mentioned, the Decree N°38 gives to the Ministry of Justice the overall

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<sup>29</sup> See below 7.515

responsibility for all legal training and re-training activities in the country. This why the ministry is to be regarded, like the other ministries in their respective fields of competence, as a training institution.

6.12 The Hµ Néi Law University, which supervised by the Ministry of Justice and whose Rector is Deputy Minister of Justice Dr. NguyŔn Ngăc HIÊN, is today the unchallenged key institution for legal training in Viet Nam. Accordingly, this section deals essentially with HLU when assessing the re-training capacity of the country. Developments are also devoted to the Faculty of Law of the National University, and comments made on other entities, such as the National Institute of Public Administration. However, no information was collected on the Hă ChÝ Minh National Political Academy or the College of Trade as this consultant believed that none of the other institutions providing in one capacity or another legal education, qualified to be the recipient and counterpart of a project to institutionalize re-training.

6.13 The seminars and workshops organized by the Ministry of Justice are part of its responsibility of explaining and disseminating information on new legislation. This is done by the Ministry itself in its premises in Hµ Néi or by the different "Departments of Justice" (Sê T- Ph,p) represented in all the provinces. In such instances the government officials take upon themselves to gather the concerned cadres and conduct the seminars without external assistance or foreign expertise.

6.14 The second main re-training activity undertaken upon the initiative of the Ministry of Justice is the part-time education provided under the auspices of the Hµ Néi Law University. Since this activity eventually leads to a Bachelor of Law degree, it should thus be regarded as basic legal education and outside of the scope of this report. However, because it is addressed to in-service officers and the purpose of the program is to fill the gap between the government lawyers' knowledge and the requirements of their job responsibilities, it was felt relevant to include this legal training and re-training in the needs and assessment study. Furthermore, as will be seen, the part-time education program of HLU is the training effort closest to genuine, structured and comprehensive legal re-training.

6.15 Finally, reference is made to foreign agencies-sponsored training as they constitute a major resource for re-training activities, especially when these require the input of foreign expertise.

#### 6.2 Ministry of Justice-sponsored training courses or workshops:

6.21 The workshops organized by the Ministry are usually connected to changes in the legislative and regulatory context which must be disseminated and explained throughout the provinces. This is the case recently with the new Civil Code which the National Assembly adopted to be effective as of July 1, 1996. The Ministry is providing each Department of Justice with a large amount of printed material which contain the text and some explanations of the new code. This shipment of material will be followed by series of workshops which should be organized in Hµ Néi and Hă ChÝ Minh City, for the chief Department officers, judges, Ministry legal advisors or by these officers in the various districts of the provinces.

6.22 In other instances the authorities need special expertise to explain new concepts introduced or about to be introduced in the law. The ministry or agency then often takes advantage of the presence of a Resident Advisor or Consultant to have him/her provide an introduction or illustration of the issues concerned. This use of local resources is welcome by the resident expert who has an opportunity to assess the understanding of his/her counterparts while providing information which he/she knows is of immediate interest.

### 6.3 Part-Time Education

6.31 As said above, HLU is the major and unchallenged provider of basic legal education in Viet Nam. This is done in the University campus, resulting in the Bachelor of Law degree. However, the Hủ Néi Law University is also the main provider of re-training activities in the country. The University is organizing the part-time education of the hundreds of legal officers who, in the courtrooms, in the ministries or other government agencies, provide legal services but have not had the opportunity of following the complete full-time curriculum of the School of Law.

6.32 Even though this effort imparts basic legal education with the ultimate goal of awarding a certificate, it should be considered as re-training since it is addressed to people already working to complement their insufficient legal knowledge and skills. It must be underlined that this is an enormous task, which touches no fewer than 12,000 legal workers, judges, legal advisors and Department of Justice representatives in the provinces.

6.33 The Ministry and HLU pride themselves of the effort undertaken. In fact, it is the only opportunity available to fill the gap between the number of law officers which the country needs and the number of law graduates which the law schools are in position to graduate each year. Furthermore, it is the only opportunity for those who have been working in a legal capacity for many years but did not have, often for reasons of war, the opportunity to obtain legal education.

6.34 Part-time education is organized through sessions of various duration depending upon the request of the local agency concerned. They may be of one week or ten days scheduled every other month or up to eight weeks twice yearly. During this time, the law officers are released from their working obligations to attend the courses.

6.35 However these courses are not free and tuition, though modest, is an impediment. More importantly, the programs are located in only some of the provincial capitals. Thus they are not always where the part-time student resides. This location question represents a further constraint as it also prevents them from maintaining their alternative occupations, which many civil servants need to supplement their salaries. Accordingly, it is important, to support such re-training activity, that financial resources be committed either to reduce the cost to the trainees themselves (tuition) or to provide more decentralized re-training opportunities.

6.36 While every effort is made by HLU to provide the kind of training which these students require, the result is generally regarded as short of expectations. Considering

the level of qualification obtained at the end, there seems also to be a general feeling that "part-timers" do not have the same competence as those who benefited from a "full time" education. Oftentimes, this consultant was told by the head of the Department or agency concerned: "we have ten or fifteen legal staff but only two, three or four are full-time graduates". This is particularly true in the provinces. A project which would undertake to institutionalize legal training would have to focus its attention on such concern and, building on existing activities, reinforce the quality of the part-time education effort undertaken by the ministry through provision of Technical Assistance resources and inclusion of the part-time education program of the ministry as one of the component of the institutionalizing effort.

6.37 The Part-Time training program<sup>30</sup> is directed by Vice Rector Dr. Le Hong HANH. Such experience in conducting the single most important Continuing Legal Education program currently available in the country is another reason why Hư Néi Law University should be the main focal point for future re-training activity.

#### 6.4 Foreign Agencies-sponsored Training

6.41 Over the past few years, a number of agencies have sponsored in-country training. Accordingly, attention was devoted through interviews with numerous agency representatives to identify their on-going activities and future plans.

6.42 Providing an exhaustive presentation of all legal cooperation programs currently being implemented or considered today in Viet Nam is a complex task which can never be defined as absolutely thorough and up to date for several reasons. A number of development agencies are in the process of negotiating with their Vietnamese counterparts basic features of their planned activities. They may also be involved in difficult efforts of securing funding from their headquarters where, in many instances, budget cuts challenge the ambition -- and need -- of some projects. This is the case of the AusAID, the Australian development assistance project, which is being revised to take into account the changing situation since the project initial design.

6.43 The Asian Development Bank's "Development Law Bulletin", being published quarterly and thus regularly updated, gives an overview of planned and ongoing law projects, as they are reported to the Bank. The UNDP-initiated Donors' Meeting provides a forum to exchange information on ongoing legal cooperation projects. The Recommendations part of this report deals more in detail with what could be organized to facilitate such exchange of data and, more importantly, reinforce the coordination effort, in particular the undertakings of the Ministry of Justice which plays the leading role.

6.44 Accordingly, what this segment of the report intends to achieve is only to provide samples of ongoing or planned projects which illustrate the requirement for more coordination and, even more importantly, the need for the design by the government authorities of a comprehensive legal re-training policy to be implemented over the next four or five years.

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<sup>30</sup> See 5.3 above

6.45 The foreign development agency training initiatives may be part of a program negotiated by the joint Vietnamese and foreign management of the institution undertaking the activities. This is the case of the Maison du Droit Vietnamo - Française (Nhũ Ph,p LuËt ViÖt Ph,p). The training may be the result of the bilateral cooperation programming which specify the exact training to be implemented, the three year-cooperation agreement (1995-1997), between the Konrad Adenauer Foundation and the Ministry of Justice, is typical of such approach. This may also be organized further to the initiative of a training provider which, having secured financing, proposes to its counterpart locally, a particular intervention. IDLI training on Banking law was so implemented in cooperation with the State Bank of Viet Nam, as part of the Asian Development Bank RETA 5516.

6.46 As part of the assistance given to the consultant for this mission, the Ministry of Justice provided a list of the workshops which have been organized by the Ministry or jointly with the Ministry. This list (Annex 4) is illustrative of the training offered and of the diversity of the format and subject matter addressed. However, it remains difficult to see from the list of these training events that they all relate to the master plan which the Ministry of Justice has designed and is controlling and which would take into account what has been previously done and who benefits from particular training. While the Minister of Justice himself, Mr. NguyÖn Sinh Lăc, and every single agency visited, both in the capital, in Hă ChÝ Minh City and in the provinces, stress that re-training is a major priority, it is striking to see that little is being done to systematize such re-training. Particularly with respect to training sponsored by foreign entities, workshops are regularly organized and ministries and agencies are invited to nominate candidates.

6.47 Undoubtedly, the Ministry, and in particular the Department of International Law and Cooperation, looks into every proposal before accepting it. One must recall that every training organized in the country with foreign expertise intervention is approved at the highest level of government, this is further illustration that the Vietnamese authorities, quite rightly, want to keep control over what is being taught and by whom. However, this does not seem to be done as part of an overall plan which would define the sectorial priorities but rather taking advantage of opportunities which will always meet a training need. It did not appear to this consultant that training organized on comparable or related issues had always taken into account what had been done under the auspices of another donor at a different time. For example, arbitration seminars were organized by the Maison du Droit in September 1993, by Deacons, Graham & James in January 1994 and by SIDA in March 1995.

6.48 It would be unfair to put the blame on the Vietnamese beneficiaries. In fact, it is unlikely that the training organizers had access to --and interest in-- the material used by another agency some months before. It is also not certain that the participants, not being the same, had the possibility of going beyond the "introduction to" training. It is significant that some officials interviewed have expressed impatience with the number of workshops organized by foreign development agencies which did not proceed beyond introductory training. Along the same line of responsibility of the foreign sponsors, the absence of contacts among the organizers of training sponsored by different donors prevents useful opportunities for comparative legal approaches. A typical example is the issue of bankruptcy which has been considered by the French

(Maison du Droit, June 1994), the Germans (Konrad Adenauer Stiftung, October 1994), the Swedes (SIDA, January 1995) and the Japanese (JICA, November 1995). While the participants to these different seminars undoubtedly received useful information, it is also possible that some may have been confused and puzzled by contradictory approaches.

6.49 The formats of the training organized by foreign agencies, bilateral and multilateral, vary significantly. Generally, "Seminars" last one, two or three days. The terminology "Workshops" or "Courses" is used for programs of at least one or two weeks. Some agencies have focused on seminar formats, addressing a range of different issues throughout the year. This is the case of the Maison du Droit, SIDA or of JICA-sponsored events. Others, Asia Foundation or ADB, opted for longer training (one or two weeks) giving opportunity for complementing the provision of information and knowledge with practical skills. No format is *per se* preferable. What matters more is the objective sought and the improvement of the job performance of those who benefited from such re-training.

#### 6.5 Hư Nội Law University:

6.51 Established in 1979, HLU is supervised by the Ministry of Justice and its Rector, Dr. Nguyễn Ngọc HIÊN, is Vice Minister of Justice. The University has the largest Law Faculty of the country with 280 full-time teaching staff. Seventeen of them hold a Doctorate degree, 10 have a Master and 40 are doing post-graduate work for a Masters or Doctorate. However, 25% of the faculty is defined as having modest experience, i.e. less than six years. Some are very young and only have a Bachelor of Law degree and virtually no professional experience. These young lecturers are said to have first to spend two years as assistants and take a course in teaching methodology. However, when this consultant had, as part of this mission, the opportunity to conduct a Training of Trainers workshop, it was reported to be one of the first training programs on methodology given in the University. The proportion of faculty members who benefited from training abroad used to be approximately 20 to 25%. However, such proportion is rapidly declining as the need for more teachers is more pressing. Such requirement of additional teaching staff is further illustrated when one considers the weekly workload of the law professors which can reach 30 hours of lectures. Such figure cannot be compared with the teaching responsibilities of law professors in the United States or France where 6 or 7 hours per week is regarded as a full time teaching schedule. The consequence of such teaching load is particularly negative on the methodology which is used as no professor asked to teach 25 or 30 hours per week, can be expected to prepare courses using the kind of participatory methodology, with case studies and exercises, which is conducive to improvement of lawyers' on-the-job performance<sup>31</sup>.

6.52 The University has six faculties: the Faculty of Civil and Criminal Law, the Faculty of Constitutional and Administrative Law, the Faculty of Economic Law, the Faculty of International Law, the Faculty of Part-time Education and the Faculty of Post Graduate Studies. The former Faculty of Judicial Studies has become the Judicial

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<sup>31</sup> See 5.24 above

Training Centre<sup>32</sup>. Additional Departments provide training to the various faculties such as the Marxist-Leninist Department or the Foreign Language Department. The latter is quite active and receives substantial assistance from the Swedish International Development Agency as well as the support of a United Nations Volunteer who provides English lessons and helps in the preparation of training material<sup>33</sup>.

6.53 The importance of the institution is also reflected in the enrollment figures and, equally significantly in the number of applicants: for the year 1995-96, 20,000 applied but less than 2,000 were admitted. The University educational capacity is without any doubt used in full.

