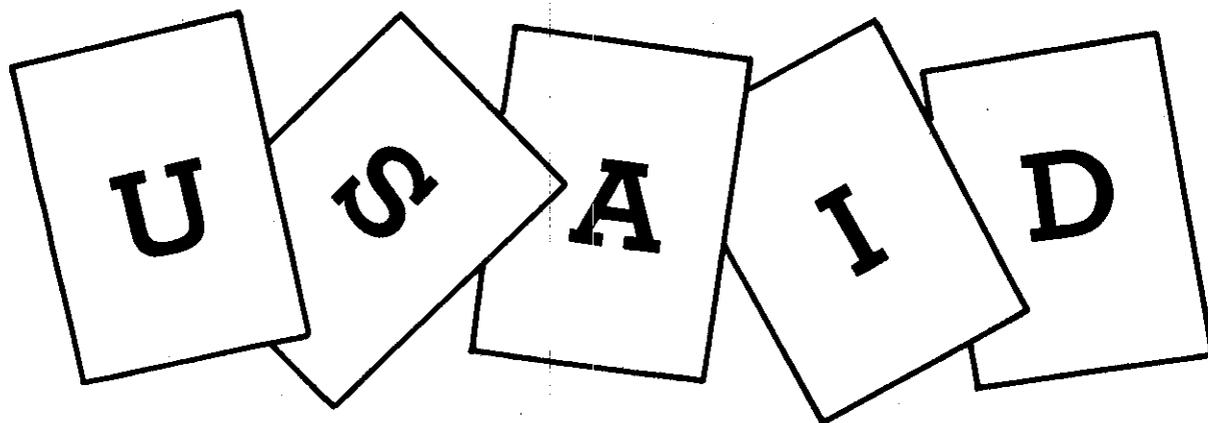


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CONTENTS

	Page
I. RECENT DECREES OF THE GOVERNMENT OF VIETNAM AND RECENT DOCUMENTS ON MAJOR PROGRAMS	
<u>Central Government</u>	3
pay-as-you-go tax on salaries from Jan. 1--- budgeting, accounting, and fiscal control--- the legal system--- The Commission for Education and French schools---	
<u>Open Arms</u>	76
defects of the program and what to do about them--- a change of designation: from "one who gave up" to "one who returned to his family"	
<u>Local Government and Rural Development</u>	81
how much will be spent for each kind of rural development during 1967	
II. PERSONNEL AND ORGANIZATIONS	
<u>Personnel:</u>	82
the staff of the Constituent Assembly--- recent changes in key personnel in provinces, districts and cities--- recent changes in representatives for refugees in provinces and cities---	
<u>Map:</u>	85
the new province of Sadec	
III. NOTES ON ADMINISTRATION IN VIETNAM	89
checklist on cadre for rural development--- criteria for open arms programs in provinces--- Viet Cong cadre: a structure beginning to crack? terminology: a Commission has a mission; a Ministry ministers---how to help refugees	

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CENTRAL GOVERNMENT: pay-as-you-go tax deductions from salaries from Jan. 1, 1967:

Office of the Chairman, Central Executive Committee

Decree-Law No. 015-5Lu of September 3, 1966 governing the procedure for withholding salary tax and general income tax.

CHAIRMAN OF CENTRAL EXECUTIVE COMMITTEE

Decrees:

Art. 1 - Effective January 1, 1967, the salary tax and general income tax of servicemen, civil servants and private enterprise employees as defined in Ordinance No. 10 of April 13, 1953, will be computed from their salary and income of current year and will be withheld monthly from their salary.

Art. 2 - Public agencies, civilian and military, and proprietors of private enterprises have the responsibility of withholding and depositing at the treasury the amount of tax withheld.

Art. 3 - The tax withheld monthly must be deposited within the first 15 days of the following month.

Art. 4 - Article 63 of Ordinance 10 of April 13, 1953 is hereby supplemented as follows:

"However, with regard to salaried taxpayers, they must submit their declarations during the first two months of every year".

Art. 5 - In case of violation of any of article 1, 2, or 3 of this decree, such as failure to withhold tax, withholding insufficient amounts, failure to deposit tax withheld, or delay in depositing tax withheld, etc., all proprietors of enterprises as stipulated in Article 2, will be liable for the payment of a fine. In addition to paying the required amount of withholding tax, they will be obliged to pay a fine equal to the required amount of withholding tax.

In case of repetition of any of the foregoing violations, the fine will be doubled.

Art. 6 - The fine as stipulated in article 43 of Ordinance 10 of April 13, 1953 is 1.000\$.

Saigon 3 September, 1966.

s/Gen. Nguyen cao Ky

CENTRAL GOVERNMENT: budgeting, accounting, and control:

The government of Vietnam used to have a tight French system of accounting. Activities went unfunded until elaborate pre-audits had been made by officials of higher echelons to be certain that the activity was authorized and that funds existed. Control of expenditures was effective but the activities lagged behind schedule. In recent years, because of war and rising prices GVN had breached this system in many ways. The pressure has been to create funds and to grant operating executives discretion to spend. The emphasis has been to get things funded, to get things done, and to judge them by the final uses to which the money was put.

For some time the government has had a committee on accounting and on national accounts examining the problems of GVN's fiscal systems. The following decree is the first basic change in fiscal procedures.

Articles 2--16 deal with budgeting; articles 17--52 with accounting for where the money came from and where it went; articles 53--55 with contracts; articles 59-85 with state-owned enterprises; and articles 95--96 with control.

Decree-Law No. 019-SIU of Sept. 3, 1966
fixing Financial and Accounting Procedures for
National and Local Administrative Units.

The Chairman, Central Executive Committee,
.

DECREES THE FOLLOWING:

Title I

Article 1. This decree-law is to define financial and accounting procedures for the Nation and local administrative units.

The budget and general account of the State include the budgets and accounts of the following:

- a. Public offices of the State,
- b. State-owned enterprises,
- c. Autonomous public agencies.

The budgets and accounts of various local administrative units comprise the budgets and accounts of the following:

- a. Prefecture
- b. Municipalities
- c. Provinces
- d. Villages

FIRST PART: Public Offices of the Nation

Title I. Establishing and Approving the Budget

Chapter I. Receipts and Expenses of the Budget

Article 2. All receipts and expenses of National public agencies for each fiscal year should be planned and authorized by a financial law.

Each fiscal year begins the 1st. of January and ends the 31st of December the same year.

Article 3. The receipts of the budget consist of the following:

- a. Various categories of taxes
- b. Income from public properties and financial investments
- c. Receipts from services provided by public offices
- d. Subsidies, donations, and bequests
- e. Reimbursements from loans and advanced funds
- f. Miscellaneous profits.

Beside the above regular receipts, the Nation can issue bonds according to general provisions stipulated in a financial law to be promulgated every year.

Article 4. Taxes may be collected only when a regulation governing their collection has been set up.

Receipts from services provided by public offices may be collected only when a decree concerning these receipts has been issued, in consideration of a report made by the Commissioner for Finance and the Commissioner of the Department concerned.

Article 5. Receipts other than those stipulated in the financial law are strictly prohibited. Those officials who order collections and who set up tax rolls and tax rates, and illegal collectors, may be prosecuted for embezzlement, in addition to legal actions for reimbursement against receiving officers, cashiers, and any individuals who have illegally collected taxes within a period of 3 years.

Article 6. All receipts are to be used to cover all expense items.

However, some receipts may be appropriated to cover particular expenses, and this use will be

carried out by registering the receipt amount and the corresponding expense amount in a special subchapter of the Budget, and this should be authorized by the annual financial law.

Article 7. The projected receipts will be based on the amounts to be delivered to the national budget within the fiscal year.

Article 8. Expense items to be covered by the budget are divided into two types: Administration and investment expenses.

a. The administration expenses comprise:

- Expenses of the national sovereignty;
- Expenses of public loans;
- Expenses of operations and maintenance of public offices;
- Other expenses resulting from the contributions of the Nation in social welfare, cultural, and economic fields, but different from expenses charged to investment expenses.

b. The investment expenses include:

- Expenses of the setting up or modernization of national properties;
- Expenses for the re-establishment and reconstruction of national properties;
- Expenses relating to investment of capitals in private or public agencies;
- Expenses relating to national financial support by way of loans or subsidies extended to private or public corporate bodies so as to help implement the above activities.

Article 9. The projected expenditures to cover all national expenses will be based on the amounts to be paid by the Nation to clear debts incurred in the fiscal year.

Article 10. Moreover, expenditures will include all amounts to be paid by the Nation to creditors during the fiscal year due to debts resulting from:

- a. Compliance with provision of legislation or regulations that have been promulgated;
- b. Implementation of contracts governing rentals of properties or services;
- c. Liquidation of allowances concerning the payment of compensations and charges, and the reimbursement of advanced funds.

Article 11.

- a. The expenditures will cover obligating and authorizing transactions.
- b. However, as regards expenditures reserved for works or designed to provide properties or services, that require implementation within a period of more than 12 months, they are divided into two types: obligating and authorizing expenditures.
 - Obligating expenditures will be the total amount of debts that may be incurred during the fiscal year.
 - Authorizing expenditures will be the total amount of funds that may be authorized during that year to clear the debts having been incurred in that year and those incurred in the previous fiscal years.
- c. Funds designed to cover investment expenses are the total amount provided for in the approved programs that are considered as a plan of appropriating expenditures to carry out investments supposed to extend over many years. If not cancelled the above approved investment programs will remain valid until completed.

CHAPTER 2
Budget Establishment

Article 12. The Directorate General of Budget and Foreign Aid (DGBFA) will draw up the budget draft that will be passed by the Cabinet and then submitted to the Legislative Body on the 30th of Sept. in the preceding fiscal year at the latest.

Article 13. The budget draft will be presented by section, chapter, and article.

The presentation by Section will be in terms of the administrative organization of the Nation.

Expenditures allocated to each agency to cover its expenses will be centralized in a Chapter.

All items of expenses within a Chapter should be grouped into articles by nature of expense.

The financial law may allot collective expenditures for expenses that cannot be divided into article(s) at the time when the Legislative Body approves the budget. Such expenditures will be distributed in accordance with an arrete from the Prime Minister in consideration of the proposal made by the Commissioner concerned.

Article 14. A general report on the Budget should be submitted to the Legislative Body along with the budget draft, comprising the following:

- a. Breakdown of projected receipts and expenses and recapitulation of projected receipt and expense items.
- b. An economic report.
- c. A financial report.

The above reports should clearly describe the results of previous years, the outlook for the current year, the goals to be achieved in the year to come, and in the forthcoming years, if relevant.

CHAPTER 3

Approving the Budget

Article 15. The financial law will be approved as a common law, or in compliance with special provisions stipulated in the Constitution of the Republic of VietNam.

Article 16. No legislative measure or regulation should be put into effect if it results in a new expense item or in an increase in the amount of an earmarked expense item, if there exist no funds for implementation of the measure in that fiscal year or in the immediate fiscal year to come, and if there are no projected resources or receipts or funds to be obtained by cancelling or reducing old expense items.

Every quarter the Prime Minister's Office will forward a list of allotted expenditures to the Legislative Body in compliance with legislative measures or regulations.

Title II. Budget Implementation

Section A. Receipts

Chapter 4. Collection

Article 17. Commissioners will order their ministries to implement the collections pertaining to them. For this purpose, the Commissioners will delegate this to those officials who meet the conditions as formulated in the regulation to carry out this decree-law.

Article 18. Only amounts having been deposited in the national fund during the particular fiscal year may be added to the receipt items of the National Budget for that fiscal year.

Article 19. Concerning receipts by the Nation from property or service rental contracts or from reimbursement from imprest funds or loans, only amounts receivable during the fiscal year may be added to the budget execution accounts.

Article 20. Receipts of the Nation expected to be collected within the fiscal year but not collected before year-end, may be transferred to the following fiscal year, provided such receipts have been delayed but are still collectable.

Receipts transferred to the following fiscal year will be added to receipts of the same types in that fiscal year.

Article 21. At the end of each fiscal year, the remaining amount of receipts appropriated for special expenses may be used for the following fiscal year immediately.

Section B. Expense Implementation
Chapter 5. Expenditure Management

Article 22. Only the relevant Commissioners, who will have full responsibility for their funds' uses, are allowed to use expenditures allotted to various ministries.

However, Commissioners are not authorized to allot more expenditures than those granted to their ministries. They are not allowed to increase expenditures more than those allotted to their ministries by using any special resources.

The Commissioners will delegate to Controllers (Gestionnaires des Credits) power to allocate expenditures provided to their ministries. Deputy Controllers (Sous-Gestionnaires des Credits) may be delegated, by Controllers, powers to allocate expenditures for use.

Article 23. The transfer of expenditures from one chapter to another may be carried out within the fiscal year in accordance with a decree, under condition that this transfer will not change the nature of the expense, when it is deemed necessary after any government change or any reform of administrative structures.

The transfer of expenditures from the article for "Unforeseen Expenses" to other articles, or from one article to another within a Chapter, may be made, based on an arrete from the Commissioner concerned, provided the nature of expense remains unchanged.

Article 24. Only the following may be appropriated for expenses of the national budget during a fixed fiscal year:

- a. All sums having been authorized in the fiscal year, comprising:
 - either non-allocated expenditures already approved for that fiscal year's budget to cover expenses mentioned in article 9 above;
 - or authorizing expenditures;
 - or expenditures transferred from the preceding fiscal year to the current one according to articles 26 and 27.

Article 25. All expenses covered by receipts appropriated for this purpose should not exceed the amount receivable from the receipts. These expenses will be charged to the fiscal year authorizing budget.

Article 26. The financial obligations remaining at the end of the fiscal year will be transferred to the following fiscal year and may be met at its beginning as follows:

- a. As regards non-allocated expenditures
 - all expenses due to debts incurred in the past fiscal year.

b. As regards allocated expenditures:

- all expenses among the obligated expenditures;
- all expenses among the authorized expenditures.

Article 27. To cancel each fiscal obligation of the preceding year after having it transferred to the following fiscal year, the Prime Minister will enact an arrete recognizing that the expenditure approved for the preceding fiscal year is no longer necessary.

The arrete governing this transfer of expenditures will be published in the Official Journal of the Republic of VietNam prior to March 1st. of the immediate following year.

This arrete should specify the following of each expenditure:

- The remaining amount at the end of the related fiscal year.
- That the involved expenditure to be transferred to the following fiscal year is recognized as necessary to carrying out the goal of the approved expenditure.
- That the remaining expenditure of the related fiscal year is rescinded.

b. Non-allocated expenditures pertaining to the preceding fiscal year once transferred to the following fiscal year are to be combined with other expenditures of the same nature. Expenditures transferred to the following year may be used to cover only expenses related to debts incurred in the year of implementation of the initial budget.

Non-allocated expenditures may be transferred to the following fiscal year only once.

- c. Expenditures for obligation and expenditures for allotment of the preceding fiscal year, once transferred to the following fiscal year, will be combined with expenditures of the same nature.
- d. All expenditures transferred to the following fiscal year should be listed as mentioned in articles 26 and 27 above. The Prime Minister will forward this list to the Legislative Body before Aug. 31st. the following year.

Chapter 6: Obligations

Article 28. No expense is obligated if it is not consistent with financial regulations and provisions in the financial law approved by the Legislative Body.

Article 29. From Nov. 15 on each year, all expenses necessary to the continued management of public offices may be obligated for the following year to the limit of 25% of the expenditures projected for the same expenses during the current fiscal year.

The following should be clearly specified on obligation material: "No delivery of commodities nor service rendered is allowed before the beginning of the fiscal year."

Chapter 7: Control of Obligations

Article 30: Any written requests authorizing expenses must be visaed by Auditors.

These Auditors will be appointed by the Prime Minister and will work closely with various ministries and provincial administrative offices. These officials will act as Obligating Accountants and will be placed under the direction of the Head Office of Audit.

Article 31. These Auditors are authorized to request disbursing and expending agencies to provide all necessary materials, information, and explanations in obligating request, but they have no rights to question the appropriate nature of expenses.

Article 32. In case of emergency resulting from particular or unforeseen circumstances, the Cabinet can, after discussion, authorize obligations, liquidations, allotments, and payments in excess of expenditures projected in the budget, or approve an amount to a certain limit as prescribed even if such expenditures were not provided for in the budget.

The minutes of such meetings held by the Cabinet should be sent immediately to the Legislative Body and the Head Office of Audit. If the latter has some comments on the above matter, it will forward them without delay to the Legislative Body for final decision.

Expenses authorized by the Cabinet should be adjusted periodically by a decree allowing the allotment of additional necessary expenditures.

Article 33. Auditors will periodically forward a recapitulation of obligations based on expenditures mentioned in article 11 above, to the Directorate General of Budget and Foreign Aid, the Central Office of Accounting, and the Head Office of Audit.

The annual recapitulation of obligations should be closed by the Head Office of Audit within the period fixed by the Prime Minister.

The above recapitulation must be attached to the budget account.

Chapter 8

Confirmation of creditor's rights, and
liquidation of expenses: Vouchers

Article 34. No expense can be liquidated if the involved work is not yet completed and accepted, except in special cases stipulated in the regulations dealing with the implementation of this decree-law.

Article 35. Controllers and Deputy Controllers should be responsible for the accuracy of certified matters, confirmation of creditor's rights, and liquidation of expenses.

Article 36. The Commissioner for Finance will define, by an arrete, the vouchers to be attached to records of liquidation of expenses based on an interministerial proposal. These requirements may be complemented or modified according to above procedures.

Article 37. Documents justifying transactions of the budget and cash should be presented to the Head Office of Audit.

If some justifying documents are kept by the relevant Accountant, these documents may not be cancelled prior to the auditing of the closing balance without a regulation defining the cancellation of each type of transaction.

Chapter 9

Allotments: Authorizing Offices

Article 38. Authorizing Offices are created to assume the responsibility of issuing disbursing orders, and of keeping records of expenses.

Article 39. The Chief of the Authorizing Office is responsible for controlling, liquidating, and authorizing expenses.

Article 40. Disbursing orders issued during the year are to be registered in the budget of that fiscal year continually to the 15th of January of the following year.

Article 41. All loans become null for ever and will be charged to the National Budget if there are not sufficient vouchers for liquidating and authorizing purposes within four years effective the beginning of the fiscal year in which loans are made or extended.

Article 42. Disbursing orders must be paid within a year after the issuance date.

Chapter 10
Payments - The State Cashier

Article 43. The National Treasury will perform the duty of State Cashier.

Government and private banks, and Offices of Postal Checks may make the payments on behalf of the National Treasury.

Section C. Accountants and the Central Office of Accounting
Chapter 11: Accountants

Article 44. Accountants are those officials who will be responsible for receiving and disbursing public funds, and registering all transactions of the budget and of national properties.

Article 45. Records and ledgers kept by these Accountants should be closed on the 31st of December each year or whenever they cease to hold these positions, and control will be assumed by designated officials.

As regards these Accountants, the control of cash and holding status should be made at the same time, and certified by a report.

Article 46. Accountants should render accounts of all the transactions they have carried out during the year to the Head Office of Audit through the Commission for Finance.

Closing balances of the preceding year should be sent to the Head Office of Audit before the 1st. of March of the following year, except in cases of cash deficit or transfer or resignation of Accountants. In such cases, a particular period is fixed in the regulation for implementation of this decree-law.

Chapter 12
The Central Office of Accounting

Article 47. The Central Office of Accounting is an agency placed under the direct supervision of the Commission for Finance, and separate from the National Treasury.

The Central Office of Accounting has the following duties:

- a. to centralize records of various Authorizing Offices and Accountants;
- b. to register lists of receiving and disbursing transactions made by the State Cashier;
- c. to be responsible for book-keeping on national properties;
- d. to set up the Budget Execution Accounts and the General Accounts of the State;
- e. to set up accounting regulations related to the implementation and control of the National Budget and budgets of State-owned enterprises, autonomous public offices, and joint-stock companies.

Section D. Budget Execution Accounts and Closing of the Budget

Chapter 13
Budget Execution Accounts and
Closing of the Budget

Article 48. The budget execution accounts to be set up by the Central Office of Accounting consist of lists presented according to budget designation.

The following must be clearly specified on these lists:

1. Receipt items:

- Projected receipts
- Estimated receipts
- Actual receipts
- Difference between estimated receipts and actual receipts
- Estimated receipts cancelled or delayed.
- Remaining receipts to be transferred to the following fiscal year
- Difference between projected receipts and actual receipts.

2. Expense items

- Expenditures projected for the budget
- Obligated expenses
- Authorized and paid expenses
- Difference between obligated expenditures and authorized expenses
- Cancelled expenditures
- Expenditures transferred to the following fiscal year.

Article 49. As regards expenses chargeable to expenditures of the preceding fiscal year and transferred to the current year, or chargeable to authorized expenditures, it must be clearly stated in the budget account whether the expenses are provided for work or supplies during

the current year, and the account for these expenses must have been established in the current year or these expenses must have been incurred in previous years.

Article 50. During August of the following year, the Commissioner for Finance must submit to the Legislative Body the draft law to close the preceding year's budget.

Article 51. Expenses paid during the preceding year but not yet justified by January 31st of the following year must be separately mentioned in the previous year's budget execution accounts. If need be, an additional provision will be included in the draft law governing the closing of the preceding year's budget, to authorize justifications of the preceding year's expenses in the following year's budget execution accounts.

Section E. Special Provisions

Chapter 14. Government Accounts Outside of the Budget

Article 52. Government accounts outside of the budget may only be established by a financial law. Procedures governing the operation and control of these accounts will be defined in the regulation concerning the implementation of this decree-law.

Statements of government accounts outside of the budget must be attached to the budget execution accounts of the commission concerned.

For adjustment purpose, all existing accounts outside of the budget that are not approved must be cleared and rescinded by a decree based on the reports from the Commissioner for Finance and the Commissioner concerned.

Title III. Administrative Contracts
Chapter 15. Regulations for Administrative
Contracts

Article 53. All contracts for work, supplies, and transportation for the nation may be signed only after calls for bids have been made for purposes of competition, and the results must be published.

Procedures relating to the above invitations to bids and special procedures (Estimate consultation, bilateral contract, etc.) are defined in the regulation governing the carrying out of this decree-law.

Article 54. The annual financial law may particularly authorize contracts for work, supplies, or transportation to be carried out during a period of more than 12 months.

Article 55. As mentioned in article 30 above, contracts for work or supply of properties or services must be visaed by Auditors before approval and transmittal.

Title IV. Accounting for Materials and
National Properties

Chapter 16. Materials Accounting

Article 56. Within the general inventory of national properties, all agencies must keep their regular materials inventories and special book-keeping on materials as defined in the regulation governing the implementation of this decree-law.

Chapter 17. National Properties Accounting

Article 57. National properties will be registered according to their acquisition values.

Amounts for depreciation and other amendments are defined in the regulations concerning the carrying out of this decree-law.

Article 58. All fluctuations in values of national properties must be recorded in a special account according to rules dealing with the implementation of this decree-law.

The Head Office of Audit will recognize, by its post-audit, the legal and accurate nature of transactions recorded in the foregoing account. These transactions may result from expenses covered by the budget or from any changes of assets or liabilities already confirmed but not yet charged to the budget.

Chapter 18: STATE-OWNED ENTERPRISES:
General provisions

Article 59. The state-owned enterprises are national structures having a commercial, industrial or financial nature without corporate bodies, established by regulation and in compliance with provisions stipulated in this second part.

The existing enterprises will be regularized by a special decree.

Beside the special regulations defined in the second part of this decree-law or in the decrees regularizing the situation of existing enterprises, all general rules of public accounting are applicable to state-owned enterprises.

Article 60. Based on the proposal made by the Commissioner for Finance, the Prime Minister will define regulations for state-owned enterprises, concerning the following:

- a. Presentation of the budget
- b. Accounting
- c. Rendering of accounts
- d. Periodic statements

Article 61. Accounting of state-owned enterprises must be kept in such a way as to enable the following:

- a. The follow-up of budget implementation and obligations
- b. The estimate of costs of services and products, and evaluation of exploitation results by branches of activity of each enterprise.

Chapter 19. Budgets of state-owned enterprises

Article 62. Each state-owned enterprise must establish an annual budget for all receipts and expenses.

The fiscal year begins the 1st. of January and ends the 31st. of December of the same year.

Article 63. The budget of a state-owned enterprise is divided into three items.

- a. Regular transactions
- b. Capital transactions
- c. Transactions for regularization.

Article 64. The related receipts are charged to the budget in the year for which properties or services are acquired.

The related receipts are charged to the budget in the year when other creditors' rights of the Nation are confirmed.

Article 65. The expense items are charged to the budget in the year for which properties or services are provided.

The expense items are charged to the budget in the year when other debts of the Nation are confirmed.

Article 66. Programs for work and supplies to be implemented for a period of more than twelve months must be planned and presented in the budget as follows:

- a. Amount of debts that may be incurred in the current fiscal year.
- b. Amounts that may be liquidated during the current fiscal year to clear debts incurred in that fiscal year and in previous fiscal years.

Every enterprise must attach to its annual budget draft an evaluation of the total value and process of the above-mentioned programs.

Article 67. The budget for regular transactions may include special unlimited expenditures; in this case, it is required to clearly describe the special unlimited nature of these expenditures.

Article 68. The draft budget of each enterprise should be enclosed with the draft budget of the supervising Commission. The two budgets will be approved at the same time by the Legislative Body.

Article 69. Ministers may authorize their subordinate state-owned enterprises to transfer expenditures related to regular transactions.

Chapter 20. Opening Balance Sheet

Article 70. Upon submission of the initial draft budget of a state-owned enterprise, the Commissioner of the supervising ministry and the Commissioner for Finance will establish an

opening balance sheet based on the inventory of properties appropriated for a state-owned enterprise.

The values of assets and liabilities mentioned in the inventory of properties of a state-owned enterprise will be fixed based on the proposals made by the Commissioner concerned and the Commissioner for Finance after having consulted a Committee designated by the Prime Minister.

Chapter 21: Management regulations

Article 71. The decree-law places the related public offices under a statute for state-owned enterprises and simultaneously defines the conditions in which the national capital necessary to run these enterprises is ready at their disposal.

Article 72. State-owned enterprises may borrow money with the approval of the Commissioner concerned and the Commissioner for Finance, to meet their own requirements.

Article 73. A state-owned enterprise will set up a fund for depreciation and a fund for replacement of machinery and equipment.

The fund for depreciation will be complemented by an annual endowment based on the present value of capital properties.

The fund for replacement of machinery and equipment will be complemented by an annual endowment based on the difference between the purchasing price and the present value of capital properties as mentioned in the paragraph above.

The Commissioner of the supervising Ministry and the Commissioner for Finance will together define the method to estimate the annual endowments for the above two funds.

Article 74. The establishment of reserve funds for state-owned enterprises will be stipulated in the regulation governing their creation. This regulation will define the purpose, procedures governing complement and use of fund, and the maximum amount of the reserve fund.

Article 75. Besides the application of article 74 above, the profit or loss of each state-owned enterprise at the year-end must be combined with receipt items of the national budget or compensated for by an expenditure particularly allotted to the budget of the supervising ministry.

Article 76. Any supplies or services provided by a state-owned enterprise to public offices or other state-owned enterprises must be paid for.

Any supplies or services provided by public offices or state-owned enterprises to a state-owned enterprise must also be paid for by the latter.

With the agreement of the Commissioner for Finance, the Commissioner of the supervising ministry may authorize non-compliance with the above provision in special cases.

Article 77. All expenses paid by the Nation for an enterprise must be entirely reimbursed by the latter to the former.

With the agreement of the Commissioner for Finance, the Commissioner of the supervising ministry may authorize non-compliance with the above provision in special cases.

Article 78. The Commissioner of the supervising ministry and the Commissioner for Finance will define general conditions in which contracts for works or supplies by state-owned enterprises

may provide a partial advance of funds before completion and acceptance of any services, works, or supplies.

Exempted from compliance with article 65 are installments; these installments will be charged to the budget of the current year.

Chapter 22: Cash and Current Account

Article 79. Transactions on fund entries and disbursements of state-owned enterprises are made by their accountants.

The liable accountants either keep money in their cash boxes or deposit it in current accounts of the National Treasury, Banks, or Offices of Postal Checks.

Internal regulations of each enterprise, subject to approval by the Commissioner for Finance, will fix the maximum of cash an accountant is authorized to keep. Any amounts that exceed this fixed maximum must be deposited into a current account of the National Treasury, Bank, or Office of Postal Checks.

Article 80. If available resources of state-owned enterprises are inadequate, the Commissioner for Finance can authorize an advance to the involved enterprise for a period not exceeding a year to cover emergency expenses as projected in its budget.

Article 81. All amounts paid in and paid out from current accounts between the Treasury and state-owned enterprises may produce interest, and the interest rate will be fixed by the Commissioner for Finance and the Commissioner of the supervising ministry.

Chapter 23. Rendering of Accounts by
state-owned enterprises

Article 82. The Commissioner of the supervising ministry will establish:

1. Every month: Financial statements by state-owned enterprises
2. Every year: - Budget execution accounts
 - Statements of exploitation accounts and profit and loss accounts
 - Balance sheets along with closing balances of all accounts

State-owned enterprises must enclose with the documents described in (2) above a report on methods and standards applied to help set up statements and estimates of the values of properties, and define annual endowments for depreciation and replacement of machinery and equipment.

Article 83. All accounts of state-owned enterprises are to be forwarded by the Commissioner of the supervising ministry to the Commissioner for Finance on the 31st. of March of the following year, at the latest.

The Commissioner for Finance must send these accounts to the Head Office of Audit before the 30th of April the following year.

The draft decree-law closing the budgets of enterprises must be submitted to the Legislative Body on the 31st. of August the following year at the latest.

Statements of profit and loss accounts, exploitation accounts, and balance sheets must be attached to the draft decree-law governing the closing of budgets.

Chapter 24: Control of state-owned enterprises

Article 84. Based on a proposal made by both the Commissioner for Finance and the Commissioner of the supervising ministry, the Prime Minister will define, by an arrete, accounting and financial control procedures to be applied by the Control Office of state-owned enterprises, directly supervised by the Ministry of Finance, depending on commercial, financial, or industrial activities of the enterprises concerned.

Article 85. Accounts and balance-sheets of state-owned enterprises must be submitted to the Head Office of Audit.

The Head Office of Audit can audit financial records of enterprises on the spot.

The Head Office of Audit may request state-owned enterprises to provide at any time all materials, information, or necessary explanations of expenses, receipts, assets, and liabilities of enterprises.

Chapter 25: Autonomous Public Offices and Joint-Stock Companies

Autonomous Public Offices

Article 86.

1. Autonomous public offices are those agencies which are established by the government in an administrative, industrial, commercial, or financial form, being entitled to a corporate body and an autonomous management. Autonomous public offices are set up by a law and must comply with general provisions defined by the Prime Minister based on the proposal made by the Commissioner for Finance and the Commissioner of the supervising ministry.

2. The above-mentioned general provisions must comprise regulations concerning the following:
 - a. Form and presentation of an annual budget that constitute instructions to set up balance-sheets and result accounts (exploitation, and profit and loss).
 - b. Keeping of financial records on commerce or industry according to the general accounting plan.
 - c. Setting up of periodic reports and financial statements.
 - d. Methods of estimating:
 - depreciation;
 - annual endowment for the fund for replacement of machinery & equipment;
 - other amounts for reserve
 - e. borrowing of money, use of properties and available cash to produce profits;
 - f. the control of accounts to be implemented on the spot by the Ministry of Finance and the Head Office of Audit.
3. The existing autonomous public offices will be regulated by a special decree.

Chapter 26: Joint-Stock Companies

Article 87. Joint-stock companies are those companies or enterprises having their private regulations, and public credit agencies under the control of the Nation, to which the Nation has contributed a partial amount of capital, or has contributed support by extending either loans or advance funds.

All joint-stock companies are placed under the control of the Nation in accordance with general provisions to be prescribed in a decree.