6.54 While the existence of adequate premises is not in itself a synonym of quality education, the facilities of HLU are definitely impressive. The number of buildings recently constructed or still in construction is evidence of a dynamic institution which has successfully secured government and foreign support and could thus be regarded as a reliable counterpart for further institutional development.

6.55 The institution, however dynamic, is less at the cutting edge when it comes to curriculum (which is not yet inclusive of skills training or problem-solving approaches to legal matters<sup>34</sup>).

#### 6.6 The Judicial Training Centre

6.61 The recently-opened Judicial Training Centre is part of the Hư Néi Law University, it should thus be mentioned as one of its faculties. However, because of its anticipated role and, more importantly, of its potential, this consultant believes that it should be dealt with separately. To be headed by the current Dean of the Faculty of Judges Training, the Center is viewed by the Ministry of Justice as an essential element of its re-training policy. It is significant to note that when mention was made to the fact that the Hư Néi Law University might be integrated in the National University, under the authority of the Ministry of Education, as it had been the case for its Hả ChÝ Minh branch, it was said that the Judicial Training Centre would always remain under the authority of the Ministry of Justice.

6.62 The quality of the premises, completion was expected for sometime after TỐt of this year 1996, is also somewhat reflective of the ambition of the ministry for this Centre and it was very gratifying for this consultant to see that the Center had been designed taking into account the requirements for spacious training rooms, including smaller rooms for group work, proper housing facilities for the trainees and adequate library space.

6.63 The Center is initially expected to be training judges. However, it would seem quite sensible that such infrastructure would find its mandate gradually expanded to include other Court personnel. Eventually, as the JTC is the first institution in the country created specifically for the training of legal professionals, it would be proper

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<sup>32</sup> See 6.6 below

<sup>33</sup> For more information on this activity, see the Annex to Annual UNV Report by Michael Ballagh.

<sup>34</sup> See Bachelor of Law Curriculum in Annex 5a.

to use as the institutional basis for the re-training program of all government legal personnel. It would also be logical for the JTC, if it should receive technical assistance which would enhance its trainers' capacity, to play a role, in one capacity or another, in the part-time program of the ministry.

#### 6.7 Hả ChÝ Minh City Law College of the Hả ChÝ Minh City National University

6.71 The Hả ChÝ Minh branch of HLU has most recently been transferred to the authority of the National University, under the supervision of the Ministry of Education. However, this transfer, formalized during January 1996, was too recent to enable this consultant to determine possible differences with the mother institution based in the capital.

6.72 Three-fourths of the 49 lecturers of the University are graduates from HLU but, as opposed to the main branch in Hủ Néi, only one lecturer has a Doctorate and only two were trained abroad (Australia). Those who have post graduate degrees obtained them in Moscow or East Germany.

6.73 Because of the significant number of students, 1,100 full time (250 admitted each year from more than 10,000 applicants) and more than 2,000 part time, the Rector is adamant that the University needs at least twice its current number of lecturers and re-training in all legal matters. The three Departments of Justice, Economy and Administration are responsible for all aspects of the curriculum, including new subjects in the area of economic law. Notwithstanding the desire of the Board of Directors of the University to see such subjects addressed and assistance provided by the Ministry of Justice through the short-term workshops it organizes, the University is not today in position to teach these new subjects.

6.74 Because of its involvement in part time teaching in many provinces of the South, the HCMC Law University (or Faculty of Law if the name is changed with the shift of authority) is the entity which should, for that part of the country, be the institutional partner of re-training efforts. With additional resources, this academic institution has the capacity to become the regional re-training Centre which will be needed to avoid concentrating all re-training in the capital.

#### 6.8 Faculty of Law, National University of Hủ Néi

6.81 The Faculty of Law of the Social and Humanitarian Sciences College of the National University of Hủ Néi is the oldest legal academic institution in the country. It is undoubtedly overshadowed by its competitor the Hủ Néi Law University. Being part of a multidisciplinary academic learning institution, the faculty prides itself in this multidisciplinary approach. The faculty also stresses that its independence from the Ministry of Justice enables it to consider issues other than those regarded as priority by the Ministry. However, the modest size of the faculty (25 lecturers) and the fact that there is only one common curriculum and thus no possibility of specialization<sup>35</sup>, make it a definite second choice when one wants to study law. This is confirmed by the students themselves who, given the choice, will prefer to be enrolled

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<sup>35</sup> See Bachelor of Law Curriculum in Annex 5b.

in HLU. The facilities also reflect this second class status, the infrastructure is quite modest and the library resources also minimal. The Faculty publishes textbooks and claims to be the leader in number of textbooks published. HLU also has its publications.

6.82 It is important to mention that the Faculty of Law is the only institution in Viet Nam today which hosts full time foreign lecturers. The French-speaking Community of Belgium is funding two young lecturers who are currently teaching at the undergraduate level but will eventually be involved in the graduate program. Such resources should be taken into account when designing and implementing re-training courses in the future.

### 6.9 Other entities providing Legal Education

6.91 According to the letter of the law, only the Ministry of Justice is competent to oversee legal training and award law degrees<sup>36</sup>, the Hủ Néi Law University is actually quick to underline this point. However, other institutions are providing legal education or at least have a legal component in their curriculum.

6.92 The National Institute of Public Administration, HLU's next door neighbor, is responsible for upgrading the efficiency of in-service officials. The three faculties of State and Law, Administrative Science and Public Administration and the different Divisions of Basic Theory of Administration and Research on Administrative Science, train between 5,000 and 6,000 mid-career officials each year. This is done through their short courses (8 to 12 weeks) or long programs (2 years). The Institute organizes approximately 50 short courses each year. Throughout these courses, a significant number of hours are devoted to administrative and other areas of public law. As seen before, the issue of administrative judges training has now been clarified, though still located in the premises of NIPA, this training is the sole responsibility of the MOJ. What remains certain and more important, is that the expertise of NIPA in the area of administrative law and on issues related to administrative reform, certainly qualifies it to intervene in re-training programs which would address these issues. NIPA (with GCOP) will also be the counterpart of the World Bank for the major public administration project of IBRD/IDA. Since that particular project has a training component (including a Training of Trainers element), it would be useful to maintain the contact with NIPA on these questions to have government lawyers take part in such re-training whenever relevant to them.

6.93 The Institute of State and Law is mainly a research institution, however its relevance to legal training stems from the fact that it publishes a number of law-related books and articles and supervises Doctoral and Master theses.

6.94 Mention should be made of the on-the-job training often provided by Law Firms. There is a risk that the recently-enacted limitation of time that a Vietnamese lawyer may spend working for a foreign law firm in the country, will reduce the opportunity for such on-the-job training for private practitioners. Foreign firms will hesitate to

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<sup>36</sup> See 4.1 above

invest in the training, especially training abroad, of someone who will not have the possibility to remain afterwards in the firm for a minimum of four or five years.

## 7. RECOMMENDATIONS

### 7.00 General Recommendation:

*All Vietnamese government legal professionals should attend a re-training session which would combine skills training and substantive law training focusing on legal issues of Economic Law Reform and transition to market economy. Re-training will be achieved with an institutionalized "Re-training government lawyers project". This project will have to receive government support, including budgetary allocations and, during the initial five year, foreign donors assistance. A critical early step will have to be the identification and designation of a Vietnamese Program Director in charge of implementing this program under the supervision of the Ministry of Justice, the Executing Agency.*

7.01 Based on the observations above, the following priority areas should be addressed: Re-training for all government lawyers in basic legal skills<sup>37</sup>, Substantive law training on the basic legal framework for a market economy (7.2), Training of legal training personnel (7.3), Training of interpreters and Course Assistants (7.4), Production of Vietnamese language training material, Procurement of training videos and equipment (7.5) Institutional support for the Judicial Training Center (7.6). As a pilot project, re-training for the Civil Judgment Enforcement Officers (7.7). Finally, a series of recommendations revolve around the issue of Training resources (7.8) and Donor coordination and the sharing of information on legal assistance initiatives (7.9).

7.02 To secure donor support, the Vietnamese authorities will have to adopt formally a five-year plan setting forth the objectives and the main components of a comprehensive re-training project addressing the needs of the country's government legal personnel. In particular, it will be essential that the institutional responsibility would be clearly defined, including who will be the Vietnamese Program Director in charge of implementing this program under the supervision of the Ministry of Justice, the Executing Agency. The recommendations and guidelines below are designed to facilitate the adoption by the government of such five-year plan.

7.03 Even though the overall cost of such project cannot be ascertained, it is nevertheless imperative that Government budgetary resources be committed so that donor assistance can identify which portion they should be prepared to support. Obviously, in the absence of a budget, government authorities would be hard put to allocate financial resources, however, it would be very useful to commit human resources. This could be done for instance with the assignment of approximately twenty full-time trainers who would become the core faculty of the training unit to be created<sup>38</sup>.

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<sup>37</sup> See 7.1 below

<sup>38</sup> See 7.311 below

## 7.1 Basic lawyers' skills re-training program:

### *7.11 Recommendation:*

*7.111 A re-training program should be designed for all government legal personnel which should include basic lawyering skills required for all law professionals<sup>39</sup>. The re-training should be organized through two separate full time sessions of six weeks. Each session should combine skills (three week) and substantive law training (three week). It is expected that after the initial years when the re-training staff is himself experienced, such twelve week re-training would become compulsory for all on-duty government lawyers.*

*7.112 The skills segment should deal among others, with legal analysis and factual investigation, legal writing and drafting techniques, advising, counseling and interviewing skills, negotiation and dispute resolution including mediation techniques.*

*7.113 The skills training should eventually be part of the basic education curriculum of the Vietnamese law schools. Initially, it should be inserted in the part-time curriculum organized by Hư Néi Law University. Such will require adding two three week skills session to the existing program.*

*7.114 The first instructors will be recruited as part of the re-training project full-time staff. They will benefit from specialized skills and training of trainers abroad<sup>40</sup>.*

*7.115 A special introductory program for government lawyer new hires should be set up which would include skills training.*

### *7.12 Rationale:*

*7.121 As seen above (5.22), legal professionals need as much legal skills as they require substantive legal knowledge. Since such training is not yet part of the Vietnamese law schools curriculum, training must be provided through short duration intensive practical training. However, experience has shown that practical skills training required exercises and opportunities to "learn by doing". Such cannot be achieved through short one or two days seminars, the duration of six weeks enables to combine skills training with substantive law teaching which gives an opportunity to trainees to apply those skills to the legal issues addressed during the substantive law part.*

*7.122 The six week session appears to be the maximum duration for mid-career professionals. During this time, the trainees would have to acquire the following professional skills:*

- Legal analysis;*
- Legal research;*

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<sup>39</sup> See 5.22 above

<sup>40</sup> See 7.312 below

- Legal writing and drafting
- Factual investigation;
- Communication;
- Problem-solving;
- Counseling;
- Negotiating;
- Litigating and advocacy;
- Mediating and
- Organization and management of legal work<sup>41</sup>.

7.123 A number of continuing legal education courses in the world have developed training material and training curricula with such emphasis<sup>42</sup>. These resources could be called upon to train the Vietnamese trainers<sup>43</sup> and help them develop their own material and methods<sup>44</sup>.

7.124 As mentioned before, the part-time program is the most important re-training effort currently undertaken by the Ministry of Justice to bring its cadres up to the level of legal knowledge required to do their jobs. Compulsory for judges without a law degree, it is followed by hundreds of government lawyers across the country. Such program should be the basis upon which re-training could be further promoted. It would thus be logical that skills training be introduced as soon as possible in the part-time curriculum. Such would require to add two separate three week sessions to the current program .

7.125 Vietnamese cadres tend to remain all their careers in the ministries which they have joined upon university graduation. This, combined with a strong identification with that particular agency, provides after some years the important benefit of a dedicated experienced staff. However, upon joining their agency, there does not seem to be a systematic orientation program beyond the basic "geographic" orientation.

7.126 To secure more effective work by new hires in a shorter time after their recruitment, a special course is recommended which would deal with the basic roles of the Ministry and the Department concerned but also --and even more importantly-- with the functions that the new hire is to fulfill. Such course could be limited to three or four days and offered four or five times each year, whenever a sufficient number of persons have been recruited to warrant the program.

7.127 A segment of the course would be the responsibility of representatives from the different departments who would explain the basic functions and organization of the agency concerned, including a hand-out paper outlining the overall mission, purpose and main functions, providing the names and respective responsibilities of the senior management persons of the agency. The names of the Minister, Vice Ministers, Departments, Offices and Divisions Directors and Deputy Directors would be

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<sup>41</sup> Source : American Bar Association Report of the Task Force on Law Schools and the Profession: Narrowing the gap (1992).

<sup>42</sup> The 12 week "Development Lawyers Course" of the International Development Law Institute has included such segment for the past 14 years with great success among developing country lawyers.

<sup>43</sup> See 7.312 below

<sup>44</sup> See 7.512 below

provided along with their respective responsibilities. The important institutions related to the agency and its work would be presented with their respective roles and the interaction between them.