The General Account of the State

Article 88. Every year, the Commissioner for Finance must forward to the Legislative Body before the 31st. of March the General statement of the Treasury as of the 31st. of December of the preceding year, along with the previous year's provisional budget execution account.

Article 89. The General Account of the State is set up every year by the Central Office of Accounting.

This General Account deals with all transactions on the budget, properties, and public funds carried out from the 1st. of January to the 31st. of December.

It includes a collective statement of national transactions and detailed statements as indicated below:

- Final budget execution account
- Fluctuation of values of national properties
- The situation of the Treasury.

The General Account is to be sent to the Head Office of Audit before the 30th of June the following year.

Accounts of various autonomous public offices and joint-stock companies must be enclosed with the general account of the State.

Article 91. The Commissioner for Finance will set up periodic inventories of national properties.

Values of assets and liabilities given in these inventories will be fixed after the Committee designated by the Prime Minister has been consulted.

The balance-sheet of the State must be amended in accordance with values described in the inventory of national properties.

Article 92. The statement of Treasury will deal with transactions carried out to maintain the balance of resources and requirements of the Nation and other transactions of the Treasury relating to accounts outside of the budget and private funds.

A statement of public loans must be enclosed with the statement of Treasury.

Article 93. During August the following year, the Head Office of Audit must forward the General Account of the State as of the preceding year-end to the Legislative Body with its related comments.

Chapter 28. Local Budgets

Article 94. Accounting rules and procedures governing implementation of local budgets are stipulated in the regulations concerning the carrying out of this decree-law. The foregoing rules and procedures may be amended by decrees.

Chapter 29: Control by the Executive Body

Article 95. Control activities by the Executive Body comprise the following:

- a. The Auditors appointed by the Prime Minister to control obligations will work closely with various ministries, provinces or regions.

- b. High ranking officials and Chiefs of Authorizing Offices of various ministries are responsible for internal pre-audit.
- c. Inspectors of the Superintendent General's Office and of various ministries are in charge of mobile and on-the-spot inspection and control.

Chapter 30. Control by the Legislative
Body: The Head Office of Audit

Article 96. The Head Office of Audit is in charge of the following:

- 1. Regular post-audit of spending dossiers
- 2. On-the-spot pre-audit of the following:
 - a. Public fund accounting
 - b. Material accounting
 - c. National properties accounting
 - d. Accounts outside the budget
 - e. Certified Accountants
 - f. All financial and accounting transactions of all public offices of the nation, state-owned enterprises, autonomous public offices, and joint-stock companies
 - g. The General Account of the State
 - h. Local budgets

Article 97. The Head Office of Audit can:

- a. Request all agencies described in article 96 above to provide, at any time, documents, information, and necessary explanations of receipts, expenses, assets and liabilities.
- b. Make investigations and communicate the results involved directly to the Commissioner of the supervising ministry, the Prime Minister, and the Legislative Body.
- c. Consider all complaints related to implementation of the budget, and order reimbursement of unauthorized amounts collected and refund of all illegal expenses or unjustified expenses.

- d. Order administrative penalties in cases that are clearly in violation of the regulation governing the establishment of the Head Office of Audit
- e. Forward reports on results of investigations to the Legislative Body, which reports will be published in the Official Journal of the Republic of Vietnam.

Article 98. The Head Office of Audit is placed under the direction of a Chief. This Official is responsible only to the Legislative Body and appointed by the Chief of State with the agreement of the Legislative Body. His duty term is ten years. He may be dismissed only according to the appointment procedure given above.

Article 99. The internal organization, operation, and working methods of the Head Office of Audit will be defined by a regulation.

FINAL PROVISIONS

Article 100. Procedures governing implementation of this decree-law will be defined by decrees. These decrees will include regulations related to the carrying out of financial and accounting procedures and all necessary provisions to ensure good administration of the national finance.

Article 101. Current accounting and financial procedures are applicable until the issuance of the above decrees.

Article 102. All provisions contrary to this decree-law are abrogated herewith.

Article 103. The Deputy Prime Minister, Commissioners General, Commissioners, Deputy Commissioners, and Special Commissioners will carry out this decree-law as far as their respective duties are concerned.

This decree-law will be published in the Official Journal of the Republic of Vietnam.

Signatures: Air Vice-Marshal
Nguyen Cao Ky

CENTRAL GOVERNMENT: the Vietnamese legal system:

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A Description of the Legal System

General. The Minister of Justice is the executive head of the SVN legal system. In this regard he is responsible for organizing and supervising the courts, for administering the laws and for defining the regulations governing the legal profession and the practice of law. Within the Ministry, the Directorate of Criminal Affairs is responsible for the administration of criminal justice, the drafting of criminal laws and the operation of the penal system. The Directorate of Civil Law administers the courts, drafts civil laws and regulates the legal profession.

Courts. The courts of SVN which are operated by the Ministry of Justice are largely French in their structure and organization. A particular distinction between these courts and our Anglo-American courts is the separation between the judicial and administrative jurisdictions. The judicial courts hear the traditional criminal and civil matters while the administrative courts have jurisdiction over disputes between citizens and the state involving certain specialized areas of government action.

(1) Judicial Courts. There is one supreme court, the Cour de Cassation, which sits in Saigon. Below this court are two Courts of Appeal -- one in Hue and one in Saigon. They take appeals from Courts of First Instance, that is, the usual trial courts consisting of a magistrate, an examining magistrate and a prosecutor, or from Courts of Peace with Extended Jurisdiction, in which all of the foregoing functions are accomplished by one man. Below these trial courts are Courts of Peace, which handle the most minor cases. There is a Court of First Instance or a Court of Peace with Extended Jurisdiction in most provinces, but a few of these courts serve two or three provinces.

There is also a system of "specialized" courts. These include five labor courts to hear employee-employer disputes, a juvenile court, four agrarian courts to handle litigation arising as a result of agrarian reform and rent courts to govern disputes arising out of Ordinance No. 4, 2 April 1953, prescribing rights and duties of landlords and tenants.

The Cour de Cassation was organized in accordance with Ordinance No. 27 of 2 September 1954. The court's jurisdiction extends throughout SVN. It consists of one first president, one president of chamber and six associate judges. Public prosecution is vested in the prosecutor general who is assisted by a deputy prosecutor general. There is also a chief clerk and several assistants. This court is organized into two chambers: the Civil Chamber, presided over by the first president and two associate judges, which hears appeals in civil and commercial areas, and the Criminal Chamber, presided over by the president of chamber and two associate judges, which hears criminal appeals. The court has power to hear only those cases where the court below has abused its power, conflicted with the judgment of other courts in similar cases or made certain technical errors.

The organization and jurisdiction of the two Courts of Appeal are established by Ordinance No. 4, 18 October 1949. Each of these courts consists of one first president, one or two presidents of chamber and twelve associate judges. The prosecutor general is in charge of prosecution and is assisted by one or two deputies and several assistant prosecutors.

These courts have three chambers. The first chamber, presided over by the first president and two associate judges, is for hearing civil and commercial cases appealed from the Courts of First Instance or Courts of Peace with Extended Jurisdiction. The second chamber, the correctional chamber, presided over by the president of chamber and two associate judges, hears appeals in criminal cases. For felony cases two citizen assessors are added to the composition of the court. The third, the Chamber of Indictment, is presided over by the first president or president of chamber assisted by two associate judges. This chamber is a judicial bureau charged with examining felony cases; it is also empowered to rule on certain orders of examining magistrates.

A Court of First Instance, organized by Ordinance No. 4, 18 October 1949, usually consists of a president, a prosecutor, an examining magistrate and a clerk. If the court is busy, such as in Saigon, there can be additional judges and other officials. The trial sessions are presided over by the president. The examining magistrate conducts the investigations and the prosecutor is responsible for the preparation and prosecution of the case against the accused. The prosecutor also has control over the jail within the jurisdiction of the court.

The Courts of Peace with Extended Jurisdiction have the same competence as the Courts of First Instance but are actually less important. They are headed by a president but have no examining magistrate or prosecutor; therefore the president must perform all functions except in some cases where the prosecutor general of the Court of Appeals acts as prosecutor.

The Courts of Peace consist of one judge and a clerk. They try minor civil and criminal matters and sometimes assist in investigating more important cases.

(2) Administrative Courts. The theory behind separate administrative tribunals is that judges having specialized particular knowledge are more able to dispose of disputes resulting from governmental administrative actions affecting citizens. This administrative system consists of three bodies: the Council of State, which is the high court of the administrative system; the Administrative Court, which is the court of first impression regarding damage claims, challenges of administrative rulings and disputes over provincial, district and village elections; and Pension Courts, which consider complaints regarding veterans allowances.

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The Problems of the Judiciary

Historically, the SVN courts have been stronger in the urban areas than in the rural areas. The hostile control of numerous rural areas further deteriorates this situation. Presently in most provinces there is one court of general jurisdiction, usually sitting only in the largest town. Laws can have little or no influence on people who lack understanding and knowledge of the courts that enforce these laws. As events in pioneer North America illustrate, people cannot be expected to trust their fates to courts held by strangers in seemingly far-off places. Thus, even without the problems created by war, there is need to expand the judicial system to influence rural areas more adequately.

Further, it is not sufficient merely to bring the courts closer to the people. The courts must also make a good impression -- they must be efficient, fair and just. To achieve this requires competent judges and staffs. A definitive determination of the overall quality of the SVN judiciary has not been made; however, personal contact with SVN judges has shown that most are highly intelligent, well qualified and overworked.

SVN judges are basically civil servants who, unlike their US

counterparts are not elected or appointed. Instead, lawyers aspiring to become judges must pass special examinations given by the Ministry of Justice; successful completion leads to assignment in the judicial system, usually as an assistant prosecutor in a lower court. From this position a man must work his way to higher courts. Promotion, demotion and discipline are determined by the Ministry of Justice, theoretically with the concurrence of the High Council of the Judiciary, a body of judges designed to ensure judicial independence.

There are critics who feel that the judiciary under this system is not sufficiently free of governmental pressure. Certainly a judge is more likely to be influenced by executive policy when compatibility with that policy may determine his future in the judicial system. This is not to criticize the integrity of the SVN judiciary, for the system is quite natural to them..... Historically, Vietnamese rulers have exercised by themselves the various legislative , administrative and judicial functions.

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However, at this point it is not necessary to make a detailed appraisal of the courts and judges. Instead, it is sufficient to state that the SVN judiciary must be closely examined with an eye toward equipping it to meet more effectively the growing needs of the country. All civilized countries must be vigilant for improvements that can be made in their judicial systems, no matter how refined they may be. Judges and their methods must grow with their country.

A program for the improvement of the judiciary should aim at: (1) increasing the number of courts, particularly in rural areas, and making greater use of circuit courts; (2) achievement of a more independent judiciary; (3) establishment of further schooling for judges to keep them current and to encourage better court administration; (4) creation of a body, such as the Judicial Conference of the United States, through which the judiciary could speak collectively and indulge in professional discourse, thus serving as their own means toward judicial reforms and improvement; and, (5) improved training for court clerks, reporters and other administrative employees.

Lawyers and the Bar. The nearly 200 lawyers in SVN are concen-

trated in Saigon and a few other cities. All of these attorneys are members of either the Saigon or Hue bars. Most of the Saigon bar members have their offices in that city, with a handful having offices in Bien Hoa, My Tho, Can Tho, Long Xuyen and Long An. The few members of the Hue bar are evenly distributed among Hue, Da Nang, Qui Nhon and Nha Trang.

To become a "regular" attorney one must: (1) graduate from the law school at either Saigon or Hue with a License in Law; (2) successfully complete a one-year course of study (generally taken simultaneously with law school) which certifies the student as technically qualified to practice law; (3) complete a three-year period as a probationary attorney in a regular attorney's office; and, (4) be 21 years of age and of good character. *The probationary attorney is authorized to perform all the acts of a regular attorney, including court appearances, but all official papers and documents must be signed by a regular attorney.

At least one source reports that the average income for attorneys in Saigon is about 20,000 piasters per month. Some, however, are said to earn as much as 100,000 piasters per month.

The primary need of SVN lawyers is the attraction of more and better young people into the profession and development of a greater sense of public responsibility. There is no easy solution to the manpower problem at any time, and particularly not at a time when so many other demands are being made for young men. Today most recent male law school graduates are entering the Army where they are generally assigned to nonlegal duties. This limits the number of practicing lawyers and prevents young men from gaining needed experience in their most formative years.

A sense of public responsibility is not the sort of thing that can be easily instilled in the existing bar. It is not unfair to generalize by describing practicing lawyers as resistant to change. Therefore, it is mostly through the younger lawyers that a new spirit must be developed. This is as true in the United States as it is in SVN.

Well-trained, public-spirited lawyers are key persons in nation building. They have the technical skills and the abilities to convince and lead that are crucial to a struggling government. Considerable care must be taken not to sublimate this vital need to the often more apparent demands of immediate necessity.

The support of the SVN bar must be sought for all efforts to develop and improve SVN legal institutions. It is particularly important that the attorneys be made to realize that their assistance and talents are needed and wanted in these projects and that the bar stands to benefit from the success of these projects, both professionally and financially.

* Since the above was written, requirement (3) has been waived.

Consideration should also be given to expanding the Military Justice Corps so as to enable it to function throughout the entire spectrum of the many and varied fields of law associated with national defense. The GVN is presently considering implementation of a decree law providing military defense counsel for all accused in military courts which would justify an expansion of the Military Justice Corps. Not only would this provide a training ground for more young lawyers but it would also provide another vehicle for extending the influence of law and lawyers beyond the cities and into rural Vietnam.

Law Schools. As the intellectual training ground of both lawyers and judges, law schools hold the key to the foundation and development of the legal profession. For this reason, particular scrutiny must be accorded the SVN law schools.

Law teaching in SVN is performed by the faculties of law at the universities at Saigon and Hue. Large numbers of students undertake to study law, but very few complete the courses and are awarded degrees. From 1954 to 1962 approximately 10,000 students enrolled in the law school and only 424 were awarded the License in Law. The high number of enrollments is probably due to the very low tuition cost. The considerable attrition follows from this, since many of the students are not seriously interested in the study of law.

By Southeast Asian standards the law schools and SVN universities are above average quality. This is partly because they have developed in the French academic traditions and partly because many Vietnamese who have won academic distinctions abroad have returned to their native universities.

The law school curriculums appear to be fairly adequate and include both required and optional courses in constitutional law, public law, civil law, commercial law, criminal law, admiralty, foreign law, comparative law, jurisprudence, procedure and political science. Most of the law professors, many of whom are practicing lawyers, judges, and prominent government officials, are intelligent, learned men who are well respected by their students. There are criticisms, however, that some members of the law faculties do not keep their courses sufficiently current and thus teach outdated law.

Further, the SVN system of teaching law, largely adopted from the French, is almost totally a lecture method, with primary emphasis upon absorbing and remembering quantities of substantive materials rather than upon analysis and understanding. The lectures are commonly reproduced and sold so that many students need not even attend classes.

This lack of vigor is unfortunate because the most critical function of a law school should be to teach students to think and analyze in an ordered logical manner and to develop in them a critical apprecia-

tion of the judicial process. Experience in American Law schools, which generally employ an intense socratic teaching discipline designed to achieve a thorough understanding through maximum student participation, has demonstrated that intellectual attitudes developed in the schools have substantially contributed to the pattern and quality of a man's future thinking. It is vitally important that improvements be made in the SVN system of legal education, which in its capacity as a training ground for national leaders must provide the ultimate in mental stimulation and development.

Efforts must be made to raise legal education to the highest possible level. A primary need in this regard is the instigation of more challenging and stimulating teaching methods. One step toward accomplishing this would be to offer graduate study in United States law schools for young Vietnamese who would return to teach in Vietnam. Professorial exchange programs might also be explored.

The Substantive Laws of SVN. There are two types of SVN law that must be considered. First is the basic, day-to-day law that every political entity enacts for the purposes of achieving ordered existence. This can be referred to as "regular" law. In Vietnam there is a second type of law which is enacted for the sole purpose of resisting and discouraging insurgent activity. This law will be referred to as "emergency" legislation.