7.128 The other component of such introductory session would focus on the skills required to fulfill the new hire's job responsibilities. Learning the procedures of the agency is naturally the first step but it would have to be done with attention to the purpose of these procedures and to the particular input the new recruit will be expected to provide. Whenever additional training proves to be necessary, it should be provided as soon as possible to avoid frustrations on the part of supervisors as well as new hires.

7.128 The essential element of such an introductory program would be the lawyering skills part. Until basic skills training is included in the curriculum of all legal education, it will have to be provided through clinical programs including the introductory courses. Depending upon the functions the new recruit will have, emphasis will be placed on some skills rather than others: legal drafting and/or advising and counseling, dispute resolution and/or negotiation. Some components would have to be included in all programs such as legal analysis, factual investigation and problem-solving.

## 7.2 Legal framework for Market Economy Training

### *7.21 Recommendations:*

*7.211 As mentioned above<sup>45</sup>, re-training of government lawyers calls for substantive law training relating to Economic Law reform and transition to market economies. Such re-training should be provided through two six-week sessions (combining substantive law with skills training<sup>46</sup>).*

*7.212 Generally, emphasis would be given to the new role of the State as a regulator instead of an entrepreneur. More specifically, the re-training program would deal with the legal and institutional reform process in a transition economy:*

*- Legal aspects of enterprise structure, governance and regulation in a market economy. This segment of the re-training would cover, among other issues, the types of laws which define or limit the range of actions of enterprises, including those which protect the investors and the market, the relationship between capital structure and the ability of an enterprise to finance its activities, the advantages and constraints brought about by foreign ownership of enterprises and the relationship between State intervention and entrepreneurship.*

*- Legal mechanisms of state-owned enterprises restructuring. This part of the program would focus on the meaning of restructuring in terms of ownership change, management, financial and operational change. The*

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<sup>45</sup> See 5.21 above

<sup>46</sup> See 7.111 above

*rationale calling for restructuring schemes would also be addressed from the legal viewpoint.*

*- The role of banks and capital and securities markets would be explained, emphasis would be placed on the reasons for the development of capital and securities markets in emerging market economies. The regulatory and supervisory role of central banks in terms of price and currency stability would be considered from the standpoint of the legal framework.*

*- The legal framework of foreign investment would be considered in detail, including comparative analysis of other countries' policies in this respect. Trainees will focus on the reasons for investors to decide particular investments and consider the different modes of investments.*

*- Special attention will be given to infrastructure projects including the role of government and private sector in contracting infrastructure agreements. BOT/BOO contracts will be analyzed and explained.*

*- The new role of the State in establishing a regulatory framework for the economy will be considered with analysis of practical examples of different regulatory policies.*

*7.213 The trainers responsible for this segment of the program should receive advanced substantive law training abroad in combination with their Training of Trainers<sup>47</sup>. To assist them in the course and material design during the initial year of implementation of the re-training, a foreign lawyer should be recruited for two months consultancies. Alternatively, the use of longer term consultants<sup>48</sup> could be envisaged. By the end of the foreign expert's mission, detailed Vietnamese language course content and specifically designed course material should be produced<sup>49</sup>.*

#### 7.22 Rationale:

7.221 Because all government lawyers of Viet Nam, with very few exceptions, have received their legal education in the former Soviet Union, former Socialist countries of Eastern Europe or Viet Nam itself, their knowledge and understanding of the legal concepts of market economy are limited. Numerous workshops have been organized on this topic, and some of this consultant's counterparts have expressed their impatience with these training sessions when they were limited to introductions to the market economy. However, the same counterparts did acknowledge that their junior colleagues were hardly competent to deal with many of the concepts referred to above<sup>50</sup> as well as issues of limited liability, stock markets or issues connected with the transfer of ownership of state-owned enterprises.

7.222 It is illustrative that very law professors have the competence to cover the different aspects of the new legal framework in the Hù Néi Law University curriculum. Even if the HLU curriculum is in constant evolution, it is short of offering the market oriented legal education which law students receive in other ASEAN countries (Thailand, Malaysia, Singapore) or South Korea.

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<sup>47</sup> See 7.312 below

<sup>48</sup> See 7.224 below

<sup>49</sup> See 7.512 below

<sup>50</sup> See 7.212 above

7.223 In such context, the development of a special course, to be offered to all government lawyers as part of the re-training program is a priority. Documentary and human resource support could be provided to Dr. Hanh so that he could supervise such endeavor, possibly with the assistance of the UNDP Resident Legal Advisor. Post Graduate programs of academic institutions abroad might be interested in providing such support with the assistance of a Research Fellow who could help collecting relevant material as part of his/her own research project.

7.224 The format of such training, as it would be combined with the lawyering skills part, would follow the same pattern, i.e. two six week full-time intensive sessions.

7.225 To staff such program with competent trainers, one could consider using the format used by the Ford Foundation for its economics training at the National Economics University (NEU)<sup>51</sup>. The "Economics Training for Sustainable Development in Viet Nam" was a one year-long full-time training sanctioned by an exam and a certificate where selected participants were economy professors and teachers from NEU and other colleges and universities and research and policy analysts from a variety of other institutions. The micro and macroeconomics training was combined with intensive language training. The *raison d'être* of the program was that Vietnamese economists trained in the Soviet-style economics had little exposure to market economic alternatives. Such a project for lawyers would require significant resources since the professors and trainers enrolled would have to be released from their teaching assignments during the duration of the training, and would have to be compensated for their time. However, the exam-oriented training would provide a definite incentive for participants. It would afford an opportunity to train the trainers who would afterwards be available both for the university curricula and for the re-training program.

### 7.3 Training of Trainers :

#### *7.31 Recommendation:*

*7.311 Re-training all the government legal personnel requires the creation of a cadre of trained trainers equipped to use modern interactive adult teaching methodology. Such methodology, centered on the trainees, their needs and their previous professional experience, uses case studies, practical exercise, dialogue and discussions, question and answer sessions, problem-solving exercises and case-study scenarios.*

*7.312 Training of Trainers must be organized in several phases for the different audience concerned. A basic course of three or four months abroad for a core group of fifteen to twenty trainers should be the first task. These trainees will, upon their return, take the responsibility for training others as the re-training program is implemented. During this course abroad, the trainers will learn basic lawyering*

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<sup>51</sup> For more information on this program, see the paper presented by Messrs. T. GOTTSCHANG, D. McCORNAC & Director. WESTBROOK at the ESNICODS Conference on Transition Economy, Education, Training and Change at the Viet Nam National University in Hanoi, October 1995.

skills<sup>52</sup> and, as importantly, will learn how to teach those skills in a practical effective way.

7.313 In parallel, graduate education for a small group of three or four teachers should be organized to create the basis of a Vietnamese center of practical studies on legal teaching and training. These law professors should come from the Hµ Néi Law University and other Vietnamese institutions of higher legal learning and should remain full time law professors there.

7.314 Finally, Training of Trainers seminars and workshops should be gradually organized in Viet Nam to enable others to undertake re-training activities at their department or division level.

7.315 Initially, the Training of Trainers and in particular training abroad, should be limited to the full-time trainers responsible for the re-training government legal personnel project. Eventually, all law teachers and trainers should benefit from such methodology training through seminars organized by those who will have attended the ToT session abroad.

7.316 Judicial training skills are specific and need special attention. Accordingly, one or two French speaking member of the Judicial Training Center should, in addition to the basic ToT course recommended above, be sent for up to six month in the Ecole Nationale de la Magistrature in Bordeaux France. Two English speaking members of the JTC Faculty should be sent for the same period of time to one of the following judicial training schools in the USA: National Judicial College in Reno Nevada, California Center for Judicial Education and Research.

7.317 As for all training initiated under this project, every effort should be made to "Vietnamize" the Training of Trainers. Accordingly, every workshop organized with input of foreign expertise should build in a commitment of training a counterpart. The foreign expert should thus, following his/her initial intervention, only return as an observer to the second seminar or workshop<sup>53</sup>.

#### 7.32 Rationale:

7.321 As mentioned before, Viet Nam is not lacking re-training opportunities. If anything, the country is benefiting from more training workshops than it can absorb. In such context the main challenge is more to increase the actual impact of these training opportunities and enhance the capacity of the Vietnamese authorities themselves to organize similar re-training activities in places where development agencies are ill-equipped to intervene, particularly in the provinces.

7.322 This priority is acknowledged by the authorities at the highest level. The Party leader, Mr. Do MUOI, addressing the 8th Party congress of the National University's Teachers College in Hµ Néi in January 1996, said that the government would focus its educational priority policy on teachers and their training. Mr. Do MUOI said that

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<sup>52</sup> See 7.1 above.

<sup>53</sup> See Guidelines 9.1 below

“investing in people was the most fundamental investment and investing in education was the best development investment. Training and using human resources should be paid more attention.”

7.323 Chronologically, this is the first task that should be undertaken. In order to re-train large numbers of government lawyers tomorrow, one must today prepare those who will have to do the job. It would be useful to develop a cadre of professional re-trainers, used to modern interactive methods and familiar with the skills that are in such high demand.

7.324 The rationale for initiating this endeavor with the training abroad of a significant group of up to twenty trainers is that reforming training methodology is a long term goal. The process calls for creating a cohesive group of professionals with the same methodological background, who will have shared the same experience of learning the “tricks of the trade” of adult Continuing Legal Education. As they will together be responsible for re-training their compatriots government legal professionals they should have shared the same basic training and been confronted to the same skills as well as substantive training.

7.325 Furthermore, to be in position to train others, to explain and demonstrate the advantages of interactive methods and the process of student and adult learning, there is need for post graduate studies. Several institutions of higher learning have specialized in educational studies. The University of Griffith in Brisbane (Australia) has developed such capacity with emphasis on legal education. Professor Marlene LeBrun, recently participating in a Training of Trainers workshop in Viet Nam as part of this Asian Development Bank project, has conducted extensive research and practical training for law professors. It would thus be useful to complement the core ToT offered once to the staff of the JTC (which should be the institutional base for the re-training program of Vietnamese government legal professionals<sup>54</sup>) with graduate education abroad. The University of Griffith in Brisbane, Australia, would be a possible provider of such graduate degree. The Graduate Certificate in Higher Education would be an opportunity for some Vietnamese trainers to work on practical research projects which would be integrated in the overall re-training policy of the Ministry of Justice<sup>55</sup>. It might, for example, be useful to have one or two trainers work on curriculum design while others might focus their attention on the development of training material or teaching methods. To guarantee the practical impact of such training abroad, beneficiaries would be given practical objectives and assurance that upon their return, they will be asked to take the responsibility for implementing the re-training policy.

7.326 A number of other centers exist which could contribute to the development of this cadre of trainers. For example, programs exist in the universities of Melbourne and Sydney in Australia, in the University of Warwick and at the University College of London in the United Kingdom, in the Clinical Program of the University of New Mexico and in the universities of Montana, Georgetown and City University of New York in the United States. In Canada, Professor Neil Gold, at the University of

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<sup>54</sup> See 7.61 below.

<sup>55</sup> See the brochure of this Graduate course in Annex 6.

Windsor, is one of the world leading authorities in legal skills training. One of the initial task of the Vietnamese Director of the re-training project, will be to identify which institution is best suited to undertake this training, based upon the resources available and these institutions' interest.

7.327 The sheer number of trainers who will have to be prepared to train others, prohibits limiting Training of Trainers to training abroad. This is particularly true if one takes into account that training abroad requires a command of foreign language which, as said previously, is far from being universal. It is thus imperative to pursue a parallel policy of conducting short duration Training of Trainers workshops. These should not be one-of-a-kind instances where trainers are introduced to a number of issues, curriculum design, methods of delivery, course management, preparation of training material and methods for securing and assessing feedback. Rather, the workshop participants should attend a series of such programs. Each training event would consider one or two issues and the same participants would later come back to attend another one-week seminar which would address another set of issues. By the end of a "cycle" of four or five such workshops, the trainers would be equipped to manage and conduct programs themselves, using these techniques and receiving the guidance of those who would have benefited from specialized educational studies abroad.

7.328 Special attention should be given to judicial training skills and it might be useful to give the opportunity to one or two of the teachers of the Judicial Training Centre to attend one of the few institutions specialized in such training. The Ecole Nationale de la Magistrature in Bordeaux (France) which the Dean of the Faculty of Judicial Studies, Dr. Phan Huu THU attended, is one of these centers. Others such as the Nevada or California centers should receive English speaking faculty members and provide assistance in the development of practical curriculum and material.

7.329 Inputs from foreign experts could likely be limited to the first two or three "cycles", after that, the first "promotion" of trainers could take the responsibility for conducting the programs with the supervision of the Part Time Long Term Training Advisor<sup>56</sup> who would provide follow up assistance.

#### 7.4 Training of interpreters and resource persons

##### *7.41 Recommendation:*

*7.411 Four or five legally-trained interpreters should be sent to the International School of Interpretariat in Geneva for specialized one or two month specialized training.*

*7.412 Another group of six interpreters should receive special legal terminology training, organized in Hủ Néi with the assistance of English speaking law faculty members.*

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<sup>56</sup> See 8.92 below.

*7.413 Five or six young graduates should be recruited as "Course Assistants" to help the trainers prepare training material, to do research of practical examples for the re-training and to serve as resource persons for the trainees during their courses. Eventually these assistants would be given responsibility for managing group exercises, particularly important in skills training, some of them may eventually acquire sufficient experience to undertake some training themselves.*

#### 7.42 Rationale

7.411 As previously mentioned, large scale language training should not be the mandate of a legal technical assistance project. Bilateral development agencies are better equipped to take responsibility for such training through their cultural cooperation programs. However, legal technical assistance could usefully consider the funding of training aiming at enhancing the quality of legally-trained interpreters regularly assigned to the Ministry of Justice and participating in training initiated under the auspices of that ministry.

7.412 It is easier to provide legal terminology and possibly a complete basic legal education to one who has already mastered the English language than to teach English to legally-trained personnel. In fact the assistance of the Swedish government to the Hủ Néi Law University with its language program is following this trend. Similarly the work of the United Nations Volunteer language teacher in the same university constitutes a basis upon which future work should be built.

7.413 A number of commercial ventures are providing "Legal English Courses" which this consultant is not in position to evaluate. However, the interest for any of these commercial entities to be associated with a Ministry of Justice initiative might be sufficiently attractive to secure a specially-designed curriculum which would meet the ministry requirements without incurring enormous cost.

7.414 The position of "Course Assistant" theoretically exists in the Vietnamese university. Young graduates are supposed to be assistants for two years before becoming lecturers. However, it seems that the difference between the Assistant and the Lecturer is more in terms of status and teaching load than in terms of function.

7.415 The Course Assistants, according to the recommendation above, would be recruited among the best young graduates and would complement the staffing of the re-training program, along with the few who will have received advanced Training of Trainers abroad and those who will have attended in-country ToT workshops. Eventually, the best Course Assistant could become full-time trainers.

#### 7.5 Training material and institutional support:

##### *7.51 Recommendation:*

*7.511 The re-training project should have a training library with books and periodicals on training methodology and techniques.*

7.512 *A major feature of the project should be the production of Vietnamese language training material, specifically designed for the practical re-training of legal professionals. These should include practical guides on international contract drafting, negotiation techniques, interviewing skills and generally practical handbooks on all lawyering skills which are part of the re-training curriculum*<sup>57</sup>.

7.513 *The topics should be selected by the Training Team and responsibility for training material preparation assigned to the full-time trainers of the re-training project. Foreign expertise could be called upon for assistance but the main authors of the manuals should be the Vietnamese trainers as these books are meant to serve as supporting documents for the training that they will conduct.*

7.514 *Re-training of judges will be greatly facilitated with the production of "bench books". The authors should JTC Faculty member who could receive the technical assistance of senior members of the judiciary.*

7.515 *Procurement of professional training films should be undertaken by the project and right for their dubbing acquired. In particular, negotiation, interviewing and arbitration and mediation training films should be made available in Vietnamese language for skills re-training sessions (London-based Video Arts company would be one possible providers of such quality training videos).*

7.516 *Re-training facilities used for the project should be provided with adequate training equipment including overhead projectors and screens, "flip charts", white boards and copying equipment to facilitate provision to trainees of hand-outs and other supporting materials and literature.*

#### 7.52 Rationale:

7.521 *Re-training legal professionals who must be in position to perform practical tasks, not in a theoretical distant future but upon their return to their jobs, requires providing them with technical tools that they can use. Accordingly, the training material that has to be used for re-training courses must be conceived and developed with these objectives in mind. Lecture notes edited to constitute a textbook are of little use to the practitioner who must translate into legal covenants, ordinances or legislation, the policy of the State. On the contrary what these professionals need are "how-to-do-it" manuals with sample contracts, model texts and, most importantly, examples of problems with types of solutions which can be considered.*

7.522 *Such manuals, virtually non-existent in Viet Nam today, need to be developed by joint effort of Vietnamese instructors and experts familiar with adult training techniques. The initiative of the UNDP project with Asia Foundation support of preparing one such manual for legislative drafting is exactly the kind of effort which should be encouraged and implemented for the numerous legal issues which confront government lawyers in the country today. Questions relating to bankruptcy should for example provide the material for a manual which would not only present and explain*

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<sup>57</sup> See 7.112 above

the law on bankruptcy and how it changes the situation but also provide examples of what could occur and how the law would respond to these problems.

7.523 Judicial training calls for the production of "Bench books" which are practical guides for judges. Similarly, guides should be developed for judgment enforcement officers, Department of Justice officials should also be provided with handbooks containing checklists of the kind of legal issues with which they will be confronted and guidelines on how to solve problems. Such efforts have been initiated<sup>58</sup> but a large scale program of re-training will require a more systematic effort with incentives for authors to devote time and energy to prepare such manuals.

7.524 Legal training is not entertainment. The filming of a training course or workshop results in a series of videotapes which are simply unusable. It has been this consultant's experience to conduct two-week workshops which were entirely recorded or entirely videotaped. It is most unlikely that the collection of audio or videotapes produced was ever used. The editing required would represent an immense work totally disproportionate to its usefulness. The recording of a particular training could be useful when the topic is addressed in the format of a lecture or conference. Then, and only then, viewing the lecturer might be sensible. Providing a trainee with the full text of the speech would enable him or her to read at his/her own speed and go back to whatever segment of the explanation requires a second reading.

7.525 On the contrary "Training Films" can be a most effective tool to illustrate behaviors or demonstrate skills. These films are commercially produced and deal with a wide range of management and lawyering skills which should prove extremely useful for the government lawyer re-training that is being considered. These films tend to be fairly expensive but purchasing the right to dub them into Vietnamese language and to use them in workshops across the country would be an investment which would go a long way towards providing very effective material for practical skills training.

7.526 Teaching law is not an equipment-prone activity. In fact, legal trainers need few accessories to be effective in the classroom. Providing all re-training facilities with adequate, well lit, spacious and properly designed rooms is something the Ministry of Justice is apparently most ready to do. The facilities of the soon-to-be-opened Judicial Training Centre reflect this concern of the Ministry and HLU, thereby demonstrating that the planners have a good understanding of what modern training methods require. The equipment of a legal training Centre is also very modest. White boards, "flip charts" and overhead projectors with screens are the basic requirements, which could be supplemented with video viewing facility to be able to use the training films referred to above. Such investment could be made gradually, as the various provinces have the competent trainers.

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<sup>58</sup> The manual on "Procedure and Enforcement of Civil Judgments" (Thủ Túc KiÖn vµ Thi Hµnh ,n D©n Sù) is a good example. Many others are being published, including very useful practical manuals e.g. the book on "What one needs to know on Practice of Mediation" (Mét Sè KiÖn Thøc Cçn BiÖt vÒ NghiÖp Vô Hõa Gi¶) recently published by the Department of Justice of HCMC.

## 7.6 Support to the Judicial Training Centre

### *7.61 Recommendations:*

*7.611 The Judicial Training Centre is the first institutional base created by the Vietnamese authorities for legal professional training. For that reason and because its completion according to adequate standards<sup>59</sup>, it is legitimate to support such institution in its initial years of operation. Such support should take the form of assistance to its future trainers<sup>60</sup>.*

*7.612 Additional support should also be considered to enable the Centre to expand their training capacity and consider re-training of legal personnel other than judges. The Centre would be particularly well equipped to deal with training of prosecutors, as does the Ecole Nationale de la Magistrature of Bordeaux (France). Such support could accordingly take the form of assistance in the course design, training material development and initial courses delivery with short term (two or three months) consultancies. Equipment procurement as referred to above<sup>61</sup> should be considered in addition to human resources assistance.*

### *7.62 Rationale:*

7.621 As mentioned above, the Judicial Training Centre has impressive facilities which should permit effective training for the judges who will initially benefit from the new Centre. Eventually, the JTC should also train other Court personnel and members of the judiciary. Because of the potential of this Centre in the upgrading of the legal profession and of government lawyers in particular, a project aiming at institutionalizing local training and re-training capacity should assist this institution as it starts its activities. If necessary, equipment could be provided. Certainly support to the library would be welcome while consultancy to help the fine-tuning of the curriculum might be appreciated, if the management and the faculty of the Centre so desire.

7.622 It appeared to this consultant that the Judicial Training Centre was likely to become the major institution of re-training legal professionals in Viet Nam. Its connection with the H<sub>u</sub> N<sub>é</sub>i Law University reinforces its position and makes it a most logical partner for development agencies wishing to assist in the enhancement of local training and re-training capability in the country.

## 7.7 Support to the Civil Judgment Enforcement Officers:

### *7.71 Recommendations:*

*7.711 Specialized training for Civil Judgment Enforcement Officers should be organized. While eventually executors would benefit from the same skills training offered to all government legal personnel<sup>62</sup>, they should in the meantime, receive*

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<sup>59</sup> See 6.6 above

<sup>60</sup> See 7.314 above

<sup>61</sup> See 7.516

<sup>62</sup> See 7.00 above

*special training through short duration (two or three weeks) training workshops. In particular, executors need to be taught what is exactly their role and how their responsibility interacts with the overall need for the rule of law. Comparative analysis with other legal systems, using Bailiffs or Huissiers, should be presented which would give them guidance.*

*7.712 Instructors for this specialized program should be recruited among bailiffs and huissiers undertaking the same professional responsibilities in other jurisdictions e.g. France, Australia or neighboring countries using the same procedure for judgment enforcement.*

*7.713 An important element in strengthening the rule of law being the enforcement of judgments, efforts to reinforce the function of the executor would go a long way in this direction. Reinforcing the role and function of Enforcement Officers can also be achieved through provision to the offices of the Civil Judgment Enforcement Officers of equipment such as computers, computer linkage facilities and other modern office equipment.*

#### 7.72 Rationale:

7.721 The importance of the Civil Judgment Enforcement Officers in the establishment of the rule of Law in the country has already been underlined<sup>63</sup>. The support that should be provided, either as part of the global re-training program of government lawyers or, preferably, through an autonomous project designed specifically for that category of civil servants.

7.722 Civil judgment executors throughout the country are placed in a somewhat difficult position as their role is not always well understood by the public at large and, more importantly the limits of their mandate not always clear even to themselves. At a time when court procedures change but even more, when the nature of cases evolve and the amounts involved are also drastically changing, it is of utmost importance that the same certainty which must prevail in the interpretation of the law and of court decisions, would be present for the enforcement of these decisions.

7.723 The example of bankruptcy cases, often referred to in interviews with Civil Judgment Enforcement Officers, is illustrative of an area most important for economic development, where non-enforcement of court decisions creates major problems.

7.724 The procurement of computer equipment for Civil Judgment Enforcement Offices in the main provinces of the country would be a first step towards improving the efficiency of these offices. Not only would this facilitate the task of the officers but it would greatly enhance the reliability of court records which are very valuable when dealing with a dynamic economy where entities are created daily and where, for example, the values of assets must be relied upon for investment decisions to be made.

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<sup>63</sup> See 4.7 and 6.12 above.

## 7.8. Training Resources

### 7.81 Recommendations:

7.811 *Contacts should be made as soon as possible by the Training Team and, more specifically by the Vietnamese expert given responsibility to manage the re-training program<sup>64</sup> with foreign institutions willing to be partners of the Ministry of Justice for the implementation of the government legal personnel re-training program. These should include among others, the following institutions: the International Law Institute (Washington D.C., United States), the International Development Law Institute (Rome, Italy), the Centre Européen de la Magistrature et des Professions Juridiques (Luxembourg), the Center for Legislative Development<sup>65</sup> (Manila, Philippines), the Ecole Nationale de la Magistrature (Bordeaux, France), the California Center for Judicial Education and Research (Lafayette, Cal. United States) or the Centre for Legal Education (Sydney, Australia).*

7.812 *Similarly, Bar and other professional associations should be contacted to explore their interest and availability. These associations have at times access to funding in their country of origin, as part of international relations programs, which should prove useful when identifying financial support for specific activities.*

7.813 *Having contacted potential institutional training partners, the Training Team should explore with them what support they might be ready to provide on the basis of the training requirements listed above<sup>66</sup>. Competitive bidding for segments of the training technical assistance would enable the Training Team and the donors involved to select the best counterpart and gather additional information on alternative approaches on the program implementation.*

7.814 *Individual experts, Vietnamese or foreign, government officials or private practitioners, who may have successfully intervened in previous training in Viet Nam, should also be identified. Having evaluated through interviews with their former trainees, the quality of their performance, they should be contacted for future programs.*

### 7.82 Rationale:

7.821 The ambitious re-training plan that is advocated in the present report would not be feasible if it were not for the resources available worldwide to contribute to the challenging task of re-training the Vietnamese government lawyers. Through the interviews conducted during this and previous missions in the country, the consultant was gratified to see the number of reputable institutions and individuals standing ready to assist in the training and willing to enter into partnerships with Vietnamese institutions to help them develop their own approach and instruments for legal re-training.

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<sup>64</sup> See 7.00 above

<sup>65</sup> Most likely to be a partner institution given the interest of all Vietnamese agencies for legislative drafting skills.