(1) Regular Law. The regular law of SVN is obviously not adequate for the needs of pacification. But it was never meant to be and the emergency laws are designed to fill this gap. The adequacy of the regular SVN law should only be judged for its ability to aid in the long-range development of the country.

The efforts now being made by the Ministry of Justice to recodify the penal, civil, procedural and trade codes should be aided and encouraged. This project has been under way for perhaps ten years and may be in need of overhauling. Recodification should not be limited to a simple rewriting of existing laws. Rather, it should be a critical and creative attempt aimed at providing the nation with a code of law reasonably based upon its needs and traditions and sufficiently simple to be understood.

Such a project requires more than just technical redrafting by lawyers. The drafting of laws is creative work that requires men of diverse interests and talents; otherwise the resulting products may not be truly responsive to the national needs.

(2) Emergency Legislation. The GVN has promulgated a long list of emergency decrees, generally dealing with population and resource control. Some of this legislation has been developed through the instigation and

aid of MACV, but success in such matters is difficult to achieve. For example, it took over five months to put into law some fairly minor changes in the arrest, search and seizure law of GVN, even though the changes were substantially agreed to from the outset by all interested agencies.

There is also considerable imprecise language in much of the emergency legislation which has led to confusion, particularly in the more remote districts. A recent example is the decree promulgated in the Summer of 1965 creating the offense of "hooliganism," defining it in terms confusing to the lawyers and judges, since it appeared to duplicate several existing offenses. Emergency legislation can be effective only if it is understandable to those who must obey and enforce it.

Most of the problems concerning emergency legislation arise from the difficulties of enforcement and there are few complaints that the laws are inherently inadequate. However, further hard study must be given to this matter, particularly by those in the field who are in a position to observe the working of these laws.

The "Law for the Protection of Morality," enacted on 24 May 1962, gives considerable insight into the social pressures alive and competing in Vietnam although the law itself is no longer effective. Article 2 forbids providing tobacco and alcohol to minors. The most startling part of this law, Article 4, states: "It is forbidden to dance anywhere at all." In April 1963, this was expanded to include a ban on the singing of both sentimental songs and the more vigorous types of American music. Article 5 of the morality law forbids boxing and combat between animals, while Article 6 bans "spiritism and occultism," an impossible task in the supernatural-minded Far East. Article 7 deals with prostitution, uniquely defining a prostitute as "a woman surprised by police with three different men at three different times." Article 8 provides harsh measures for contraceptive practices. This law gave rise to considerable controversy, mostly because of the serious economic and moral problems that it failed to anticipate. In Vietnam many families depend upon earnings of women and children that these laws greatly limit. It had been regarded as a proper sacrifice, totally in accord with the Vietnamese tradition of family supremacy, if a girl took up prostitution to help her family in need.

A further restrictive measure was the Family Law of 29 May 1958, making divorce virtually impossible and declaring illegal hitherto legal polygamous marriages. This was a major catastrophe in a largely Taoist and Buddhist country where second wives were common. The new law declared the polygamous marriages illegal while at the same time it forbade their dissolution by divorce. Doubt was cast upon the legitimacy of numerous children. Fortunately, this law was abrogated by the decree of 23 July 1964.

These legislative efforts were publicly defended by the Diem government as being required to combat insurgency. They also reflect a nationalistic desire to preserve traditional mores in the face of strong foreign influences. In addition, it is impossible to overlook the fact that these laws, often contrary to Vietnamese practice and culture, were at times more consistent with the Catholic religion of President Diem.

Another example of nationalistically directed legislation is the 1956 decree prohibiting foreigners from engaging in commercial enterprises involving the trade and transportation of food, fuel and raw materials. The Chinese and French, against whom the decree was directed, were given one year to become Vietnamese citizens or to liquidate their holdings. Many of the French and Chinese sold their businesses to Vietnamese, helping to build a new merchant class.

Many other laws, more clearly directed toward combating insurgency, were, and are still being, enacted. These include laws controlling the press, forbidding or requiring permission for meetings (including certain family gatherings), enlarging government powers in search and seizure, regulating the handling and transportation of rice, punishing numerous acts determined to be subversive, punishing membership in the Viet Cong, regulating medical supplies and controlling the use of roads and transportation facilities.

Publication and Distribution of Laws. The statutory laws enacted by the state and Federal governments in the United States are collected in bound volumes that are easily supplemented and kept up to date. Complete collections of these laws are numerous and it can be safely said that every lawyer, public official and law enforcement officer in the United States has easy access to a collection of all necessary laws. This is far from true in SVN. For instance, as late as August 1964, formal queries to MACV and USOM-PSD from the II Corps Advisory Detachment revealed no knowledge of Decree Law 10/59 making it a crime to be a member of the Viet Cong. During the past year MACV has made efforts to relieve the acute problem for our own forces by distributing English translations of GVN laws. In the near future MACV hopes to also distribute the original Vietnamese versions of the laws. At the very least, each province chief should have a complete and current collection of emergency laws. These are at best only emergency measures and in the not too distant future a more reliable system should be established for compiling and distributing both the existing legislation and the new laws.

Confinements. As can be expected in such an atmosphere, thousands of persons are confined throughout Vietnam for a vast number of reasons, not the least of which are political. Thousands have been confined after being convicted, in courts after regular trials, as Viet Cong or for

other crimes against security. However, it appears that there are also vast numbers of prisoners, other than military prisoners of war, who have never been tried and who have no idea when or how they will ever be released.

Most of these prisoners have been confined at the instigation of the Ministry of the Interior, the powerful department charged with maintaining public order, pursuant to Ordinance No. 6 of 11 January 1956. The discretion that this ordinance gave to the Minister of the Interior in security matters is staggering:

"Until the complete restoration of security, those persons who are considered as dangerous to national defense and public security may, by an order of the President of the Republic acting upon recommendations by the Minister for the Interior, be detained in a prison camp, forced to reside at a specific locality, banished from a certain residence or locality or subject to administrative supervision."

The duties and functions of the ministry under this law were delegated for the most part to local security committees. Persons confined in this or similar manner are generally classed according to their suspected degree of subversiveness and sent to a re-education center. Theoretically, if one progresses properly through the stages of political re-education he will be released after a period of time. However, there are insufficient means for protecting those who are either held indefinitely or wrongly confined in the first place, and adequate statistics of confinement and releases are not available.

Conditions now prevailing in Vietnam certainly require stern measures, but placing all suspected dissidents in confinement and leaving them there indefinitely is no solution. Under the Anglo-American system the doctrine of habeas corpus protects persons who are illegally confined. Whatever protection of this nature might once have existed in Vietnam has either been effectively suspended by the establishment of a state of emergency or otherwise subverted. The establishment of adequate procedural protection against unwarranted wholesale confinement is a crucial problem that the Vietnamese Government must confront if it is to gain the full confidence of the people and establish a truly viable legal system.

Popular Understanding and Acceptance of the Legal System. The SVN legal system is in need of popular acceptance and understanding before it can become a meaningful force toward pacification and development. The peasant majority of SVN is almost completely unfamiliar with the

laws, the courts and the aims of the legal system in general. Before this system can have any influence upon these people they must acquire some idea of what their legal institutions are and what they are designed to do.

This does not require a legal education for all Vietnamese, for it is not necessary that a man's understanding of the legal system be detailed before he can understand sufficiently to embrace it. Rather, the goal must be to instruct the population to recognize the legal system as a reasonable means of achieving justice and good order. One means of meeting this goal would be through an appropriate expansion of the Revolutionary Development Program.

The most obvious benefits of such a program are long-range respect for law and order; willingness to submit disputes to court settlement; an atmosphere of certainty for both commercial and private transactions; and a realization that wrongdoing will be promptly and fairly punished. These fruits of a sound legal system are essential conditions to promote national growth and development.

But a program of popular acceptance of the legal system will also have short-range effects, particularly through encouragement of greater confidence in the government that stands behind the legal system. The GVN's daily struggle to win the support of the Vietnamese people could be greatly facilitated if the people clearly recognized that the government was endeavoring to promote justice and fair dealing through its courts and laws.

A program should be encouraged to educate the Vietnamese as to the laws of the land and secure their support of these laws. Every possible means of communication should be utilized: radios, television (when available), newspapers, pamphlets, notices and posters in public places and speeches or informal talks by the public officials, leaders and members of the bench and bar. The Vietnamese people's love of the performing arts could be played upon by using traveling theatrical groups trained to present dramatization of the laws and their enforcement. This latter technique has the particular advantage of reaching the large numbers of illiterate persons through visual impression.

Members of the legal profession could also make a substantial contribution to such an educational program. In the early stages of our own nation, lawyers of considerable dedication to civil responsibility were a deciding influence in the adoption and acceptance of our constitutional and legal system. While transplanting of American

institutions to SVN must be scrupulously avoided, now is the time for an undertaking not unlike the Federalist Papers. A corps of SVN lawyers, gifted with the ability to express themselves in clear, simple but inspiring words, could prepare a series of pamphlets explaining and justifying the legal system.

These could be given broad circulation, not by the GVN but by the authors in their professional capacities. One of the great appeals of the Federalist Papers was their fundamental understanding of the revolutionary currents then alive in the country. Similar, perhaps stronger, currents are swelling in SVN today. The Federalist Papers also had great popular impact because they distilled what were actually complex issues into a concise form that was clear and understandable to most men. Hopefully, if Vietnamese pamphleteers understand the revolutionary currents and frame simple understandable arguments around them, fruitful discussion and understanding might be stimulated among the population.

The GVN must also be encouraged to broaden, or institute where necessary, citizenship programs within the schools and through clubs and civic organizations. An understanding of the duties and responsibilities of citizenship is an essential prerequisite to an acceptance of the rule of law. Citizenship can be taught partially through the schools but it is more important that programs of civic action be established so that the youth of SVN can learn by doing. Organizations such as the Boy Scouts, the Girl Scouts, and similar young people's groups are quite successful in this regard, particularly when they provide group projects for performing civic services such as clean-up campaigns, first aid courses or sanitation programs. These civic activities not only accomplish a needed purpose but they tend to instill in the participants at an early age a pride and identification with the community, which is an initial step toward acceptance of the legal system and the government in general.

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The Vietnamese people range from highly cultured and sophisticated individuals who dwell in the larger cities to tribal folk who eke a living out of the countryside by the most primitive of methods. Social activities likewise run from one extreme to another. For example, well-to-do Vietnamese in Saigon live in European-style homes, dress and entertain as do Westerners, and send their children abroad to school. Peasants may live in villages amounting to nothing more than collections of straw huts and have time only to support themselves and avoid the evil spirits. Throughout most urban centers French culture is at once apparent. Even though colonial control

has vanished, the French language continues to be used by many of the better educated Vietnamese. Most administrative and educational practices of the former regime also continue in use. This influence wanes as one proceeds from the urban to the rural scene. This rural scene is the crucial focal point for some of the GVN's most demanding problems in combating the VC. For this reason, and also because no similar treatment is available elsewhere, it is appropriate to go into some detail in describing the legal system as it is found in the rural villages and among the mountain tribespeople. This description is not inclusive of all villages and tribes, but is sufficiently typical to provide a minimum background to the lawyer who is attempting to understand this complex jurisprudence.

Village Administration and Law in Vietnam.

Vietnam has 43 provinces and four cities with provincial status--Saigon, Hue, Dalat and Danang. Within the provinces are districts made up of several cantons which, in turn, are each composed of several villages, called lang. The villages are made up of hamlets (ap), which may be from a hundred yards to several miles apart. Administration of the village is in the hands of the Village Council and its representatives in each hamlet, the hamlet chiefs.

The role of the hamlet chief in the village has remained relatively unchanged over the years. He is selected by the Village Council, usually from a family of good reputation. The major function of the hamlet chief is to act as liaison between the Village Council and residents of his hamlet. When new programs are being implemented, the hamlet chief, either directly or through the heads of five-family groups, explains the aim of the program and the role of the villagers in it. Also, from time to time the hamlet chief organizes meetings of the five-family heads to disseminate any news or propaganda received from the village information agent.

The vested authority and responsibilities of the Village Council are derived from two sources -- administrative legislation and tradition. Delegated administrative functions depend on the place of the village in the larger polity -- the state or nation -- and owing to historical events these functions have undergone a series of changes. Traditional council functions, however, are rooted in the role of the councillors as leaders in village society and consequently are more conservative.

The old proverb "Phep vua thua le lang" (The laws of the Emperor yield to the customs of the village) is known by all Vietnamese, and in many respects it characterizes the village in Vietnam as a self-contained homogeneous community, jealously guarding its way of life -- a little world that is autonomous and disregards (if not disdains) the outside world. In southern Vietnam, historical events since the end of the nineteenth century have rendered the image implicit in the proverb less and less applicable to the village. The isolation of the village has steadily grown less, and the ways of the village have been more and more encroached upon by the ways of the world. Despite this fact, however, village methods for the administration of justice have changed very little in the last thousand years.

One of the most important functions of the Village Council is to maintain order in the village, and while this has been expanded to include matters of political security, traditionally it simply meant punishing the guilty and arbitrating disputes. Crimes are rare in the average village. Most disorders are torts, and there are numerous conflicts between individuals and families. In the traditional Village Council, justice was a matter for the Huong Chanh, the arbitrator of minor conflicts among villagers. The usual procedure was for the accused and accuser to swear to the truth of their statements before the altar of the Guardian Spirit of the Village. Each would have a live chicken, and as they made their oaths, they would cut or tear off the chickens' heads, begging the Guardian Spirit to strike them dead if they lied.

In the lowlands the district chiefs have limited judicial powers. When using their authority to gather evidence and to bring offenders to court, they function as assistants to the prosecuting attorney. They are not authorized to hold trials of any kind, but they may arrest anyone caught in a criminal act, interrogate witnesses and prepare an official statement for the prosecuting attorney. When a serious crime has been committed, the district chief makes a personal investigation on the scene and informs the prosecuting attorney of the facts. Where public safety or morale is involved, the province chief must also be informed. Village chiefs are authorized to mediate disputes between villagers, but criminal offenders are customarily turned over to the police for investigation to determine what further action is to be taken.

Most disputes in lowland villages are settled informally by hamlet chiefs or Village Councils. Many others remain unresolved because the

contending parties cannot afford to go to court. Differences between members of the same family are probably most often settled within the family to avoid the disgrace attached to airing family troubles in public. Angry villagers seeking a settlement of their differences commonly take their cases first to the head of their five-family group or to their hamlet chief. They then may go to the Village Council which serves as an informal court for petty offenses or minor litigations. Rarely is a case appealed beyond this level. Villagers fear having their problems presented to harsh or cold strangers at the district tribunal. The council also prefers to keep village problems from district authorities whose legal decisions are too rigid, and having disputes recorded there would cause the village to lose face.

The limited information available indicates that most complaints or infractions arise from quarrels within or between families, disputes over property ownership or damage, defaults in debts or services, altercations over the use of land or irrigation water, jealousy and marital infidelity.

The informal judicial role of the Village Council is an important means of preserving tranquility. Moreover, hearing cases enables the council to keep closely in touch with village attitudes and activities. Procedures are extremely informal, with no ritual and seemingly with no particular person in charge. The contending parties on entering the village hall may begin telling their stories to the first councilman they meet. The disputing parties usually stand on opposite sides of the room, and each presents his version of the case. Witnesses for either or both then are heard. Onlookers may interject statements and the councilman may make suggestions for settlement or refer the disputants to the police chief, who, though without specific legal authority, also acts as adjudicator in village quarrels.

In serious disputes, the entire council may meet and listen to the complaints of the parties. After questioning them, the council may ask their hamlet chief to investigate further, delegate the case to him for settlement or itself try to effect a reconciliation. It may also require indemnity for loss or damage, or levy fines or impose other sanctions such as contributions of labor to village projects. Unresolved cases are forwarded to the district chief for further consideration.

A threat to refer a case to the district chief, who may place it before a court, often brings a settlement. Village justice, which costs nothing, generally seems to be administered effectively and villagers prefer its relatively mild operation to the expense and possible severity of the regular courts.