<sup>66</sup> See 7.213 and 7.312 above

7.822 One of the major sources of potential assistance are the training institutions focusing on legal re-training and Continuing Legal Education. With few exceptions (among which are the International Law Institute, Washington D.C., United States and the International Development Law Institute, Rome, Italy), most of the legal training institutions are centers providing practical training for a specific profession. The Centre Européen de la Magistrature et des Professions Juridiques (Luxembourg), the Center for Legislative Development<sup>67</sup> (Manila, Philippines), the Ecole Nationale de la Magistrature (Bordeaux, France), the California Center for Judicial Education and Research (Lafayette, Cal. United States) or the Centre for Legal Education (Sydney, Australia) are among those institutions which are providing practical professional training and should be contacted.

7.823 Academic Institutions constitute the largest pool of resources when it comes to providing legal training, their institutional experience and their keen interest in developing international contacts qualify them as first contacts for any re-training plan. A number of such institutions are already providing such assistance and have confirmed their interest in being considered for future initiatives which would call on their expertise. American, Australian, Belgian, Canadian, French or Swedish institutions of higher learning send missions regularly to Viet Nam to provide technical assistance and explore best ways of helping their Vietnamese counterparts.

7.824 It is not possible to list all the legal programs involving universities. However, some of the most active ones are the Swedish University of Umea, the Canadian University of Victoria and its Centre for Asia-Pacific Initiatives, the French University of Paris and the Belgian University of Louvain. Several institutions have recently contacted the ADB General Counsel or the UNDP Resident Legal Advisor to express their interest in expanding to Viet Nam the kind of assistance they are currently providing in the region. The American Universities of San Francisco, Harvard, Duke, UCLA and the Faculty of Law of Singapore National University have so expressed their strong interest. The International Legal Education and Training Committee of the International Legal Services Advisory Council of Australia, recently published a report<sup>68</sup> which outlined the importance that country places on providing educational services and assistance to the region, both in terms of receiving foreign students and trainees and of "exporting" their training services.

7.825 The Bar and Professional Associations are also potential counterparts. Contacts have been established by Bar and other professional associations with the purpose of reinforcing their international relationship and network. Some of these initiatives are funded under bilateral cooperation programs, such is the case with the French for the contacts between the Barreau de Paris or the Conseil Supérieur du Notariat. Others like the American Bar Association, are initiated by the association itself and, relying on bilateral assistance funds (USAID), are responsible for major technical assistance projects in Central and Eastern Europe or in Asia as is the case with Cambodia, and would readily provide human resources support for re-training initiatives.

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<sup>67</sup> Most likely to be a partner institution given the interest of all Vietnamese agencies for legislative drafting skills.

<sup>68</sup> Australian International Legal Education and Training : Direction and Opportunities, Dec. 1995.

7.826 A number of Visiting Instructors intervened in training workshops in Viet Nam during the past years, it would be most useful to secure information on their performance through interviews with the persons they taught. It would also be useful to collect information on their experience and inquire whether they would be available for further intervention in the country. Having previously taught Vietnamese lawyers, they have had a first exposure to the local situation and are better equipped to bring with them when they return, material and methods which have been tested and proved relevant and efficient.

7.827 There is an unfortunate tendency in a number of developing or transition economy countries to call upon "outsiders" each time expertise is sought. While the need for foreign experts' assistance is not put in question, it would be wise to consider to what extent such expertise can be found locally. There are many lawyers in Hủ Néi and Hủ ChÝ Minh City today who could take responsibility for some training in programs with competence and certainly more knowledge of the local scene and requirements.

7.828 Government experts, in particular in the Ministry of Justice<sup>69</sup>, are already involved in providing training through seminars to their junior colleagues, on practical issues of which they are specialist. For instance, the lawyers of the Ministry of Foreign Affairs, international law specialists, are often called to teach in the different law schools and one of the senior Deputy Directors is responsible for coordination of International Law teaching in the different schools of law. It would thus be useful to collect data on who might be in position to teach aspects of the new legal framework of the economy or legislation recently enacted.

7.829 Resident Foreign Advisors come to Viet Nam with specific Terms of Reference, their mandate and cooperating institution clearly defined. Though they are all extremely busy, it might be worthwhile exploring if they would be available to put their expertise to use in training contexts which may be outside of their normal "line of duty" in the country. Along the same line, interviews conducted during this mission gave this consultant evidence that several foreign lawyers working in Viet Nam today on behalf of foreign firms, would look forward to be given the same opportunity to contribute to the re-training of their Vietnamese colleagues. Aware of the gap existing between the skills needed for private practice in a market economy context and the skills mastered by government lawyers with whom they deal regularly, they would be keen to provide practical skills training as part of a government-initiated re-training program. It has been this consultant's experience to call upon such practitioners several years ago and both trainers and trainees were very satisfied with the outcome and the opportunity to interact.

## 7.9 Bilateral and Multilateral Assistance for Legal Training:

### *7.91 Recommendations:*

*7.911 Efforts should be made to reinforce the co-ordination of legal Technical Assistance initiatives, especially in the area of training. This work is essentially*

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<sup>69</sup> See 6.2 above

*conducted by the Ministry of Justice which coordinates training seminars and workshops calling for foreign expertise, efforts should be made to facilitate the task of the ministry, for example in requiring that all agencies organizing training with a legal component would advise the ministry if such is not regularly done.*

*7.912 Similarly, the convening of donor agencies representatives under the auspices of the UNDP Resident Representative, which provides a forum of exchange, could usefully be turned into a more technical action- and co-ordination-oriented meeting which could consider from the sponsor's angle the legal technical assistance initiatives.*

*7.913 The publication of a "Legal training newsletter", by the permanent staff of the Re-training project would be another step in the direction of avoiding duplication of efforts. The Ministry of Justice, in its capacity of supervisor of all government legal personnel legal re-training activities, should be in position to collect such information. Planned workshops, and other training events should thus be publicized with topics to be covered, experts to intervene and profile of candidates eligible for participation along with application procedure (name of contact person).*

*7.914 A listing of previous beneficiaries of legal training seminars, workshops or courses and sessions abroad, should also be collected under the auspices of the Ministry of Justice.*

*7.915 Evaluation of training programs are an essential element of future training planning, assessment of impact and of quality of the performance of the trainer --and of the trainee-- are critical for donors but also for trainees' supervisors. For training lasting several weeks or months, this should be done systematically. The nominating agency, department or division should commit to provide one month after the program attended by their personnel, a report assessing the performance improvement if any and generally the judgment of the trainee and his supervisor on the program completed. Provision of such evaluation should condition future participation from that agency or department. Evaluation data should be collected by the unit in charge of the Government legal professionals re-training project<sup>70</sup>.*

#### **7.92 Rationale:**

**7.921** The current interest of donors in legal training is most welcome and all agencies express their satisfaction to see that re-training is given priority since this corresponds to their own concerns, as shown above. At the same time, because the magnitude of the re-training task is well beyond the capacity of any single foreign donor or even of the combination of all efforts, it is imperative that emphasis would be placed on co-ordination of re-training initiatives. To facilitate such, the regular convening of donor agency representatives under the auspices of the UNDP Resident Representative would be without question a step forward.

**7.922** Exchange of information regarding forthcoming training events will avoid scheduling conflicts. It would be useful to formalize this exchange of information

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<sup>70</sup> See 7.00 above

with the regular publication of a "legal training newsletter" which would list planned workshops with topics and whenever possible names of instructors. It should be feasible to collect information on who might attend a training event several some weeks or even days before its actual occurrence. The lists of participants to in-country programs are usually finalised at the last moment because people invited to participate may find themselves unavailable on the day of the program. On the other hand, providing lists of participants to past programs would be very useful as it would enable sponsors, training providers and beneficiary institutions to take previous training into account when designing future programs and recommending candidates. While duplication of training is avoided with the exchange of information on what has been taught and to whom, it also enables sponsors to design programs furthering the knowledge or skill already provided.

7.923 The listing of previous beneficiaries of training or re-training is also a useful instrument for the selection of trainees. It enables the sponsoring organization, in liaison with the government agency, to make sure that persons whose names are put forward for a particular workshop have not before benefited from a similar program or, on the contrary, have not been in the recent past been designated for specialization in a significantly different area. The same care placed by agencies like the Ministry of Justice in the selection of training events would be facilitated through such information-sharing device.

7.924 Along the same lines, training would have to be evaluated in a more systematic manner than is the case today. In fact the medium or long term impact of the training is seldom assessed. Development agencies and training institutions tend to favor the organization of a new activity over the assessment of the results of something completed several months or a year before. However, it would be sensible to study through interviews with the trainees' supervisors and with the trainees themselves, the actual usefulness of the workshop attended. In particular, the interviewer would be keen to find out if the documents provided (course handbooks, checklists, supplementary reading materials or other documents) have been put to use or are still available. It might even be conceivable that such post-program assessment be mandatory before embarking in a new series of training events. Naturally the object of such evaluation is related to the quality of the training itself and of the training institution and not to the seriousness of the lawyer who may not have had the opportunity to use the knowledge or skill imparted. However, in such case this might question the original selection of the participant.

7.925 Evaluation of previous training as a prerequisite for subsequent programming would further guarantee the continuity of the training assistance provided. As participants would be advised that such evaluation will occur, it would also be an additional incentive for them to take the greatest advantage of the training attended.

## 8. GUIDELINES AND ACTION PLAN

### 8.1 Guidelines

8.11 As mentioned before, each development agency is, and should remain, in control of the activities it undertakes to sponsor and implement. Nevertheless, it could be useful for the authorities with direct responsibilities for legal re-training in the country, to enunciate, as part of a training policy document, a series of guidelines which would ensure that the priorities of reinforcing local capabilities are duly taken into account, irrespective of what the particular activity is and who funds it.

8.12 One appropriate requirement would be that all institutions or individuals organizing training in Viet Nam, would provide "re-usable" training documents. This would mean that the workshop or seminar handbook be produced in a format (e.g. easily readable photocopies) that would make it easy to duplicate for subsequent use.

8.13 Another requirement should be that all training using foreign expertise would also make use, on the training staff, of a Vietnamese counterpart, an instructor --or a would-be-instructor-- To facilitate this on-the-job Training of Trainer, there should be a recommendation that the instructors' actual time in the workshop, course or seminar be preceded by comparable time devoted to a dialogue with this Vietnamese instructor who would be in position, subsequently, to undertake the training along the same lines and using the same material.

8.14 This recommended in-country preparation time would also enable the expert to make sure that the kind of course or exercise planned is relevant to the country's legal context and to the level of expertise and knowledge of the audience that he/she is about to face.

8.15 Through the coordination mechanisms<sup>71</sup>, the risks of duplication and inconsistencies of training content could be reduced. To give evidence that such recommendations are duly taken into account, the government authorities benefiting from the training envisaged could require that the institution providing the training would in its project proposal document make precise reference to the previous related-training which occurred and demonstrate how the planned event is a follow-up of previous efforts. This task is currently undertaken by the Ministry and will continue to be overseen by such authority. However the task would be facilitated if the project documents gave evidence of such coherence.

8.16 Finally, the Minister of Justice, exercising his supervisory responsibility for all legal training and re-training in the country, should request that the ministry or the unit in charge of re-training activities, would receive one copy of the course material (the "seminar handbook") distributed to participants for all legal training workshops or seminars organized in the country. Such a collection of training material would rapidly constitute a legal training library readily available for Vietnamese instructors and teachers. These handbooks would have cases and examples, along with illustrative

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<sup>71</sup> See 7.91 above

excerpts of legal literature, which the local instructors might wish to use for their own programs or at least consult to have suggestions of formats and presentation for training material.

8.17 In concurrence with Vietnamese experts, this consultant is of the opinion that training sessions, seminars or workshops, should be systematically concluded with a graded examination, written exercise or other means of evaluating the trainee's performance during the session. This would provide an additional guarantee that the training is taken seriously, that attendance is also controlled and eventually reported. Such guarantee would be welcome by sponsoring organizations which, at times, require evidence of the seriousness of trainers and trainees alike.

8.18 This consultant is confident that in preparing such guidelines, the government authorities will identify other priorities which reflect its commitment to re-train as soon and as efficiently as possible the largest number of government lawyers.

## 8.2 Action Plan

8.20 Re-training all government lawyers in the different ministries and agencies of Viet Nam calls for a firm government commitment, human and material resources, funding and a consensus on the process for the gradual re-training of all personnel. It is on the basis of evidence of such firm government commitment and upon analysis of the soundness of the re-training project that may be proposed that donor agencies will consider favorably providing funding assistance.

### 8.21 Legal Re-training Task Force

8.211 The magnitude of a project calling for the re-training of all government legal personnel, requires that a small group of government officials, donors and technicians, representing those involved in the design of the policy as well as those concerned with the actual implementation of the training be regularly convened to follow up the development of the program. The Ministry of Justice / UNDP Programme VIE 94/003 has such structure with its Training Team. Such group should be marginally expanded to include one or two representatives of donor agencies which would have expressed their interest in participating in the funding of such project. More importantly, such Task Force should include the Program Director<sup>72</sup> responsible for the daily management and implementation of the re-training program. It might be useful to include the foreign advisors involved in the project for long term consultancies or the representative of the "internationally organized institution of legal education to which training activities may be subcontracted"<sup>73</sup>.

8.212 The mandate of such Task Force would be to oversee the implementation of the re-training project, making certain that all government agencies are benefiting from the re-training activities, that the guidelines enacted are taken into account and that the impact of the re-training activities would meet the expectations and requirements of the agencies. Last but not least, the Task Force would use its influence to secure the

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<sup>72</sup> See 7.00 above

<sup>73</sup> See MOJ/UNDP Programme VIE/94/003 Document p. 14

necessary government support, in particular with respect to budgetary resources, for the implementation of the re-training program.

#### 8.22 Legal Training Advisor Resident or Part-Time Long-Term

8.221 A major problem of such a multifaceted project is the question of its follow up. Re-training the country government legal professionals means that a number of different sub-projects have to be pursued and implemented in parallel: the training of the trainers, both in-country and abroad must be initiated as early as possible. Meanwhile, potential authors for the manuals have to be identified, skills training workshops must be tested and curriculum discussed. Data on previous training beneficiaries and instructors must be collected as possible resources for future training should also be identified and contacted.

8.222 Such task cannot be undertaken by the UNDP Project Resident Legal Advisor since his mandate includes numerous tasks other than training. Moreover, experience has shown that time constraints prevent him to do more than conduct short seminars on selected aspects of the reform of the legal framework.

8.223 If the training plan presented above<sup>74</sup> is adopted by the Training Team and receives the adequate government and donor support, it is this consultant's view that the Program Director cannot, without additional human resource assistance, supervise all the re-training activities design and implementation. It is therefore recommended that a Legal Training Advisor, or Training Specialist, would be recruited under this project to assist the instructors recruited for the project in the course preparation and design, in the training material preparation including development of training manuals<sup>75</sup>. Such expert<sup>76</sup>, would be solely concerned with training issues and could thus devote more time to assist the Program Director in the management of re-training under the guidance and supervision of the Task Force. To be effective, it would be important that such expert would be not only somewhat familiar with the context of the Vietnamese legal community but also would be well connected with institutional and individual training resources who might be counterparts<sup>77</sup> of such project.

8.224 Such position could be filled on a "Resident" basis, offering the advantage of being permanently in the country and in position to provide invaluable assistance to the short term consultants --as this consultant had the privilege of experimenting himself with the MOJ/UNDP RLA-- but also the drawback of being time-consuming to set up and costly to maintain. A "Long-Term Part-Time" formula under which a consultant would come regularly, e.g. every two months, for a short period, e.g. one week stay, might be worth considering.

8.225 Whether Resident or Part Time Long Term, such consultant would have to be a training specialist with a solid experience of training management and if possible experience in the country or the region. Ideally, such advisor would work in the

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<sup>74</sup> See 7.1, 7.2 and 7.3 above

<sup>75</sup> See 7.512 above

<sup>76</sup> Such position was recommended by Prof. Theodore Parnall in his "Report on Legal Infrastructure Development", 1992, UNDP Project VIE/88/543, p. 8.

<sup>77</sup> See 7.811 above

Ministry of Justice. Another option would be for him/her to work in the premises of the Judicial Training Centre of the Hủ Néi Law University, if this institution is confirmed in its mandate to eventually take responsibility for re-training of all government lawyers and is selected as the institutional partner of a possible re-training project<sup>78</sup>.

### 8.23 Library and Data Bank

8.231 Modernizing the training techniques and re-training the trainers warrants the creation of a specialized “Legal Training Library” to house a collection of training manuals, subscribe to training periodicals and, most importantly, gather the collection of all handbooks utilized in legal workshops in Viet Nam<sup>79</sup>. Such collection would help the trainers to develop their own training material when designing new courses and seminars. The management and maintenance of such library would be the responsibility of the re-training program, the creation of the library and of the data bank would be greatly facilitated by the implementation of the guidelines suggested<sup>80</sup> and of the measures reinforcing co-ordination of the legal re-training activities<sup>81</sup>.

8.232 A Data Bank of training resources, individuals and institutions, with special reference to those who had previous training experience in Viet Nam, should also be created. Such Data Bank would gather information on legal training initiatives and opportunities in the country which could then be disseminated the way the ADB Law & Development Bulletin is now distributed or through the E-mail link “Net Nam”. The Data Bank would also collect information on former trainees which would be most valuable when trying to identify lawyers with previous exposure or training in a particular area of the law or persons eligible for advanced training in a specific field.

### 8.24 Project Tentative Schedule

8.241 Such an ambitious program cannot be implemented except within a four to five year time frame. Re-training law trainers is a time-consuming task, developing specialized Vietnamese language training material which would incorporate modern pedagogy and practical case studies takes months.

8.242 Particular attention should be given when addressing the schedule issue of such an ambitious project, to the frequent trend to set time objectives which prove unrealistic. Accordingly, it is with utmost caution that this report proposes the schedule below.

#### Project Starting date + 2 months :

- Identification of candidates for Advanced Training of Trainers abroad; (Recommendation 7.31)
- Selection of team of authors for first skills training manual; (Recommendation 7.51)

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<sup>78</sup> See 7.6 above

<sup>79</sup> See Guidelines 8.82 above.

<sup>80</sup> See 8.16 above

<sup>81</sup> See 7.91 above

- Preparation of first Civil Judgment Enforcement Officers (CJEO) training workshop; (Recommendation 7.71)
- Initial work on Training Data Bank; (Guideline 8.15, 8.16, Action Plan 8.23)
- Selection of Training Films for purchase, negotiation of dubbing rights; (Recommendation 7.515).

Project Starting date + 6 months :

- First Training of Trainers workshop in-country; (Recommendation 7.313)
- Identification of partner institutions for different components of in-country training; (Recommendation 7.81)
- Preparation of curriculum and material for three/four week Skills Training program; (Recommendation 7.111)
- Finalization of curriculum for Legal Framework for Market Economy Training; (Recommendation 7.34)
- Publication of first newsletter on legal training opportunities in Viet Nam ; (Recommendation 7.913)
- Publication of first Skills Training Manual; (Recommendation 7.51)
- Delivery of first three/four week Skills Training program; (Recommendation 7.111)
- Delivery of first CJEO course; (Recommendation 7.71)

Project Starting date + 10 months :

- Pilot experiment of insertion of Skills Training component in Part-Time education; (Recommendation 7.113)
- Regular program of skills training conducted by Vietnamese instructors; (Recommendation 7.11 and Guideline 8.13)
- Publication of additional skills training manuals; (Recommendation 7.51)

Project Starting date + 18 months :

- Evaluation of re-training methods, curriculum and material through workshop with all instructors involved in program. (Recommendation 7.915)
- Assessment of re-training completed and revision of goals on the basis of results achieved. (Recommendation 7.915)

8.242 It is expected that, 18 months after the starting date of such project, the training infrastructure of competent Vietnamese trainers, updated Vietnamese language training material, including training films and new manuals and agreed upon curricula and re-training calendar, would be finalized. A regular program of re-training should have been initiated with training sessions organized in all the main Re-training Centers designated by the authorities. Re-training should then be regularly be offered in Hủ Néi, Hủ ChÝ Minh City, Hủ N½ng, Hủi Phßng, CÇn Thá and the other main provincial and regional centers.

8.243 Such ambitious program can only be initiated if a number of training institutions, academic and professional from a range of countries are participating in the implementation and actual delivery of training and assistance through

consultancies. No single training organization would be in position to undertake such a task in all its magnitude and diversity. Coordination among these training institutions, and among donors, will be a crucial factor in the feasibility and success of such endeavor.

## 9. CONCLUSION

9.1 The task of contributing to the building of a sustainable and comprehensive mechanism for the re-training of government lawyers in Viet Nam is an enormous challenge. It is also an indispensable step for the country to be a full-fledged partner of its ASEAN neighbors and the rest of the world on the eve of the next millennium.

9.2 Such undertaking will be successful if the efforts of the donors, combined with an eagerness to learn on the part of the country's civil servants, are reinforced by statements of the government authorities that legal re-training, like training of legal teachers and trainers, is a priority which leads to a re-training policy with set objectives and a time-table devised by the Vietnamese authorities and shared with their multilateral and bilateral foreign partners.

9.3 To achieve the goal of bringing the Vietnamese government lawyers to the level of skills and knowledge demanded by the economic environment of the year 2,000 the civil servants of the Socialist Republic of Viet Nam have no alternative but to follow the famous saying : *Hăc, Hăc N-a, Hăc M-i*.<sup>82</sup>

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<sup>82</sup> "Study, Study again, Study always" (Lenin).

**TERMS OF REFERENCE  
ASIAN DEVELOPMENT BANK RETA 5640 PROJECT**

**Objective and Scope**

The objectives of the Technical Assistance shall be:

- (i) to provide further training in Cambodia, Mongolia, PRC and Viet Nam primarily to government lawyers, including in particular those involved in advising the principal development agencies in such countries; and
- (ii) to develop, for each of the four selected countries, a program to institutionalize such training capabilities with local and/or regional institutions in the DMC concerned or elsewhere within the region.

**Work program**

IDLI's work under the Technical Assistance shall consist of two phases in respect of each of the four countries:

- (i) the first phase of the work will involve a Technical Assistance Needs Assessment mission during which IDLI shall identify and assess the particular technical assistance requirements. During the first mission, IDLI shall also focus on a particular training need which will be met through a one-week training workshop schedules during the second phase. IDLI shall also identify a potential institutional partner for conducting the workshop.
- (ii) During the second mission, IDLI shall carry out its assessment and analysis of the in-country institutions and of the local, bilateral and multilateral development resources available or likely to be available for legal training in that particular country. As part of such assessment, IDLI shall conduct consultations with the concerned governmental authorities, local educational and training institutions, local professional associations, and other donor agencies. Particular attention shall be given to the local institutions-building and strengthening element, and, where feasible, at least one institution for each country concerned shall be selected for undertaking future workshop. The teaching mission will also include the one-week training workshop. The teaching materials used in the workshop will be prepared in such a way as can be readily used in subsequent training to be locally administered.

### **Program Schedule**

It is expected that IDLI would commence work under the RETA in September 1995 and complete its work within approximately 16 months thereafter.

### **Reporting**

IDLI shall submit to the Bank the following reports:

- (i) Workshop program: Upon completion of the first mission for each participating country, IDLI shall submit to the Bank for comments a workshop program concerning detailed arrangements for the workshop to be carried out during the second phase.
- (ii) Draft report: Upon completion of the second mission for each participating country, IDLI shall submit to the Bank for comments a Draft Country Report which will (i) assess the legal training requirements for government lawyers and legal personnel and domestic institutional capabilities for providing such training; and (ii) make a concrete recommendation on the institutional arrangements for locally providing legal training of government lawyers and legal personnel on a continuing basis as well as specific measures needed to strengthen the local institutions (s) so selected and future local training program (s) to be undertaken.
- (iii) Final report: Upon completion of the Technical Assistance, IDLI shall submit to the Bank a Final Report for each participating country incorporating the Bank's comments on the relevant Draft Country Report.

**TERMS OF REFERENCE  
LEGAL TRAINING NEEDS ASSESSMENT  
MINISTRY OF JUSTICE - UNDP PROGRAMME VIE/94/003**

The objective of the mission is to design -in cooperation with the board of Directors, the Training Committee of the legal leading Group, designated Vietnamese experts, and the Resident Legal Advisor of the Programme - a detailed, practicable rolling training program which will:

1. Implement the training and retraining activities described in the Programme Document, specifically those set forth under Outputs 2.2. and 3.1.
2. Tailor the training initiatives to accommodate the specific legal training and retraining needs of the Ministry of Justice, the Legal Department and Law Committee of the National Assembly, and the legal departments of the Office of the Government, the Ministry of Trade, the State Committee for Cooperation and Investment, Ministry of Finance, the State Planning Committee, the Ministry of Science, Technology and Environment and other law-oriented ministries and agencies in Viet Nam. Such training shall be designed with particular reference to the lack of language skills of many potential participants: no-short term, in-country training should make proficiency in a foreign language a prerequisite for participation.
3. Ensure that all training efforts will be complementary to those initiatives being undertaken by other bilateral, multilateral and non-governmental donors: This would include a detailed listing of such training initiatives within the past two years and those projected for the next two years. Such training efforts should build-on and not repeat training which most participants already have had.
4. Make use of the facilities of local institutions of legal education, as well as any potential services of local attorney's associations, and foreign bar associations and law firms; and
5. Plan for the preservation and wide dissemination of all presented material by the use of video tape recordings.
6. Develop and institutionalized training capability and program by training Vietnamese instructors in key institutions which will enable the Ministry of Justice, the National Assembly and other relevant agencies to continue to provide training to lawyers at all levels-including "core" courses to orient new Government lawyers, legal advisors and legal drafting personnel as well as "continuing education" to middle and senior level officials.
7. Develop a strategy for securing co-financing for both in-country and out-of-country short and long-term programs. This would include a detailed listing of all legal training opportunities being offers abroad as part of bilateral and multilateral government cooperation and exchange programs.