Tradition called for ordinary villagers guilty of a legal violation to be beaten with a rattan cane; notables were fined. When the colony of Cochinchina was established, the French administration forbade these

punishments as too harsh. Vietnamese officials, however, registered formal complaints, contending that this repression of power greatly diminished the prestige of the village leaders. As a compromise, in 1904, legislation granted the Village Councils the right to demand additional days of guard duty as punishment for males and the right to impose certain penalties for damage to public property or fraud relative to alcohol and opium regulations.

In Khanh Hau, a village of 3,241 inhabitants, located about 55 kilometers from Saigon, between August 1956 and May 1958, an estimated 60 to 90 cases -- three or four each month -- were brought to the Village Council for arbitration. For the most part they concerned marital relationships, family lands, irrigation problems, physical assaults, rent issues, and land use. Other complaints arise from disputes over property ownership or damage and defaults in debts or services.

Mountain Tribespeople. The Indochina peninsula contains about one million mountain tribespeople who are aborigines of great dissimilarity with a low level of civilization. An accurate census has yet to be taken, but as many as 700,000 of these people have been estimated to occupy the highland regions of South Vietnam.

One of the most extraordinary things about these tribesmen is their remarkable memory which has enabled them to pass down through the centuries oral epics and legal codes in poetic form. The Rhades, for example, have in their sagas a name for and description of the mammoth and the megatherium which have been extinct since prehistoric times. This unique memory has helped compensate for the fact that these people had no written language of their own until French and American missionaries began devising it, mostly during the last century.

There is not now and never has been a Montagnard nation. The social and administrative unit is the village, each one independent and governed by its own chief and council of elders. The village chief is selected by the villagers but is generally the wealthiest and most intelligent man in the village. He must be approved by the council of elders, a group of old, respected men selected by the villagers. The chief is responsible for all village affairs and must organize all village rituals. For purposes of illustration the legal concepts of one of the tribes, the Rhades, will be explored in greater detail.

A Rhade Village Trial. The village system for dealing with a thief is as follows. The person who has had property stolen comes to the Village Council house and asks one of the elders to question the suspected thief. If an accusation is then made against the suspect, the chief of the village is informed so that he may summon the suspect and set a day and place for trial. The trial is usually held in the house of the suspect, and the owner of the stolen property along with the village chief

and counsel for the accused, are present. The speaker for the accused is his counsel and speaker for the owner is the elder he has selected. The elder protests the action allegedly committed by the suspect with parables. If a judgment is made against the suspect, he must return to the owner three of whatever he has stolen, unless he is pardoned by that owner, in which case he might only return double or exactly what he has stolen.

In the past, local custom included trials by ordeal. First, a sacrifice was made and the spirits called. Then various methods of determining guilt were utilized. One method was for the accused and a champion selected by the villagers both to plunge their heads under water. If the accused was the last to withdraw his head, he was deemed innocent. Another method was to pour hot lead or pitch on the hands of the accused. It was believed that the spirits would protect him if he were innocent. Another alternative, which for obvious reasons was usually selected, was the wine-drinking test. Old belief provided that the innocent would be protected from becoming drunk or sick upon drinking the required three liters of wine.

Spirit World Concepts of Justice. Despite many differences, some basic characteristics are shared by almost all of the tribespeople. First of all, superstition and fear play a heavy role in their lives. Although Christian missionary efforts have made some changes, the great majority of tribespeople are animists or spirit believers. Followers of this ancient Southeast Asian religion believe that practically everything has its own spirit -- for example, a rock, a tree, thunder and flowing water. Most of the spirits are unfriendly, and tribespeople take elaborate precautions to avoid antagonizing them. In one case, a Vietnamese soldier washed his truck in a mountain stream and the spirit of the stream was much offended until appeased by a sacrifice.

The Montagnard's conception of right and wrong is actually a matter of what is expedient and inexpedient. He is concerned with policy rather than justice. Piety and fervor have no place in his ritual observations. He conceives his relationship to the spirit world as a contractual arrangement in which the spirits are strict and exacting creditors but who can be paid off by means of a ceremony. Broadly speaking, there is nothing either particularly benevolent or hostile in the attitude of these ghostly autocrats towards their human feudatories. Drought, deluge, epidemics -- in fact, disasters of all kinds -- are merely indications that the rites have been violated, and the only remedy lies in finding the offender and compelling him to put the matter right by providing the prescribed reparation.

All of the rituals require alcoholic consumption and as a result respectability and drunkenness are allied. The upright man gives evidence of his ritual adequacy by being drunk as often as possible; he is respected by all for his piety, a pattern held up to youth. The words "nam lu,"

uttered in grave welcome to the stranger in a Montagnard village and meaning "let us **drink much together**" have all the exhortatory value of an invitation to common prayer. Passers-by are begged to join in the tribesmen's orgies of eating and drinking and it is bad taste -- offensive to the spirits -- to eat or drink less than is provided by the fearsome liberality of the hosts. To prevent any possibility of the visitor's unwillingly committing this kind of discourtesy, or remaining in a state of disreputable sobriety, an attendant squats at his side keeping a careful check on his consumption and ensuring that he drinks at least the minimum measure.

The system works out in practice much better than one might expect. Crimes against an individual, such as theft or violence, are viewed in terms of interference with one man's debts to the gods by another. The aggressor, however, is seen as no more than the instrument of one of the spirits who has chosen this way to punish the victim for some ritual inadequacy. The judge, therefore, reciting in verse the appropriate passage of customary law, abstains from stern moralization. Both sides are in the wrong, and rather illogically, it seems, the aggressor is sentenced to make material reparation and also -- what is regarded as far more important -- to provide the animals and liquor necessary for the ritual reparation to be paid to the offended spirits. The ritual reparation, of course, takes priority, and in cases of hardships may be paid for in installments. The offender is compelled by law to take part in this feast which provides as a secondary function the means of reconciliation of the two parties.

There is no distinction among the Montagnards between civil and criminal law and no difference is made between intentional and unintentional injury. If a man strikes another in a fit of temper or shoots him accidentally while out hunting, it is all the work of the spirits. No eyebrows are lifted. It is just another human misfortune to be settled by a drinking bout at which the whole village gets tipsy. The mountain tribesmen do not apply the death penalty, since otherwise the community would expose itself to the vengeance of the ghost of the executed man. Two of the greatest crimes are the theft of water and of rice, which are under the protection of powerful spirits. Owing to the sacrilegious nature of such an offense, which exposes the community to the resentment of the spirits involved, the offender in this case is banished for life.

Many tribes have witch doctors or shamans who advise them how to appease an angry spirit. In the process, the shaman interprets various omens and carries out cruel sacrifices on animals, particularly those of the bovine family. The shaman enjoys high esteem in Montagnard society and he interferes constantly in all activities, social, political and judicial. Each family pays him a tax in kind against future famine and towards the expense of community festivals. The shaman is popularly credited with the possession of uncanny powers and the destructive capacity of the most eminent members of this fraternity, the Sadet of War and the Sadet of Fire, who belong to the Jarai tribe, were formerly regarded with apprehension even by the chieftains.

The Rhade Legal Code. One of the most advanced groups of tribes-people is the Rhade, who live in the provinces of Darlac, Quang Duc, Phuoc Long, Phu Yen and Khanh Hoa. Like other tribes that speak languages of the Malayo-Polynesian linguistic family, the Rhade have a matriarchic society. The woman proposes marriage to the man, and the eldest daughter inherits her parents' property.

The Rhade have a carefully thought out oral code of laws which is especially well suited to their way of life and passed down from generation in poetic form. Eventually, Sabatier, the French resident who came in the 1920s to administer Darlac Province, gave them a written language, a quoc ngu transcription of their dialect and prepared a written collection of their customs.2:6-9/

Rhade Customs Relating to Marriage. The Rhade have a matrilineal kinship system, that is, the females own the houses and family goods. Males are, however, permitted to own weapons, elephants and bicycles. A girl is allowed to take a husband as soon as she is physically mature. The reasoning behind this custom is to prevent a young girl from having affairs and bringing shame on herself. Various family groups are prevented from marriage because of legend about kinship and pseudokinship. If two members of the same clan marry, this angers the spirits and a wild buffalo must be sacrificed.

When a girl comes of age, the parents hold an assembly and discuss the possibilities of a husband for the girl. Once a boy is selected, they call his uncles and his brothers into the assembly to see if his family agrees. If the brothers and uncles of the boy agree, they then meet with the boy and his parents. Provided the boy and his parents agree, a day is then set when everyone from the two families will meet at the boy's home.

On the day both families meet at the boy's home, the wedding ceremony takes place. The boy sits on one side of a mat and the girl on the opposite side. Each of them places a bracelet on the mat. If the girl likes the boy, she takes his bracelet from the mat, and if the boy likes the girl, he takes her bracelet from the mat. The families are witnesses, and wedlock is completed.

At the end of the bracelet ceremony the boy's parents ask for a dowry from the girl. She is expected to give in accordance with the position or wealth of the boy. If the boy is a state official, she might give one large flat gong which costs about 20,000 piasters; a lesser gift for a boy of good standing might be a buffalo worth 5,000 piasters. Dowry is usually given to fit the needs of the boy's family. If the girl has no family or cannot pay the dowry, the parents of the boy ask the girl to live in their house. If, at the end of 2 or 3 years the girl can pay the dowry, both families gather together again and an elder speaks for the marriage. A buffalo or pig is then sacrificed, according to the wealth of the young girl. Provided the girl has a family, the couple then moves to the home

of her parents, this being the rightful place of her husband, once the dowry is paid.

Should the marriage be broken at any time by the husband, he must pay his wife double the dowry she paid for him, plus a fine for each of the children he leaves her with. If the wife breaks the marriage, she must pay her husband the same dowry she gave his family for him. Divorce is rare among the Rhade, and it is even less seldom that both parties agree to divorce, since in such a case neither would pay the other.

When the wife dies, the husband returns to his family unless there is another free woman in the family for him to marry. In case he returns to his family, any children he has stay with another female member of his former wife's family. His former wife's brothers are responsible for their care. In the event the husband dies, the wife raises the children whether or not she marries again. The maternal uncle is responsible for his sister's children, should her husband die. Even if the father is not dead, the maternal uncle must pay any fines, should his nephew get into trouble.

Rules for adultery are included as a part of the marriage system. If the wife should catch her husband with another woman, she levies a fine against him according to the wealth of his family. The husband must then obtain this money from his family and give it to his wife. The wife is likewise fined for committing adultery, unless the man is unmarried, in which case he pays a fine to the husband. In any case of adultery, where both parties are married, a fine is levied against each. The man must pay his wife and the woman, her husband. In the case of the woman, the money must be given to the parents of her husband. Neither she nor her husband can use that money.

A man may take more than one wife if he is rich and if the brothers of his first wife agree. The wife's brothers also have the power of correction in all family matters. Women cannot marry more than one husband.

In the case where a boy and a girl have a private affair, a bracelet may be exchanged in secret. This provision ensures that a girl rarely becomes pregnant without having a husband she can lay claim to. It would be a rare case where the boy tried to deny the secret marriage, because he would be forced to pay a heavy fine.

Rhade Land Tenure. Land in the Rhade area is owned by the clans. This includes all of the land on which Rhade live and a clan may have one or more large tracts which it claims as ancestral land. For each tract there is a representative of the clan called the po lan who is considered the hereditary or appointed guardian of this land. The po lan is usually the eldest female of the eldest line in the subclan of each territory. Her duties and responsibilities are clearly prescribed by Rhade traditions.

The limits of the clan are well-marked by natural boundaries, such as rivers, hills, rocks or trees. A record of this boundary is passed by word of mouth from generation to generation. Under the po lan system, the po lan must visit the limits of the clan land to honor the souls of their ancestors who lie in the soil within each subclan area. The po lan must sacrifice a buffalo for the soul of each of the ancestors so they will bring rain. Sacrifice must also be made to approve the affronted ancestors if two members of the same clan marry, or marriage occurs between two clans not permitted to marry.

If anyone should violate the territory by practicing shifting agriculture or cutting the forest without the permission of the po lan, she can levy a fine against the offender. Parts of the forest are considered sacred and it is forbidden to cut trees there. If this is done, great misfortune will occur to the subclan that owns the territory and sorcerers must contact the spirits. The po lan receives 2 or 3 baskets of rice, pigs, chickens, cotton every seven years as a fee for her services. In addition to this, she receives free wine and food in places she visits.

As keeper and protector of the clan land, the po lan has no right to alienate it. Due to the marriage pattern of the Rhade, clan members are scattered throughout the area. It is likely therefore, that nonclan people will be cultivating clan land. This is done with the permission of the po lan.

In many instances the po lan does not live on the clan land. For example, the H'mok clan owns most of the land around the town of Ban Me Thuot but the po lan lives some five kilometers away. The clan elders and the po lan know the limits of their land. A few of the po lan have papers attesting their ownership, some of which are sets of undated, rather crudely drawn titles and maps issued by M. Sabatier.

In order to purchase land from the Rhade it is necessary to negotiate with the po lan, with those cultivating portions of the land and the notables of villages in whose territory the land in question is located. More than likely the individuals cultivating land are from the village concerned so the two latter parties can be dealt with together. In this case, it is a question of compensating them for the loss of cultivated land. Discussion with the po lan would have to be held separately. The major difficulty in such negotiation lies in the fact that the concept of transferring title of land does not exist among the Rhade. They are unfamiliar with money and it is very difficult to discuss cash compensation.

Formal Customary Courts. With the arrival of the French, an administrative organization was established for the entire High Plateau. Three provinces, Darlac, Pleiku and Kontum, were formed, each with a French resident. The provinces were divided into districts and the districts into

cantons. French policy was to utilize local leaders as much as possible and to train and use secretaries and assistants from the local population. Consequently, the clerical echelon in the provincial headquarters, the district chiefs and canton chiefs were practically all Mountaineers. There was no attempt to bring about any sweeping changes in the existing system of justice which was based on what could be called tribal law. Instead the French formed a tribunal coutumier at each province headquarters. This is a formal court intended to settle Mountaineer difficulties and generally mete out justice according to tribal customs. The tribunal is only intended to settle those cases which cannot be resolved by the village chief and Village Council.

The tribunal in Ban Me Thuot typifies the situation. The tribunal convenes for the first seven days of every month. The Mountaineers who have grievances gather and wait their turn to be heard. The chief of the tribunal is an elderly man from Ban Don, of Lao Mngong, origin. His uncle had been appointed the first tribunal chief by the French when the tribunal was founded. He inherited this role and it will be passed on either to his son or his sister's son. In judging the cases brought before the tribunal, the chief judge relies on the written collection of Rhade customs compiled by Sabatier.^{2/}

The tribunal has some cases concerning property disagreements. However, the most frequent difficulties concern adultery. The tribunal deals only with cases in which both parties are Mountaineers. Cases involving both Vietnamese and Mountaineers are the responsibility of the province chief. The chief judge is assisted by some Rhade leaders and there is a court clerk to record the testimony and judgments.

Other Matters Covered by the Rhade Code. Some of the concepts included in the law of the Rhade are quite sophisticated, even by present-day standards. For example, it states that madmen who commit crimes cannot be held responsible in the same way sane men can. It establishes procedures for selecting a new chief and for isolating lepers so they will not spread contagion. It prescribes penalties for hiding serious matters from the village chief and for starting fires in the village.

Some Current Problems on the High Plateau. Many have quite correctly described the present situation in the High Plateau of SVN as resembling that of the American West during the 19th century, when the westward movement of settlers gave birth to years of struggle with the Indians who sought to protect their ancestral lands. The Diem government encouraged large numbers of settlers to move into the High Plateau, resulting in many new villages and a substantial increase in population. The Mountaineers, just like the American Indians, regarded this invasion with fear and bitterness. The new settlers have often taken the Mountaineers' land and the merchants, plantation owners and military have exploited them. The Michigan State University Vietnam Advisory Group has collected numerous revealing incidents and statements by the Mountaineers such as:

"One man said he was very upset about his land. He had just cleared a rice field and a Vietnamese moved in and settled on it. He went to the authorities and received no help. When he went directly to the squatter and asked why he was there, the man retorted by threatening to burn his house.

"Several agreed that it was a common occurrence in the Pleiku market that if the Mountaineer would not accept the offered price for sale of his vegetables, the Vietnamese merchant would crush the vegetables, making them unsalable.

"Several noted that in the Pleiku market, the merchants often try to badger them into buying things. If the police are there, they try to help the Mountaineers, but when the police leave the merchants resume their pressure.

"The Vietnamese promise to pay them for working on the roads, but either they never receive the money or it takes a long time. They must work on the roads three times a year for a period of ten days each time. They must obey when they are called, for they are afraid of what will happen if they don't agree.

"The Vietnamese talk equality,' a group of Mountaineers agreed, 'but they don't mean what they say ... in their hearts, they want to dominate us. They are colonialists. The French were bad at the mouth, but in their hearts they were good. Things were better.'"3:34/

The reaction of these mountain people to such discrimination by the Vietnamese is one of deep frustration. Many have fled into the mountains but others have stayed to fight.

Today, as the modern world grows closer to the Highlands and other rural areas of SVN, the conflict becomes more and more crucial. The contrast of this 16th century civilization of the interior meeting the 20th century jet planes, helicopters and transistor radios of the outside world is fantastic and ominous. For years the mountain tribesmen were relatively isolated and thus could easily preserve their society in its fixed state. But with the coming of modern warfare the exposure to more dynamic external forces has increased at a dizzy pace. Today the mountain people are constantly faced with the outside world. Vietnamese and American soldiers live in their midst. Helicopters and the other machines of modern warfare mingle among the tribesmen with their elephants and medieval crossbows in the jungle and on the roads. The transistor radio,

and perhaps soon television, will leap the barriers of distance and illiteracy. Men who serve in the Army return home with new standards and new expectations. The Montagnards are experiencing a rapid cultural change of enormous significance.

The Potential Role of Law in the Highlands. Like the US experiences with ethnic minorities, the problems of the Montagnard's position in SVN are largely social or cultural matters. If, during the 19th century, the US had adopted a more enlightened approach to the problems of the American Indians and Negroes, much subsequent difficulty could have been averted. It would behoove the Vietnamese to learn from these experiences and undertake now to study and better understand the mountain tribesmen, their customs and their problems

Many of the difficulties of the mountain people in their encounters with the outside world result from what we would call in the United States denials of basic civil rights. These people are taken advantage of in land and commercial dealings -- their property is seized and taken from them; their labor has been extorted without just return. These discriminations and violations of basic rights are, however, curable through legal channels if the proper courts and laws are available.

The GVN must seek to meet this problem by enacting and enforcing effective legislation and constitutional guarantees which define and protect the rights of all individuals. Such action would respond to the real needs of vast numbers of mountain and rural people. If these laws were properly promulgated and enforced, they would be a major factor in winning the support of these people, not just for the legal system, but for the government as well.

Military Justice

General. Although the last direct participation by France in the SVN judiciary system ended on 16 September 1954, the legal procedures and, with relatively few exceptions, the legal concepts presently in force in SVN remain essentially French. This is also true of the SVN Code of Military Justice which bears a close resemblance to the French Codes de Justice Militaire.

On 14 May 1951, His Majesty Bao Dai promulgated the SVN Code of Military Justice. Despite the many violent changes which have taken place in SVN since that time, this code is still in effect and its amendments have been remarkably few. There are, however, very significant amendments in the making. Proposed decree law 11086 QP-HC-1-2 provides for some sub-

stantial reorganization of the military justice system including: (1) the replacement of the Military Tribunals and Military Field Tribunals with Corps Military Tribunals; (2) the establishment of a military appellate body to perform the functions presently assigned to the Civilian Court of Appeals; and, (3) the appointment of military defense counsel to represent all accused before the Corps Military Tribunals as well as on appeal. However, this proposal has not yet been implemented and the GVN is still studying methods of placing it into operation. Hopefully, these reforms, when and if put into operation, will help to bridge some of the gap that often exists between the military justice system on paper and its actual operation.

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The Code of Military Justice is divided into two parts: Title I, entitled "The Judgment of Offenses Committed by Military Personnel or Assimiles," and Title II, "Military Offenses Committed by Military Personnel and Assimiles and the Penalties Applicable to Them".

Title I has thirteen chapters, the first two of which cover the organization and jurisdiction of military courts. Other chapters describe in some detail the various procedures for the preliminary investigation, the investigation by the examining magistrate, referral for trial and the procedures followed during the trial itself. Provisions are also included for appeals, requests for rehearings and execution of judgments.

The various military offenses are defined in the second chapter of Title II. Most of these offenses have a familiar ring to anyone who has ever been associated with the military. Heading the list, in Section I, are "failure to report for duty" and "desertion". Section II deals with such offenses as military revolt, rebellion, insubordination, and acts of violence, assaults and insulting behavior toward superiors. Other offenses covered in this section include abuse of authority, robbing military wounded and dead, the selling, buying, misappropriation, waste, loss, pawning, receiving and concealing of government property, pillage, voluntary self-mutilation and infractions of military orders. In SVN, as in France, offenses are ranked roughly in three classes:

- (1) Less serious criminal offenses (contraventions de simple police), punishable by a fine and a maximum of ten days in jail.
- (2) Offenses of moderate gravity (delits), punished by a fine and a sentence of imprisonment, as a rule not exceeding five years.

(3) The most serious offenses (crimes), which are punishable by death or imprisonment at hard labor for more than five years.

Only the last two classes are mentioned in the Code of Military Justice.

The first chapter of Title II deals exclusively with punishments. Article 104 of this chapter provides that the punishments for ordinary crimes are those set forth in the applicable civilian penal laws. Punishments for military offenses are found in the specific article dealing with each particular offense.

Military courts may, in addition to the punishments specified by the civilian penal law for crimes not of a purely military nature and by the Code of Military Justice for military offenses, impose accessory punishment known in French as degradation militaire. This punishment includes:

(1) Deprivation of grade and the right to wear the uniform and insignia.

(2) Expulsion from the Armed Forces and loss of civic, civil and family rights. (This exclusion extends as well to the enjoyment of pension rights and other benefits authorized by the legislation on pensions; the loss of family rights involves deprivation of the right to be legal head of the extended family, to serve on the family council and to share in the disposition of family property.)

(3) Deprivation of the right to wear any decorations.

All sentences involving degradation militaire are published in the orders of the day.

In the case of delits, military courts may impose the following punishments:

(1) La destitution. (This involves deprivation of grade and rank and the right to wear the uniform and insignia and, under certain circumstances, the right to receive a pension.)

(2) Loss of grade. (This punishment has the same effect as destitution except it does not effect the right to a pension and to recompense for past services.)

(3) Imprisonment.

Until fairly recently, the administration of military justice in SVN has been highly centralized. Article 20 of the code charges the Minister of Defense with the responsibility for investigation of all offenses falling under military jurisdiction and delivering the offenders to competent

Military Tribunals for trial. Although Article 20 has always provided for the delegation of this function to regional commanders, it was not until 1964 that any action was taken to implement this provision of the code. On July 27th of that year, the Minister of Defense authorized commanders of Corps Tactical Zones "to order the prosecution of civilians and enlisted personnel of the regular and regional forces before military courts for offenses committed in their respective Corps Tactical Zone." Further delegation was made in the decree law of 13 August 1965, which gave prosecutors the power to institute prosecutions for ordinary desertion. Approximately six months later, by Decree Law No. 001-QT/SL of 17 January 1965, the Chief of Staff of the RVNAF was also delegated authority to order prosecutions. However, the Minister of Defense retained the power to order the prosecution of commissioned officers before military courts.

The chief military figure in the administration of military justice is the Director of Military Justice, who reports directly to the Minister of Defense rather than to the Chief of Staff of the RVNAF. The director's mission, as set forth in Presidential Decree No. 332/QL, 11 November 1964, is to advise the Minister of Defense on all legal matters, to study and implement the organization, operation and administrative, of Military Tribunals, to recommend necessary amendments to the Code of Military Justice, to study all problems of national or international law concerning the RVNAF and to provide legal assistance. It is not yet entirely clear as to what the exact division of responsibility will be between the Director of Military Justice and the Judge Advocate, High Command, a position established by Ministry of Armed Forces Directive No. 1752, 11 November 1954. According to this directive, the Judge Advocate advises the Chief of Staff on all legal affairs, provides technical assistance in the preparation of documents, plans and programs, recommends amendments to the Code of Military Justice, controls judicial matters, conducts judicial investigations and prepares documents recommending prosecution.

Most of the business of administering the code is done by an autonomous corps of military justice officers, bailiffs and clerks. The Military Justice Corps is roughly the equivalent of the US Army Judge Advocate General's Corps but performs its functions on a defense-wide basis for all the armed forces. It has approximately 50 officers ranging in rank from first lieutenant to colonel (the rank held by the Director). These men are generally law school graduates, although some have not passed the probationary period required for admission to the bar as fully qualified lawyers.

Among the key jobs held by Military Justice Corps officers are those of commissaire du Gouvernement and juge d'instruction militaire. The commissaire du Gouvernement may be considered as the counterpart of our trial counsel or public prosecutor. The US Article 32 investigating officer is somewhat analogous to a juge d'instruction militaire. However, the juge

d'Instruction is not a layman but rather a professional jurist with more extensive powers than our pretrial investigating officer. Perhaps the most aptly descriptive English title for this officer is "examining magistrate." His precise status will become more readily apparent after a detailed description of his duties during the pretrial procedures.

At each Military Tribunal are a government prosecutor who may have one or more assistants, an examining magistrate, and a chief clerk aided by one or more assistant clerks and process servers or bailiffs. The process server, in addition to serving various papers for the court, also assists the court president in maintaining order when the court is in session.

No military defense counsel is provided for under the code. However, an accused has the right to hire civilian counsel of his own choosing. If an accused does not have the means to pay for counsel, a civilian lawyer is designated by the head of the local bar association to defend him.

The Vietnamese place great stress on pretrial investigation and procedures. Only "judicial police" may conduct investigation of offenses preliminary to trial. This is true under the procedures followed by civilian as well as military courts. Within the Department of Defense authority to act as judicial police has been given to officers, noncommissioned officers and squad leaders of the Military Police Criminal Investigation Service. Until 1 January 1965, this had been a function of the GVN National Gendarmerie which was abolished on that date. The Gendarmerie personnel, cases and equipment were then divided between the National Police and the Military Police. About 300 gendarmes went to the Military Police, where for the most part, they now constitute the Criminal Investigation Service. The net result of this change is to give the Military Police fairly broad authority to make investigations, particularly in cases involving offenses against the security of the state.

SVN law now provides for only two types of military courts:

- (1) Regular Military Courts.
- (2) Field Courts.

Both of these courts are more or less comparable to the US general court-martial, particularly insofar as the punishment they may adjudge. The Vietnamese have no counterparts to the American summary and special court-martial.

SVN is divided into four Corps Tactical Zones and the Capital Military District at Saigon. Military courts usually sit in Hue for cases arising in I Corps, in Nha Trang for II Corps cases and in Saigon for cases from the remaining areas, except for those cases referred to the IV Corps Field

Court which sits at Can Tho. (If proposed Decree Law 11-86 QP-HC-1-2 is enacted these two courts will be replaced by a Corps Military Tribunal.)

Contrary to the practice in SVN civil courts of trying criminal and civil actions simultaneously, civil actions cannot be brought before military courts in SVN. However, after the military court has rendered its decision, a suit for damages may be adjudicated in the appropriate civilian court.

Regular Military Courts. A regular Military Tribunal is composed of a civilian president and four military members. The president is a civilian judge from the local Court of Appeals who has been assigned to duty with the military court, usually for a period of six months. However, on 30 March 1964, Decree Law 5/64 amended Article 9 of the Code of Military Justice to provide for two alternate presiding judges for each Military Tribunal, who may be selected from the field grade officers of the Military Justice Corps. The military members are selected from a roster of officers and noncommissioned officers from various units stationed in the area of operations where the court is sitting and are placed on call for such duty for six months. These personnel, who may be from any of the armed services (Army, Air Force, Navy or Marines), are recommended for this assignment by the military commander of the area. Generally, as in the case of US courts-martial, the grade of the military members selected to hear a particular case will exceed that of the accused. Furthermore, if the accused is an enlisted man or civilian, one of the four military members must be a noncommissioned officer. As has been previously pointed out, each military court has a chief prosecutor and an examining magistrate, both of whom have one or more assistants, plus a number of clerical personnel to carry on the day-to-day administration.

Military Field Courts. The essential and most characteristic feature of the Field Courts is that they may try only flagrante delicto cases arising during a period of emergency which involve: (a) personnel of the RVNAF or the Regional Force charged with committing offenses denounced by the Code of Military Justice, the Penal Code or any other current law; or, (b) civilians charged with committing offenses against the national security as stipulated in the Penal Code, Ordinance No. 47, 21 August 1956, and Law 10/59, 6 May 1959, and certain other offenses set forth in the Code of Military Justice where it is explicitly prescribed that civilian perpetrators are subject to military jurisdiction.

During the state of emergency the Field Courts have been empowered, by the decree law of 27 July 1965, to try both military and civilian defendants on numerous charges such as black marketing and dishonesty in office.

With the exception of the president, who is a military officer instead of a civilian judge, the composition of a Field Court is the same as that of a regular military court. As will be seen later, the procedure in a case going before a Field Court, particularly prior to trial, is considerably simplified and abbreviated. A sentence pronounced by a Field Court is final. No appeals are executed without the approval of the President of the Republic.

Handling of an offense by a military court usually goes through three stages:

(1) Opening of the case by the filing of a complaint or accusation.

(2) Preliminary investigation.

(3) Trial and possibly a fourth stage, that of appeal. However, in those cases where a Field Court is utilized, stage two, the preliminary investigation, is considerably abbreviated and since there is however, no death sentence, the fourth stage is eliminated.

When, through various public officials, witnesses, victims, or others, it is learned that an alleged offense has been committed, the nearest Criminal Investigation Service office or judicial police official is notified and an investigation begins immediately. If the investigation produces evidence leading to the conclusion that a particular individual has committed the offense, a report is made to the nearest military justice officer who may be located at Saigon, Nha Trang, Can Tho or Hue, as the case may be. There the report is examined to determine if there is proper legal basis for a trial, and if so, whether the accused should be confined or released to an administration company pending trial. Both are important decisions because in some cases a very lengthy period may elapse prior to trial. In any event, an offender destined for trial usually is transferred from his unit and will await trial either in prison or in an administration company located near the military court which will eventually hear his case.

When the appropriate military justice personnel have examined the file and determined that the evidence contained therein is sufficient to warrant trial, the case is forwarded to the Minister of Defense, if the accused is an officer. If an enlisted man or a civilian is involved, the case goes to the commander of the Corps Tactical Zone where the accused is located. Depending upon the particular circumstances, the Minister or the corps commander will either order the case placed on the docket for direct trial or sign an "Order for Investigation" granting the accused a hearing before an examining magistrate. In time of war, provided an investigation has been made by an official having judicial police powers, any offender can be ordered directly before a court,

without a preliminary investigation by an examining magistrate. In time of peace, this abbreviated procedure is permissible only in those cases involving offenses in which the maximum punishment is a fine or imprisonment not exceeding five years. The case is sent first to the prosecutor who is a Military Justice Corps officer, usually holding the grade of major. If an "Order for Direct Trial" is involved, he arranges for the case to be placed on the docket for trial. When he receives an "Order for Investigation" he forwards the case directly to the examining magistrate. As a matter of practice, however, even in time of war, most cases involving serious offenses, other than those classified as en flagrant delit are referred to an examining magistrate for a preliminary hearing.