## **LIST OF PERSONS MET**

**Hồ Néi, November 27 - December 15, 1995**

**Hồ Néi, Hà ChÝ Minh City, CÇn Thá, §µ N½ng, January 16 - February 9, 1996**

### **Ministry of Justice :**

- Dr. Nguyen Ngoc HIEN, Vice-Minister of Justice, Rector of Hồ Néi Law University
- Dr. Ding Trung TUNG, Director Department of Civil and Economic Legislation
- Dr. Ha Hung CUONG, Director Department International Law & International Cooperation
- Mr. Vu Van QUY, Deputy Director Personnel & Training Department
- Ms. Nguyen Bich VAN, MOJ-UNDP Programme VIE/94/003 Project Coordinator
- Mr. John BENTLEY, Resident Legal Advisor

### **Hồ Néi Law University :**

- Dr. Le Hong HANH, Vice Rector
- Dr. Le Minh TAM, Vice Rector
- Dr. Ngo Ngoc THUY, Dean of Faculty of Law
- Dr. Phan Huu THU, Dean of Faculty of Judges Training
- Mr. Luu Trung HANH, Vice Dean Faculty of Administrative Law

### **University of Law Hà ChÝ Minh City Branch :**

- Dr. Nguyen Van THO, Rector
- Dr. Le Thi Bich THO, Vice Rector

### **Hồ Néi National University, Faculty of Law**

- Dr. Nguyen Cuu VIET, Vice Dean
- Ms. Nguyen Hoang VAN, Lecturer in International Law
- Mr. Vu Tuan MINH, Lecturer in Law

### **National Institute of Public Administration**

- Prof. Dr. Vu Huy TU, Vice-President
- Mr. Dinh Van MAU, Dean, Faculty of State & Law
- Mr. Nguyen Trung TIEP, Deputy Director General Department of International Cooperation

**Office Of the Government :**

- Prof. Dr. Nguyen NIEN, Director Department of Law
- Ms. Tran Thi Huyen NGA, Expert Department of Law

**Office Of the National Assembly :**

- Dr. Nguyen Van PHUC, Vice-Director Law Department
- Ms. Nguyen Thi Mai PHUONG, Expert Law Department

**Ministry of Commerce :**

- Mr. Nguyen Huu CHI, Deputy Chief Legal Department

**Ministry of Interior :**

- Dr. D-~~ng~~ M'nh HUNG, Chief of Legislation Department
- Mr. Ngoc ANH, Responsible for International Law
- Mr. TOANH, Expert International Law
- Ms. BINH, Expert International Law

**Ministry of Finance :**

- Dr. Tran Van TA, Director Financial Policy Department
- Mr. Pham Phan DUNG, Deputy Director Financial Policy Department
- Mr. Cao Ngoc XUYEN, Senior Expert Financial Policy Department
- Ms. Nguyen Thi CAN, Expert Financial Policy Department

**Ministry of Science, Technology and Environment :**

- Mr. Tran Quang NHUAN, Director of Legislation Department
- Mr. Tran Hai HA, Expert Legislation Department
- Ms. Bui Yen PHONG, Expert Legislation Department
- Ms. Tran Thu HUONG, Expert Legislation Department
- Ms. Nguyen Mai PHUONG, Expert Legislation Department
- Mr. Hoang Minh THU, Expert Legislation Department
  
- Mr. Hans FRIEDERICH, Environment Management Advisor, Viet Nam National Environment Agency

**Ministry of Planning and Investment :**

- Mr. Le Huu Quang HUY, Senior Expert Foreign Investment Legislation Department

**Ministry of Foreign Affairs :**

- Mr. Nguyen Quy BINH, Director, Treaty & Law Department
- Mr. Nguyen Ba SON, Deputy Director, Treaty & Law Department
- Mr. Nguyen Tien CUC, Expert, Treaty & Law Department
- Mr. Nguyen Van LY, Director Law Department Hà ChÝ Minh City Office MFA

**Vietnamese Communist Party's Central Committee, Bureau of Internal Affairs**

- Mr. Nguyen Van QUYEN, Director Department of Law

**Central Institute of Economic Management :**

- Dr. Bui HA, Director Macroeconomic Policy Department
- Mr. Bui Van DUNG, Expert Macroeconomic Policy Department

**General Department of Land Administration:**

- Mr. Mai Xuan YEN, Chief of Inspector

**State Bank of Viet Nam :**

- Mr. Nguyen Dinh AI
- Mr. Nguyen Thang LONG

**People's Supreme Court :**

- Ms. Duong Thi Thanh MAI, Vice President
- Dr. Ding Ngoc HIEM, Judge

**Supreme People's Procuratorate :**

- Dr. Khuat Van NGA, Director of Law Research Institute
- Dr. Vu Van MOC, Expert, Law Research Institute
- Dr. Le Minh TUAN, Expert, Law Research Institute
- Dr. Nguyen Long VAN, Expert, Law Research Institute
- Dr. Nguyen Thu QUY, Expert, Law Research Institute

**People's Court of Hù Néi:**

- Mr. Nguyen Xuan KHANH, Vice Presiding Judge
- Mr. Nguyen Van HOI, Vice President Administrative Section

**Department of Justice of Hù Néi:**

- Dr. Nguyen Vinh OANH, Director
- Mr. Tran TOAN, Head of Training Section

**Government Committee of Organization & Personnel :**

- Mr. Do Xuan DONG, Deputy Director
- Mr. Nguyen Sy CUONG, Lawyer
- Mr. Nguyen Xuan BINH, Lawyer
- Mr. Tran Van NGOC, Expert International Affairs Department
- Ms. Nguyen Tuyet MAI, Expert International Affairs Department
- Mr. Le Xuan TUNG, Expert International Affairs Department

**Hà ChÝ Minh City Justice Department :**

- Dr. Nguyen Duc CHINH, Deputy Director
- Ms. Ngo Minh HONG, Head Legal Drafting Division

**Hà ChÝ Minh City Civil Judgment Enforcement Office :**

- Mr. Dao Anh DUNG, Executor
- Mr. Vo Vau HAN, Executor
- Ms. Le Thuy HUONG, Executor
- Mr. Pham Van TIEN, Executor
- Mr. Ha Quoc DUNG, Executor
- Ms. Duch Thi NU, Executor
- Mr. Nguyen Buu QUANG, Executor
- Mr. Nguyen Hoang HUY, Executor
- Ms. Le Tan NE, Executor

**Department of Justice CÇn Thá Province**

- Mr. Nguyen Viet BINH, Director
- Mr. Pham Minh TANG, Deputy Director
- Mr. Nguyen Viet XUAN, Deputy Director

**Civil Judgment Enforcement Office CÇn Thá Province (CÇn Thá):**

- Mr. Tran Lam SON, Director

**People's Court CÇn Thá Province(CÇn Thá):**

- Ms. Le Ai TU, President

**Chamber of Commerce & Industry CÇn Thá Province(CÇn Thá):**

- Mr. Dang Van RONG, Director

**Department of Justice Quang Nam Province (Şµ N½ng):**

- Mr. Vo Xuan MY, Director

- Mr. Vuong Thanh PHONG, Director Public Notary Office
- Ms. Nguyen Thi HANH, Expert

**Civil Judgment Enforcement Office Quang Nam Province (Số N/2ng):**

- Mr. Vo Van TAN, Director

**People's Court Quang Nam Province (Số N/2ng):**

- Mr. Huynh NGHIA, President
- Mr. Tran Ngoc TRIEU, Vice President

**Department of Justice Thua Thien Province (Hue):**

- Mr. Phan Bach HA, Vice Director, Chief of Division of Civil Judgments Enforcement
- Mr. Le Minh TAM, Expert

**Multilateral Development Organizations :**

- United Nations Development Programme :

- Mr. Jordan RYAN, Deputy Resident Representative
- Mr. Bruno POUEZAT, Assistant Resident Representative
- Mr. Trinh Tien DUNG, National Programme Officer

- European Union :

- Mr. Thomas F. EARLIE, Director

- World Bank :

- Mr. Bradley O. BABSON, Resident Representative

**Bilateral Development Organizations :**

- Australia

- Ms. Vilaisan CAMPBELL, Second Secretary, Development Cooperation, AusAID
- Mr. Nguyen Ngoc VIET, Program Officer, AusAID

- Belgium

- Mr. Pierre DULIEU, Counselor Development Cooperation, Embassy
- Ms. Véronique RENARD, Professor of Law, Faculty of Law Hư Néi National University
- Mr. Luca FALOMO, , Professor of Law, Faculty of Law Hư Néi National University

- Canada

- Mr. Raymond GAUTHIER, Senior Resident Advisor, Embassy

- Dr. Jigjai HANCHANLASH, Coordinator IDRC-CIDA Program

- France

- Mr. Sylvain FOURCASSIE, Cultural Attaché, Embassy
- Mr. Pierre GUILLOU, Deputy Director Maison du Droit

- Germany

- Mr. Frank REINER, Secretary Economic and Development, Embassy
- Mr. Dang Quang LY, Expert, Konrad Adenauer Foundation
- Dr. Michael BLECHER, GTZ Economic Legislation Project, Senior Legal Counsel

- Italy

- Dr. Mario-Vittorio ZAMBONI DI SALERANO, Ambassador
- Dr. Carlo FORMOSA, First Secretary, Embassy

- Japan

- Mr. Masaru TODOROKI, Resident Representative Japan International Cooperation Agency

- Sweden

- Mr. Stefan DAHLGREN, First Secretary Development Cooperation

- United States

- Ms. Helen CHAUNCEY, Representative Vietnam, The Asia Foundation
- Ms. Meagan S. BALDWIN, Ass. Rep. Viet Nam, The Asia Foundation

**Others :**

- Hu Néi Residents

- Prof. Luu Van DAT, Vice President, Viet Nam Lawyers Association
- Mr. Kay Minh DANG, Attorney at Law, White & Case
- Mr. James S. FINCH, Attorney at Law, Russin & Vecchi
- Mr. Tony FOSTER, Chief Representative, Freshfields Lawyers
- Mr. Tung HUYNH, Attorney at Law, Clifford Chance
- Ms. Miyako IKUTA, Attorney at Law, Mandel, Ngo & Associés
- Mr. Pierre JUNG, Attorney at Law, Mandel, Ngo & Associés
- Dr. Ngo Ba THANH, Vice President, Viet Nam Lawyers Association
- Mr. John THEAKER, Director & Project Manager, SIDA/IBRD Project for the Development of the Vietnamese Banking Sector
- Mr. Phan Nguyen TOAN, Attorney at Law, Russin & Vecchi
- Mr. Daniel WESTBROOK, Visiting Lecturer in Economics, National Economics University

- Non Resident in Hủ Néi

- Mr. Mark SIDEL, College of Law Iowa University (Viet Nam specialist)
- Mr. Paul LI, California Center for Judicial Education and Training (Judicial Training specialist)
- Mr. Christopher ROPER, Centre for Legal Education, Sydney (Continuing Legal Education specialist)
- Prof. William NEILSON, Centre for Asia-Pacific Initiatives, University of Victoria (Law Professor)
- Prof. Ian TOWNSEND-GAULT, Director, Centre for Asian Legal Studies, University of British Columbia (Law Professor)
- Mr. Christopher LEE, Research Associate, Asia Pacific Ocean Cooperation Program, University of British Columbia (Researcher)
- Mr. John L. EVANS, Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy, University of British Columbia (Law Professor)

**TRAINING NEEDS ASSESSMENT MISSION**

**November 27 - December 15, 1995**

**January 15 - February 9, 1996**

List of Questions to be presented to Vietnamese institutional counterparts

1. What are the main legal tasks your Department undertakes (legal advice, drafting of laws, regulations, circulars or ordinances, contract drafting, negotiation, dispute resolution, other) ?
2. What responsibilities does your Department have with provincial or local agencies?
3. How many lawyers does your department/division/agency have ?
4. How many lawyers do you think your department should have ?
5. How many other persons in your department are involved in legal work ?
6. What further training or re-training, do the persons responsible for doing legal work in your Department need in order to do their job better ?
7. What specialized areas of the law do you think are most relevant to your Department legal work ?
8. Is further training or re-training needed in any of these particular areas ?
9. Is such training currently available in Hủ Néi? In Viet Nam ?
10. What specialized skills are most relevant to your Department legal work ? (For example, such as legal drafting, negotiating, legal analysis or advocacy.)
11. Is further training or re-training needed in these skills ?

12. Is such skills training currently available in Hủ Néi? In Viet Nam ?
13. What legal education have persons having legal responsibilities in your department or agency received ? Where from : Vietnamese institution? Overseas university or training institution ?
14. How many lawyers in your department speak English ? French ? German ?
15. What kind of training (seminar/workshop or other) have they received since taking up their position ?
16. As Department supervisor, did you see an impact of these re-training activities on their job performance ?
17. Is there training material/documentation adapted to your Department's legal training needs ?
18. Do the persons having responsibilities for legal work in your Department have a sufficient understanding of the role of Law in the market-oriented economy of Viet Nam ?
19. Should there be a regular program of re-training for lawyers of your Department ?
20. How do you believe such re-training should be organized : at the Departmental or Ministerial level ? By your Department or Ministry ? By another Ministry ? By a specialized institution ?
21. What institution in Viet Nam do you believe would be best equipped to undertake such re-training ?