The Examining Magistrate. One of the characteristic features of SVN criminal procedure, civilian as well as military, is the investigation by an examining magistrate. In marked contrast to Anglo-American practice, the SVN system of proof in criminal affairs allows the parties little or no control over the presentation of evidence. Thus, in SVN, the evidence is led not by advocates representing the prosecution and defense, but by the president of the court, in the interest of abstract justice alone. This makes it essential that the president be well informed, not only of the charges against the accused, but also of the evidence which points to his culpability. If the president's interrogation of witnesses is to be at all fruitful, he must be thoroughly familiar with every aspect of the case. It is virtually indispensable, therefore, that the facts be fully investigated before the trial and the results of the investigation presented to the president in a manner which, as far as possible, ensures their accuracy. This is the job of the examining magistrate. It is up to him to conduct a very patient preliminary examination of all the evidence, sifting and studying, hearing and rehearing it, until as many as possible of the inconsistencies have been eliminated and those remaining, thrown into sharp relief. He has wide powers to call as a witness any person whose testimony might throw light on the case. If portions of the testimony should prove to be contradictory, the witnesses are reheard and asked to explain the contradictions. All of this time they are under oath; but, if inconsistencies still remain, the examining magistrate is likely to resort to a "confrontation." In other words, he arranges for persons giving contradictory testimony to confront each other as he questions them in the hope that one or the other will give way. He may also proceed to a "reconstitution of the crime." This often demonstrates to the accused or a witness the futility of maintaining a false version of the facts and leads to admissions of the truth. Each bit of testimony heard is reduced to writing and placed in a file where all papers relating to the case are assembled. By the time the examining magistrate has completed his investigation, the file will contain a complete record of the events leading up to and constituting the crime, as well as all subsequent steps taken by the authorities in bringing the offender to justice. Thus, by studying the file prior to trial, the president is in a position to question the witnesses effectively and, when they depart

from their previous testimony, to challenge any apparent contradictions.

Rights of the Accused. The examining magistrate, at the initial hearing, informs the accused of the charges against him, of his right to remain silent and that he may, at his own expense, retain counsel of his own choosing. If the accused is unable to afford counsel, the examining magistrate will ask the head of the civilian bar association to designate a lawyer to defend the case. Unfortunately, in actual practice, these lawyers, who are not paid for their service, often fail to appear at the hearing. While these absences are tolerated at the proceeding before the examining magistrate, the appointed counsel is required to appear and represent his client at the actual trial.

An accused in custody may request a provisional release. It is then up to the examining magistrate, after consulting with the prosecutor, to approve or disapprove this request. Even though the accused makes no such request, the examining magistrate may, early in the proceedings, decide whether the accused is to be kept in confinement or released pending completion of the investigation and trial. The Vietnamese Code of Military Justice also permits the examining magistrate to require bail. However, inasmuch as bail is not commonly used, provisional liberty is generally based on the mere word of the accused that he will subsequently appear. In any event, an appeal from the examining magistrate's decision may be made by either the accused or the prosecutor to the indictment chamber of the local civilian Court of Appeals.

The accused generally is not entitled to be present during the interrogation of witnesses by the examining magistrate. However, the latter must make available to the accused for his information, all evidence which might serve to convict him. In fact, Article 45 of the code requires that upon completion of an investigation during which an accused was not represented by counsel, the examining magistrate read to the accused the entire report of investigation. The accused is permitted, at all times, to communicate freely with his counsel and may not be interrogated or confronted with witnesses against him, except in the presence of his counsel, unless he expressly renounces this right. The day prior to the interrogation of the accused, his counsel is given access to the dossier and is brought up to date by the clerk on all orders or instructions issued thus far by the examining magistrate. When an interrogation is ended, the accused is entitled to review any statement made by him to ensure its accuracy and truth. The transcripts of such statements must be signed by the accused, the examining magistrate and his clerk. If the accused refuses, or is unable, to sign, this fact must be reflected in the record. The code also provides that an accused may, during the investigation, produce all evidence which he believes material to his defense.

(Again, proposed Decree Law 11086 QD-HC-1-2, if put into effect, would enlarge the rights of the accused by granting him military defense counsel before the corps tribunal and also on appeal.)

The Examining Magistrate's Decision. When his investigation is completed, the examining magistrate transmits the dossier to the prosecutor, who has three days to return his recommendations in the matter to the examining magistrate. The latter, who is not bound by the prosecutor's recommendations, has several possible sources of action open to him. If he determines that the offender is not subject to military jurisdiction, he will return the dossier to the authority who issued the "Order of Investigation" for transfer of the case to a civilian court competent to hear it. The examining magistrate may, in another instance, find that the facts do not constitute a punishable offense or that the evidence is insufficient to justify prosecution of the alleged offender; whereupon he will order the case dismissed. On the other hand, if he concludes that an offense subject to military jurisdiction has been committed and that there is sufficient evidence to warrant prosecution, he refers the case to a military court for trial.

Either the accused or the prosecutor may appeal from a decision of the examining magistrate to the indictment chamber of the local civilian Court of Appeals. Such appeals are quite common, particularly in cases involving suspected VC and other persons accused of offenses against the security of the state.

Once a case finally has been referred to a military court for trial, it is up to the government prosecutor to take all the administrative steps necessary to get the proceedings under way. He prepares the charges, arranges for the time and place of trial, summons the witnesses and notifies the members of the court. At least three days before the trial, he must furnish the accused a copy of the charges against him, the text of the applicable law and a list of prosecution witnesses. He also must inform the accused that if he does not select his own counsel, the president of the court will designate one for him. The counsel may read the entire dossier in the clerk's office or, if he so desires, make copies of it at his own expense. The accused may have any witnesses he chooses called simply by giving their names to the clerk of court. All sessions of military courts ordinarily are open to the public. However, if an open session might endanger public order or morality, the court may sit in closed session. In any event, the verdict of the court must be publicly announced.

From the beginning to end, the president is in complete charge of the proceedings. An invaluable aid to him in this task is the dossier prepared by the examining magistrate, which he has given careful previous study. His first official act after opening the court is to swear in those members who have not already been sworn. He then calls the accused before the bar and asks his name, age, profession, residence and place of birth. Standing beside the accused is his defense counsel, wearing a long black robe with a white ermine tassel hanging over one shoulder. Not infrequently, rather attractive women lawyers appear before military courts as defense counsel.

Next, the president directs the clerk to read the orders convening the court and referring the case for trial, the charges drawn by the prosecutor and such other information in the case that he thinks necessary to be brought to the attention of the court. When the clerk has finished reading, the president reminds the accused of the offense for which he is being tried, pointing out that the law gives him the right to say everything that is useful in his defense. The president also advises the defense counsel that he cannot say anything contrary "to his conscience or against a due respect for laws and that he must express himself with decency and moderation."

At this time, the accused is afforded an opportunity to make a statement in his own behalf, after which the president questions him. If the other members of the court or the defense counsel have any questions, they cannot ask them directly but must have them relayed through the president. This is true in the case of other witnesses as well as the accused.

When the accused leaves the stand, the clerk shouts out the names of all the witnesses, prosecution and defense alike, who then come to the front of the courtroom and await further instructions. When the roll call of witnesses has been completed, the president directs them to go to the witness room and remain there until they are called upon to testify. Each witness, before testifying, is sworn by the president to "speak without hatred and, to tell the truth and nothing but the truth." One after another, the president questions the prosecution witnesses -- a white-uniformed policeman, a company commander, a barefoot peasant in his black pajama-like costume -- until all such witnesses have been called. In formulating his questions, the president relies heavily on the dossier prepared by the examining magistrate, going through a similar process of shifting and winnowing to arrive at the facts of the case. On occasion, a witness may deviate from the testimony he gave before the examining magistrate. Whenever this happens, the president is quick to point out the discrepancy and demand an explanation. In the event of conflicting testimony by several witnesses on a particular point, the president may order a "confrontation," which can be a very effective means in arriving at the truth.

In the statement he makes at the conclusion of the government's case, the prosecutor does not take the aggressive, adversary approach familiarly associated with US criminal proceedings. He simply summarizes the facts and the law on which the prosecution is based and, more often than not, asks for a fair and equitable sentence giving the accused the benefit of any mitigating circumstances which are present in his case.

Now reached is the stage of the trial where the defense presents its side of the story. The accused may call such witnesses or present such evidence as he deems useful in his defense. This includes matters

in mitigation or extenuation of the offense as well as evidence on the merits. At the conclusion of the defense's case, the prosecutor may make a reply, but in the event he does so, the accused and his counsel are always given an opportunity to have the last word.

The honor guard then presents arms and everyone stands as the court leaves the room to go into closed session to deliberate on the findings and sentence. Voting is by secret written ballot and a majority vote is required for a conviction as well as in arriving at a particular sentence. If convicted, the accused is ordered by the court to pay the costs of the trial. The court also, in certain cases provided for by law, orders the confiscation or return to the government or other owner, of all items seized or produced as evidence in the case. The judgment, which is quite lengthy compared to the findings and sentence of a US court-martial, is prepared by the court clerk and signed by him as well as the president and the other court members.

An indication that the court has arrived at its findings comes when the honor guard again snaps to "present arms," shortly after which the court re-enters the courtroom. If the accused has been found not guilty, the court will announce his acquittal and the president will order his release, if he is not detained for some other cause. When the accused has been found guilty, his sentence is announced by the court clerk and the prosecutor advises him that he has three days in which to appeal to the Cour de Cassation, the highest civilian court of appeals in SVN. The prosecutor may also submit an appeal within the same three-day period. As has been previously pointed out, there is no appeal from a decision of a Military Field Court. However, in a case involving a death sentence, the accused always has a right to petition for amnesty, even when he has no right of appeal or even after his appeal has been rejected. (Proposed Decree Law 11086-QD-HC-1-2 would merge the field courts and military courts in the Corps Tribunal and establish a military appellate body to perform the function now assigned to the civilian Court of Appeals.)

The record of trial, being a summarized rather than verbatim record of the proceedings, is quickly and easily prepared. When the time limit for an appeal has passed or appellate procedures have been completed, the record is transmitted to the Director of Military Justice. Provision in appropriate cases is also made for suspension of a sentence or remission of the unexecuted portion.

Nonjudicial Punishment. The SVN Code of Military Justice makes no mention of nonjudicial punishment. Nevertheless, this form of disciplinary action has long been authorized by various directives and orders of the Ministry of Defense. Provision is made for a variety of punishments, the permissible type and amount depending generally upon the grade of the offender and the grade of the person imposing the punishment. Types of

punishment which may be imposed, include admonition, reprimand, restriction to certain specified limits and confinement. The place of confinement is specified, i.e., the unit guardhouse, post stockade or, in the most severe cases, solitary confinement in a detention cell in a disciplinary barracks.

In contrast to the provisions of Article 15 of the United States Uniform Code of Military Justice, the GVN regulations do not provide for a forfeiture of pay. A further difference in the two systems lies in who may impose nonjudicial punishment. Under the Uniform Code of Military Justice, only a "commanding officer" has this authority. This term includes a warrant officer but not a noncommissioned officer or civilian. On the other hand, the lowest grade SVN punishing authority is a corporal who may impose a maximum of two days restriction on enlisted men under his command. The amount and variety of punishment which may be awarded a member of the RVNAF increases with the grade of the punishing authority, finally reaching a peak with the Minister of Defense who may impose penalties ranging from an admonition to 60 days solitary confinement. The SVN accused has no right to elect trial by court-martial in lieu of nonjudicial punishment but is permitted to represent to the punishing authority matters in mitigation, extenuation or defense.

Conclusion. SVN jurists have adopted the French concept that the essential purpose of criminal justice is to arrive at the truth. Great stress is placed on the pretrial phase of the procedure. There is also a tendency to place greater faith in the integrity of the men who administer the procedure than in the procedure itself. And these men are sometimes inclined to feel that justice is served when the truth is uncovered no matter what means are used to uncover it. Protection of society is the paramount concern. In contrast, US criminal justice, military as well as civilian, is designed to protect the accused at every state of the proceedings against the enormous police power of the state. This design injects into the proceedings an element of fairness which is deemed indispensable. It is said to matter little that this will occasionally permit a criminal to escape the law, for the system is itself more precious than the result in a particular case. However, there is little or no dispute as to what the machinery of justice in both systems is trying to accomplish. US and SVN alike believe that criminals should be punished and that the burden of proving the guilt of an accused is on the state. It is only in the manner of going about this proof that the two systems differ.

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from Appendix I, Vietnamese Legal History:

Legal Systems Under the French. One of the most significant French influences fell upon Vietnamese jurisprudence. An independent court structure was established for the use of French and other nonindigenous persons. These courts eventually became the official system and the traditional or customary courts continued to exist, as they do today, only in the rural areas where the formal courts failed to reach.

.....

Actually, the real friction between the legal concepts of Vietnam and France are usually overlooked. The major difference lies in the attitude each country takes toward the tension between rights and duties, a problem of balance which all legal systems face. The French are primarily concerned with protecting the rights of the individual, while traditional Vietnam stressed the Confucian concept of duties that each person must fulfill. However, the existence of the French legal system in Vietnam has not completely overwhelmed the Confucian tradition and it appears that the legal structure does not necessarily dictate the point of view that must prevail. Certainly in the United States legal system each of these concepts has prevailed from time to time.

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(from "The Vietnamese Legal System," prepared in early 1966, by the International Affairs Division, Office of the Judge Advocate General, Department of the Army, Washington, D.C.)

CENTRAL GOVERNMENT: The Commission for Education and French Schools:

In a communique dated Oct. 18, 1966, the Commission for Education has made known that it has proposed to the government to entirely review the problem related to the French schools in Vietnam so as to put an end to a "nonsensical situation that has extended too much but without upsetting nor causing any detriments to the Vietnamese students who have followed the French education."

Following is the tenor of the above communique:

The agreement signed on the 1st of Nov. 1960 between the representatives of the Vietnamese and French governments, governing the establishment of French cultural institutions, will expire on the 1st of Nov. 1967. At this juncture, many delegations representing prefectural as well as provincial teaching bodies and students have come to the Education Ministry to ascertain its position vis-a-vis existing French schools in Vietnam.

In order to end rumors and prevent from possible misunderstandings, the Commission for Education makes known its policy in this matter:

1. The basic characteristics of the Vietnamese education, as referred to during the course of educational conferences held in 1958 and 1964, are humanism, nationalism, and emancipation. In the 20th century, as world relations become closer and closer, Vietnamese education must preserve and develop traditional values and at the same time assimilate the essentials of great world civilizations so as to be able to follow the course of other peoples. Consequently, the Commission for Education will never support a "cultural blockade" behind which there would exist only Vietnamese schools to produce chauvinistic narrow-minded students. This has been proved by Vietnamese educational programs.
2. However, to welcome foreign cultures is one thing while the recognition of several education systems quite different from each another in the national territory is another. French schools in Vietnam are not private schools like those of the English or Germans, to teach modern languages, but, on the contrary, are institutions which teach the French education program under the direction of French authorities, and outside the control of the Commission for Education.

No country in the world over can entrust the education of some ten thousands of its youths to foreign educational institutions under the direction of foreign authorities according to a program fixed by foreigners themselves. Besides damaging the national prestige, the coexistence of two kinds of education systems creates two kinds of youths quite different from one another, causing detriment to national unity in this period when the nation needs unity badly.

3. For all the above reasons, the Commission for Education has proposed to the government to review the whole problem of French schools established in Vietnam, and to take appropriate measures to put an end to an irrational situation that has gone on too long. The Commission will do this without upsetting the present situation of Vietnamese who are already following the French education.

The point of view of the Commission for Education is based on strictly educational reasons. It is not affected by the present political and diplomatic relations between France and Vietnam.

OPEN ARMS: defects of the program and what to do about them:

Republic of Vietnam

Ministry of Information
and Open Arms

No. 640-TBTTCH/BCH/VP

Saigon, Sept. 7, 1966

UNDER SECRETARY OF OPEN ARMS

TO:

- the Directors
- the Chiefs of Services
- the Heads of Sections & Offices of the Central Open Arms Agency
- the Chief Inspectors
- Inspectors in Charge of Open Arms at the 4CTZs
- the National Open Arms Center Manager
- All Open Arms Provincial/District Service Chiefs.

SUMMARY: Deficiencies in the Open Arms Program.

- I. Since the reorganization, the Central organization has identified deficiencies in the Open Arms Program which require improvement for a more effective program. The following defects are listed, with appropriate measures for correction:

Defects	Corrective Measures
1. Overcrowded Centers	: Service Chiefs must review plans for expanding : centers and report to the Central for the financial : year 1967. Poor management by the Services has : caused this condition.
2. The Centers have no cultivated land available.	: The Services must survey land surrounding the : Center and help returnees produce more food. : Request the Province Chief to provide assistance : from the Agricultural Service, and assistance for : seed, night-soil, etc.
3. Sick returnees do not receive adequate medical care.	: The Chief of Medical Service should request USAID : to have medical teams (MILPHAP, FILIPINOS, ROK) : give physical examinations to returnees and their : families <u>at least once a week</u> . (The Service Chief : in Long Khanh, through USAID, arranged for the : Filipino medical team to visit the center three : times a week). Also, the Service can train permanent : public health assistants from the Chieu Hoi Cadre. : Request the Province Medical Service to give a : training class for cadre who will perform medical : aid in the centers.
4. The training program for returnees is too long, and has monotonous lectures; and instructors are often late.	: Service Chiefs must consider the importance : of returnee training. The training program and the : instruction must be lively, with more group : discussion actively monitored by the instructor. : The instructor must retain the respect of trainees : by always being on time.
5. Returnees do not always receive prescribed benefit: rewards for arms, operating fees and allowances.	: Returnees must receive their allowances and rewards : from the Center. Service Chiefs are responsible to : see that payments are made on time, and will answer : complaints in this area.

-
6. Returnees do not get I.D. cards for two or three months after they leave a Center : The I.D. card can help returnees to get a job when they leave a Center. The Service Chief must request the Province to have I.D. cards ready on the date of release. As a minimum, temporary cards should be issued.
-
7. Most Centers are not equipped with radios for news and musical programs. : The Service Chief should request the JUSPAO Provincial Representative to assist in obtaining radios to inform and entertain returnees. They can also be used as loudspeakers during meetings, classes, and local musical programs. The Service can request funds from the administrative department to purchase radio batteries.
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This letter will be given serious and immediate attention. Inspectors are requested to review each of the defects listed above and report to the Central the results of corrective measures taken,

s/Pham Anh

OPEN ARMS: a change of terms, from "one who gave up" to "one who returned to his family:"

Republic of Viet Nam

Open Arms and Information Central
Executive Committee
#20, Le thanh Ton, Saigon

POSTAL MESSAGE

FROM: Under Secretary for Open Arms

TO: - Heads of different Directorates and Services pertaining to the Open Arms Central Agency
- Inspectors on Open Arms activities in Tactical Areas 1, 2, 3 and 4
- ~~Manager~~ of the National Open Arms Center
- Chiefs of Chieu Hoi Sections throughout the country

Text No. 588/TB/TCH/BCH/VP/BD

In its contacts with people who had rallied to the just cause, the Open Arms Central Agency became aware of the fact that some of them unveiled their complex due to their being obsessed by the appellation of "Quy Chanh Vien". An analysis of this appellation shows us that the term "Quy" does not sound well because it causes the returnees to have the complex of a defeated combatant who surrenders to his enemy. Moreover, the term "Vien" makes the appellation of "Quy Chanh" displeasing and discourteous. This use of terms without due consideration has been unintentionally in contradiction with the noble meaning of our **Open Arms** Policy. As correction, the Central Committee has decided that from now on the appellation of "Quy Chanh Vien" must be cancelled once and for all and be replaced by the appellation of "Hoi Chanh" which will be used as follows:

1. For a group of persons, use this phrase "Anh Chi Em Hoi Chanh" (Our brothers and sisters who rally to the just cause).
2. For an individual, use this phrase "Anh Hoi Chanh Nguyen van X"

(Male Hoi Chanh Nguyen van X), "Chi Hoi Chanh Nguyen thi Y"
(Female Hoi Chanh Nguyen thi Y) or "Anh Nguyen van X Hoi
Chanh (Brother Nguyen van X, Hoi Chanh), "Chi Nguyen thi Y
Hoi Chanh" (Sister Nguyen thi Y, Hoi Chanh).

The Chiefs of Open Arms Section are requested to hold meetings
for the explanation of this message to cadres under their authority,
so that there will be uniformity in the execution.

Saigon, August 20, 1966

Under Secretary for Open Arms

s/Pham Anh

RURAL DEVELOPMENT: how much will be spent on each kind of rural development during 1967:

The following are estimates, by the Commission-General for Revolutionary Development, and requested in the 1967 budget:

P R O G R A M S	FUNDS	REMARKS
a) R.D. Cadre	21,000,000\$VN	
b) Hamlet Self-Help	470,000,000\$VN	
c) Transportation & Warehouses	657,000,000\$VN	
d) Training for village and hamlet Adm. Personnel	16,000,000\$VN	
e) Support to Popular Regimentation	22,000,000\$VN	
f) Rural Education	799,000,000\$VN	
g) Public Works	456,000,000\$VN	
h) Rural Electrification	100,000,000\$VN	
i) Agriculture Affairs	194,000,000\$VN	
j) Animal Husbandry	182,000,000\$VN	
k) Fisheries	75,000,000\$VN	
l) Farmer's Association	12,000,000\$VN	
m) Irrigation	120,000,000\$VN	
n) Rural Health	218,000,000\$VN	
o) Handicraft	120,000,000\$VN	
p) Unforeseen Expenses	138,000,000\$VN	
TOTAL	3,600,000,000\$VN	
q) Agrarian reforms	30,000,000\$VN	To be computed later
r) NACO	811,000,000\$VN	
s) Reorganization of Village & Hamlet Administrative system	1,638,000,000\$VN	Not including VN\$64,300,000.00 sponsored by the budget of 100 vil- lages.

PERSONNEL: the staff of the Constituent Assembly:

The Constituent Assembly has chosen the following persons as its official staff:

President	Mr. Phan khac Suu
1st Vice President	Mr. Le quang Liem
2nd Vice President	Mr. Nguyen van Dinh
Secretary General	Mr. Truong tien Dat
1st Deputy Secretary	Mr. Nguyen huu Luong
2nd Deputy Secretary	Mr. Nguyen huu Chung
3rd Deputy Secretary	Mr. Thach Sung
General Treasurers:	Mr. Mai Duc Thiep
	Mr. Tran van Phien

PERSONNEL: recent changes among key officials in Provinces and Districts, as of November 1, 1966

<u>PROVINCES AND DISTRICTS</u>	<u>NAME</u>	<u>TITLE</u>
BIEN HOA Di An	Maj. Nguyen ba Tri	District Chief
GIA DINH	Maj. Pham hi Mai	Deputy Province Chief for Security
HAU NGHIA Duc Hue	Capt. Tran tan Phat	District Chief
KIEN GIANG	Nguyen van Manh	Deputy Province Chief for Administration
LAM DONG	Maj. Tran van Thanh	Province Chief
PHU BON Phu Thien	Lt. Nguyen An	District Chief
PHUOC LONG	Maj. Lam sin Thenh	Deputy Province Chief for Security
PHUOC TUY Long Le	Capt. Vo sanh Kim	District Chief
QUANG TRI	Nguyen van Diep	Deputy Province Chief for Administration
SADEC	Maj. Le Trung Tho	Province Chief
THUA THIEN	Maj. Nguyen khoa Bao	Deputy Province Chief for Security
TUYEN DUC Lac Duong	Capt. Doan van Bai	District Chief
VINH BINH Cang Long Cau Ngang	Capt. Nguyen van Ba Capt. Nguyen van Tan	District Chief District Chief

PERSONNEL: recent changes in representatives of the Special Commission for Refugees, in provinces and cities, as of Oct. 1, 1966:

<u>Province or City</u>	<u>Representative</u>	<u>Staff</u>
Binh Duong	Pham xuan Thiet	8
Gia Dinh	Capt. Le nghiem Dung	7
Phuoc Long	Tran Phu	4
Chuong Thien	Luu van Huan	0
Kien Tuong	Nguyen van Dien	7
Vinh Long	Le dinh Thi	10

THE NEW PROVINCE OF SADEC:

Republic of Viet Nam
--
Office
Chairman/Central Executive Committee
--
Decree No. 162-SL/DUNC

The Chairman/Central Executive Committee

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.....
.....

DECREES:

Art. 1 - This hereby re-established the province of SADEC, the capital of which is seated at SADEC.

Art. 2 - The area of this province includes the following:

1. District of Sadek with 3 cantons, 13 villages:

<u>Canton An Trung:</u>	from Vinh Long Province
Village Tan Vinh Hoa	-
Village Tan Xuan	-
Village An Tich	-
Village Tan Hiep	-
<u>Canton An Thanh:</u>	-
Village Tan Dong	-
Village Tan Khanh	-
Village Tan My	-
Village Tan Khanh Tay	-
Village Tan An Trung	-
<u>Canton An Thoi:</u>	-
Village Binh Tien	-
Village Tan Phu Trung	-
Village Hoa Thanh	-
Village Tan Duong	-

2. District of Lap Vo with 2 cantons, 8 villages:

Canton Phu Thuong: from Vinh Long Province

Village Binh Thanh Dong -
Village Binh Thanh Tay -
Village Binh Thanh Trung -
Village Dinh Yen -
Village Hoi An Dong -
Village My An Hung -

Canton Phong Thoi: -

Village Vinh Thanh -
Village Long Hung -

3. District of Duc Ton with 2 cantons, 7 villages:

Canton An My Dong: -

Village Phu Huu -
Village An Nhon -
Village An Khanh -
Village An Phu Thuan -

Canton An My Tay: -

Village Tan Nhuan Dong -
Village Hoa Tan -
Village Phu Long -

4. District of Duc Thanh with 3 cantons, 8 villages:

Canton Tien Nghia: -

Village Hoa Long -
Village Long Thang -

Canton Ti Thien -

Village Tan Thanh -
Village Tan Phuoc -
Village Long Hau -

Canton An Khuong:

From Vinh Long Province

Village Phong Hoa

-

Village Tan Hoa Binh

-

Village Vinh Thoi

-

The boundaries of the Province of SADEC are fixed in accordance with the map attached to this decree.

Art. 3 - The province of SADEC has its private budget; this budget will be established, ratified and brought into execution according to procedures governing the implementation of provincial budgets.

Art. 4 - All expenses incurred in the establishment of the administrative structure of this province will be provided by the National Budget.

Art. 5 - The Deputy Chairman of the Central Executive Committee, all Commissioners General, Commissioners, Special Commissioners, Deputy Commissioners, Province Chiefs of Vinh Long, Sadec, are charged, each as to that which concerns him, with the execution of this decree.

Saigon, 24 Sept. 1966

s/Nguyen Cao Ky

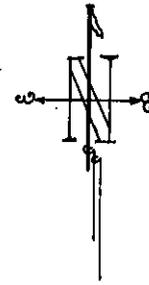
The Province of Sadec is shown on the map of the 4th region immediately following this page.

--editor

THE GOVERNMENT OF THE REPUBLIC OF VIETNAM

FOURTH MILITARY ZONE

ADMINISTRATIVE ORGANIZATION AS OF JAN., 1966
 USAID/PUB. ADMIN. DIV.



LEGEND

- +— NATIONAL BOUNDARY
- — — PROVINCE BOUNDARIES
- — — DISTRICT BOUNDARIES
- PROVINCIAL CAPITAL OR CHIEF TOWN
- OTHER IMPORTANT COMMUNITIES
- DISTRICT HEADQUARTERS

SCALE 1:1,000,000



PROVINCE	PROVINCE POPULATION*	CHIEF TOWN	CHIEF TOWN POPULATION**
An Giang	4 46 000	Long Xuyen	2 7 000
An Xuyen	2 24 000	Quan Long	3 5 000
Ba Xuyen	3 39 000	Khanh Hung	4 5 000
Bac Lieu	2 52 000	Vinh Lai	20 000
Chau Doc	4 48 000	Chau Phu	11 000
Chuang Thien	2 17 000	Vi Thanh	3 000
Can Son	3 000	Can Son	3 000
Dinh Tuong	519 000	My Tho	67 000
Go Cong	175 000	Go Cong	18 000
Kien Giang	369 000	Rach Gia	48 000
Kien Hoa	570 000	Truc Giang	18 000
Kien Phong	307 000	Cao Lanh	5 000
Kien Tuong	48 000	Moc Hoa	7 000
Phong Dinh	402 000	Can Tho	77 000
Sa Dec	249 000	Sa Dec	96 000
Vinh Binh	518 000	Phu Vinh	20 000
Vinh Long	324 000	Vinh Long	96 000

* ESTIMATED AS OF OCTOBER, 1966

** PROJECTED TO NOVEMBER, 1966

*** ADMINISTRATIVE DELEGATION AS OF APRIL 21, 1965 AND INCLUDED IN SPECIAL CAPITAL ZONE

NOTES ON ADMINISTRATION IN VIETNAM: Checklist for Estimating Revolutionary Development Cadre Performance:

J33 of MACV (J33, Headquarters, United States Military Assistance Command, Vietnam, APO San Francisco 96243) has produced a "Checklist for Visiting RD (59-man) Cadre Groups" for use by MACV subsector advisors. It is enclosure 2 of a memorandum dated October 3, 1966, titled "Operational Guidelines for Advisory Support of Revolutionary Development Cadre." It is also available as an attachment to Operational Memorandum No. 169-66, dated October 17, 1966, Office of Field Operations (AD/FO) of USAID, Saigon.

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NOTES ON ADMINISTRATION IN VIETNAM: Checklist to Evaluate Open Arms Programs:

The Open Arms (Chieu Hoi) Office of the Office of Field Operations of USAID, Saigon, has produced a checklist for use in evaluating open arms programs in provinces. Operational Memorandum 168-66, dated October 17, 1966, Office of Field Operations (AD/FO), USAID, Saigon.

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NOTES ON ADMINISTRATION IN VIETNAM: Viet Cong Cadre:

. . . Extensive interviews with several hundred Viet Cong cadre and soldiers who defected or were captured between June 1965 and June 1966 form the basis of this . . .

. . . Among the cadres . . . are veterans with up to 20 years service and many long time Communist party members. There appear to be increasing signs of war weariness among the older cadre . . . the age level of the recruits has been going down. The VC is having recruiting troubles. The recruiting . . . during the past 18 months in fact has changed from "drafting" to outright impressment . . .

. . . an increasing number of VC cadre and soldiers of all ranks have become tired of fighting and are deeply depressed by the prospect of a protracted war as it is being proclaimed by their leaders . . . This defeatist tendency became pronounced following the U.S. military buildup . . .

. . . food rations are being reduced in VC ranks. Complaints about inadequate daily rations are very common . . .

There is friction between Northerners, Southern regroupees, and Southern VC cadre. Many bitter comments were made concerning this. Said a typical Southern cadre: "The returnees consider the South Vietnamese cadre their lackeys. They are very arrogant, and I have been ordered by them to do this or that . . ." Or: . . . "We southern cadre endured hardships for years while they were enjoying themselves in the North, and now they come to

command, show themselves to be overbearing and bring division into the Front's ranks . . . "

(from "Exploitation of VC Vulnerabilities,"
JUSPAO, No. 23, October 14, 1966)

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NOTES ON ADMINISTRATION IN VIETNAM: Terminology: A Commission Has a Mission; A Ministry Ministers:

It may (or may not) help our readers to note that recently the Government of Vietnam changed all Ministries to Commissions, and all Ministers to Commissioners.

The idea, our Vietnamese friends, colleagues, and counterparts tell us, was to embed in the titles of the major units of national government the idea of action, of programs. A Commission has a mission. A Ministry helps, serves, or goes on doing what it has been doing, but a Commission has a set of tasks to do.

The idea of action is further stressed in the change of the preposition. Thus, what was formerly the Ministry of Youth is now the Commission for Youth. The former Ministry of Labor is now the Commission for Labor.

The word "Department" is also used from time to time, in official and unofficial documents, to describe former Ministries, now Commissions.

-the editor

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NOTES ON ADMINISTRATION IN VIETNAM: How to Help Refugees:

The Special Commission for Refugees has produced a Refugee Relief Operational Handbook. It is available in English from the Office of Refugee Coordination of USAID, Saigon.