**LIST OF WORKSHOPS, SEMINARS ORGANIZED BY MINISTRY OF JUSTICE  
1993-1995**

	<b>NAME OF INTERNATIONAL COUNTERPARTS AND ORGANIZATION</b>	<b>DATE</b>	<b>TOPIC OF THE WORKSHOP, SEMINARS</b>	<b>PLACE</b>	<b>VIETNAMESE INSTITUTION IN COOPERATION WITH MINISTRY OF JUSTICE</b>
GERMANY	I.K.A.S.	7-8 Aug. 1994	Seminar on Economic Law	MOJ	
		17-18 Oct. 1994	Seminar on Bankruptcy Law	MOJ	
		3-25 Aug. 1995	Training Course on Legislative Drafting Skills	MOJ	
		6-7- Jan. 1996	Workshop on Competition Law	MOJ	
	I. FES	25-26 Oct. 1994	Workshop on Jurisdiction in the field of Labor law	MOJ	
		6-7 Nov. 1994	Workshop on Jurisdiction in the field of Administrative law	MOJ	
		4-13 Nov. 1995	Workshop on Jurisdiction in the field of Labor law	MOJ	
		6-7 Dec. 1995	Workshop on Jurisdiction in the field of Administrative law	MOJ	
	ADB-IDLI	Jul. 1993	Training course on Negotiation and Legislative Drafting Techniques	MOJ (Hanoi)	MOJ + National Bank
	Deacons and Graham and James	Jan. 1994	Seminar Economic Arbitration	MOJ (Hanoi)	
	Asia Foundation + IDLI	Jul. 1994	Training Course on Legislative Drafting Techniques	MOJ (Hanoi)	
	Australian International Legal Cooperation Committee (AILECC)	Dec. 1994	Training Course on Bankruptcy Law	MOJ (Hanoi + HCMC)	

FRANCE		Feb. 1993	Seminar on Comparison of Different legal Systems	MOJ	
		March 1993	Seminar on Obligation Law	MOJ	
		21-22 Jun. 1993	Seminar on International Commercial Law	Maison Vietnamo-française du droit	
		23 Sept. 1993	Seminar on Courts Organization of France	MOJ	
		28-29 Sep. 1993	Seminar on International Commercial Arbitration	MOJ	
		8-10 Nov. 1993	Seminar on Judgment Enforcement	Maison Vietnamo-française du droit	
		20-22 Dec. 1993	Seminar on Public Bidding Council	Maison Vietnamo-française du droit	
		14-15 Jan. 1994	Notary Public	Maison Vietnamo-française du droit	
		4-5 Apr. 1994	Seminar on Competence and order to promulgate legal normative document	Maison Vietnamo-française du droit	
		25-28 Apr. 1994	Seminar on Economic Crime	Maison Vietnamo-française du droit	
		9-12 May 1994	Seminar on Contract Drafting	Maison Vietnamo-française du droit	
		20-22 Jun. 1994	Enterprise bankruptcy	Maison Vietnamo-française du droit	
		5-7 Sept. 1994	Competence determination between Central and Local Administration	Maison Vietnamo-française du droit	
		10-12 Oct. 1994	International Commercial Contract Drafting	Maison Vietnamo-française du droit	
		7-9 Nov. 1994	Private and Public Economic Law	Maison Vietnamo-française du droit	
		12-14 Dec. 1994	Industrial ownership	Maison Vietnamo-française du droit	

		20-21 Feb. 1995	Advocate Management	Maison Vietnamo-française du droit	
		11-12 May 1995	Public Notary	Maison Vietnamo-française du droit	
		31 May - 2 Jun. 1995	Nationality Law	Maison Vietnamo-française du droit	
		13-15 Jun. 1995	Enterprise Comparative Law	Maison Vietnamo-française du droit	
		26-29 Jun. 1995	Civil Procedure law	Maison Vietnamo-française du droit	
		17-19 Jul. 1995	Order to promulgate the Legal Normative Document	Maison Vietnamo-française du droit	
		11-14 Sept. 1995	Magistrate Training	Maison Vietnamo-française du droit	
		19-20 Sept. 1995	Comparative Commercial Law	Ministry of Trade	Ministry of Trade
		5-7 Oct. 1995	Economic Criminal Law	Maison Vietnamo-française du droit	
		Nov. 1995	Private International Law	Maison Vietnamo-française du droit	
		Dec. 1995	European Community Law	Maison Vietnamo-française du droit	
JAPAN	Japanese Foundation	3-6 Nov. 1993	Japanese Civil Law	MOJ	
	JICA	29 Jun.-1 Jul. 1994	Japanese Justice Institutions System	MOJ	
	Japanese Foundation	13-15 Sep. 1994	Japanese Civil Law (cont.)	MOJ	
	Japanese Foundation	19-20 Aug. 1995	Japanese Civil law (workshop with Drafting Group)	MOJ	
	JICA	27-30 Sep. 1995	Japanese Nationality Law	MOJ	
	JICA	14-16 Nov. 1995	Japanese Enterprise Law and Bankruptcy Law	MOJ	
	JICA	12-17 Dec. 1995	Japanese Commercial Law and Juridical Administration Law	MOJ	

SWEDEN	SIDA	6-7 Apr. 1993	Bankruptcy	Hanoi	
	SIDA	10-12 Jun. 1993	Enterprise Registration	HCMc	National Economic Arbitration
	SIDA	24-25 Nov. 1993	Administrative Courts	Hanoi	
	SIDA	26-27 Nov. 1993	Economic Procedure	Hanoi	
	SIDA	9-11 Dec. 1993	Criminal Procedure	Hanoi	People's Supreme Procurators
	SIDA	4-8 Apr. 1994	Genders and Legal System	Hanoi	
	SIDA	10-12 May 1994	Legal Education	Hanoi	
	SIDA	24-26 Aug. 1994	Human Rights - History and Concepts	Hanoi	Ho Chi Minh National Political Institute
	SIDA	24-26 Oct. 1994	Cooperative Law	Hanoi	
	SIDA	21-22 Nov. 1994	Criminal Procedure	Hanoi	People's Supreme Procurator
	SIDA	17-18 Jan. 1995	Bankruptcy Law	Hanoi	
	SIDA	7-9 March 1995	Non Government Arbitration	Hanoi	
	SIDA	14-16 Aug. 1995	Marriage and Family Law	Hanoi	
	SIDA	28-30 Aug. 1995	Competition Law	Hanoi	
	SIDA	12-14 Sep. 1995	Civil Procedure	Hanoi	
	SIDA	28-30 Nov. 1995	Enterprise Law	Hanoi	
	SIDA	26-27 Sep. 1995	Nationality Law	Hanoi	
	SIDA	10-11 Jan. 1995	The implementation of International Treaties on Human Rights	Hanoi	Ho Chi Minh National Political Institute

## HANOI LAW UNIVERSITY

**Structure of Undergraduate LL.B. Degree****CURRICULUM OF THE FIRST STAGE**

	FIRST SEMESTER Name of subject	SECOND SEMESTER Name of subject
the first year	1. Philosophy 2. Foreign languages 3. GETHSTALA 4. Gymnastics 5. Advanced Mathematics	1. Economics 2. Foreign languages 3. Gymnastics 4. GETHSTALA 5. Advanced Mathematics
The second year	1. History of CPV 2. Foreign languages 3. General psychology 4. Logic 5. History of poli. Theory 6. HISTALAVI 7. WOHISTALA	1. Scientific socialism 2. Foreign languages 3. Sociology 4. Administrative law (introduc.) 5. Criminal law (introduction) 6. Economic law (introduction) 7. Information science

**ABBREVIATION**

- PRISTAAC - Basic principles of statistics and accounting
- LEXFIEC - Legal experts in financial and economic fields
- ADNO - Organization and Activities of Advocates and Notaries
- HISINREV - History of International Relations of Viet Nam
- GETHSTALA - General Theory of State and Law
- HISTALAVI - History of State and Law of Vietnam
- WOHISTALA - World History of State and Law
- NOH - Number of Hours
- NOC - Number of Credits
- TEDLA - Techniques of drafting law
- HSINRE - History of International Relations

## CURRICULUM OF THE SECOND STAGE

Year	SEM	Depart. of Administrative Law	Depart. of Economic Law	Depart. of Justice	Depart. of International law
III	5	Foreign languages State Law Admin. Law Criminal Law Civil Law Roman Civil	Foreign languages State Law Admin. Law Criminal Law Civil Law Roman Civil	Foreign languages State Law Admin. Law Criminal Law Civil Law Roman Civil	Foreign languages State Law Admin. Law Criminal Law Civil Law Roman Civil
	6	Foreign Languages Admin. Law Criminal law Civil Law Family Law Psychology of Management	Foreign Languages Economic Law Criminal law Civil Law Family Law Land Law	Foreign languages Criminal law Criminal procedure Civil Law TEDLA	Foreign languages Criminal law Civil Law Family Law TEDLA
IV	7	Foreign languages Criminal Procedure Civil Procedure Economic law Cooperative law HISTALAVI	Foreign languages Criminal procedure Civil procedure Economic law Labor Law Land Law	Foreign languages Criminal procedure Family law Civil procedure Economic law Coop. Law	Foreign languages Crim. Procedure Civil Procedure Economic law Cooperative law Int. Public law For. Policy of SRV
	8	Foreign languages Labor Law Financial Law Intern. Public Law TEDLA	Foreign languages Financial law Cooperative Law Inter. Public Law TEDLA Inter. Economic law	Foreign languages labor law Financial law Land law inter. Pub. Law legal psychology Criminology Accounting operation	Foreign languages labor law Financial land law Inter. Private law Inter. Private law HISINRE
V	9	Foreign languages Inter. Private law PRIRISTAAC Criminology Poli. Conception GETHSTALA	Foreign languages Inter. Private law PRISTAAC Enterprise Management Economic Law Labor Law	Foreign languages Inter. Private law Criminology Legal Medicine Criminology Legal Statistics Criminal Law Civil Law LEXFIEC ADNO	Foreign languages Inter. Private law Inter. Econ. Law HISINREV Custom law Intern. Insurance law

HANOI NATIONAL UNIVERSITY,  
SOCIAL AND HUMANITARIAN SCIENCES COLLEGE  
FACULTY OF LAW

Structure of Undergraduate Degree

**First Stage: General education**  
(1,5 years = 3 semesters)

A. Required subjects:

- Political economy
- Introduction to Sociology
- Introduction to State and law
- Introduction to Political Science
- introduction to Psychology
- Introduction to Population Issue
- Philosophy
- Practical Vietnamese
- Introduction to Logic
- Mathematics
- Informatics

B. Optional Subjects (with professor guidance)

- Macro Economy
- Introduction to History of International Relations
- introduction to Pedagogy
- Introduction to Ethnology
- Introduction to Management Science
- Introduction to Geography
- Introduction to Culture
- Introduction to History of the world
- Introduction to Viet Nam History
- Introduction to Arts
- Introduction to History of Philosophy
- Introduction to History of Religion
- Introduction to the Press
- Documentation and keep as public records
- Economic Statistics
- introduction to Physics
- Introduction to Chemistry
- Introduction to Biography
- Science on the Earth
- Science on Environment

## **Second stage: Legal Education**

(2,5 years to 3 years = 5 to 6 semesters)

### A. Required subjects:

- Communist Science
- History of Viet Nam Communist Party
- Practicing Army
- Foreign Language (English, French, Russian, Japanese, Spanish, Chinese or German)

### B. Basic legal subjects:

- Theory Issues on State & Law
- History of State & Law in the world
- History of State & Law in Viet Nam
- Constitutional Law
- Administrative Law
- Criminal Law (Part I)
- Criminal Law (part II)
- Civil Law (Part I)
- Civil Law (Part II)
- Economic law
- Public International Law
- Private International Law
- Marriage & Family Law
- Labor Law
- Criminal Procedure law
- Civil Procedure Law
- Constitutional Law of Foreign Countries
- Finance and Banking law
- History of Political Theories
- Theory and Skill to drafting legal documents
- Social Security Law
- Comparative law
- Environmental Law
- Land Law

### C. Specialized legal subjects:

#### 1. State management specialty

- Theory on State Management
- Management psychology
- managing activities of Notaries and Lawyers
- Civil Society & Legal State
- Human rights - history & present
- legal Sociology

## 2. Justice specialty

- Organic law of Courts, Procuratorates
- Ancient Roman Law
- Criminology
- Science of Criminal Investigation
- Judicial Psychology
- Forensic Medicine

## 3. Econo-civil specialty

- Contract Law
- House Law
- Business Management
- Intellectual Property

## 4. International Law Specialty

- International Economy
- international organizations
- Judicial Assistant treaties
- Recognition and Implementation of Judgments and decision of foreign courts in Viet nam

### \* Practical training (5 months: 2 times)

- The first at the end of the third year
- The second at the end of the last year