Various contemporary studies suggest a gathering structural political crisis in Vietnam, asserting that thorough political transformation is inevitable and that this may well lead to regime change. This article takes issue with such perspectives. Using an alternative approach that understands civil society as a particular mode of action and interaction and not as a fixed entity, the results of three case studies of the potential for shifts in functional areas of governance (legitimate rule, security, and welfare) show that civil society action from within the state apparatus effects changes in governance. Those processes of change were initiated more or less simultaneously from above and below. Such possibilities for political change open the way to a far wider discussion on the nature of political progress under nondemocratic regimes, which invites comparison not only with a range of contemporary experiences, but also the political histories of many Western countries.

Key words: civil society, governance, political change, Vietnam

Introduction

Vietnam has made remarkable economic progress within the last decade and has weathered the global financial crisis rather well so far. Nonetheless, the country faces a time of especially great difficulties and challenges in three important functional areas of governance—legitimate rule, security, and welfare. These can be seen as threatening governability and may easily be linked to views that Vietnamese politics is now both deeply corrupt (e.g., Vasavakul, 2008) and, in terms of political activity, divorced from policy issues (Gainsborough, 2010). Both readings suggest that the Vietnamese polity is fundamentally conservative and unlikely to cope well with the major challenges the country faces, not least from the rising power of China.

More specifically, Thayer (2009a, p. 47) sees the Vietnamese Communist Party’s (VCP’s) authority and political legitimacy challenged on the basis of performance, rational-legal grounds, and nationalism. Fforde (2009, p. 82) points to an inveterate “weak hierarchy within the Party-state apparatus,” which makes it difficult to gather and to focus state power for the purpose of coping coherently
and deliberately with the various demands which Vietnam faces en route to middle-income status. Wischermann (2010) refers to widespread outbreaks of violence, for example, in cases of so-called illegal strikes as well as protests against the expropriation and rededication of peasants’ land. Contests that turn violent indicate a lack of conflict-regulating structures within the state apparatus and insufficiently developed capabilities for solving conflicts without resorting to violence, in the state as well as in the societal sphere. Even more frequent are acts of gender-related violence, which many Vietnamese still see as “normal” (Wischermann, 2010, p. 4). Finally, despite the government’s laudable efforts in the area of public welfare, challenges ahead are enormous. Processes of privatization in the health and education sector make services barely affordable for many people (London, 2008). For people living with HIV/AIDS (PLWHIV), drug addicts, and sex workers, access to public welfare services is unequal, if not restricted, due to stigmatization and discrimination, which is widespread even among public health personnel (Khuat Thi Hai Oanh, 2007).

These and other forms of political and social exclusion, frequent lack of intersubjective-sociocultural recognition, and economic discrimination are all the more serious given the ruling VCP’s commitment to socialism, its persistence in upholding the core principles of a socialist republic—equality and justice—and its government’s repeated claims to be building a society that is fair, just, democratic, and civilized.

Thus, at the center of the sociopolitical challenges is the VCP. Ruling single-handedly, its ability to govern seems to be quite limited: “the Party continues, at root, to rule rather than govern,” argues Fforde (2005, p. 1). Such arguments could be interpreted to mean that Vietnam is already increasingly ungovernable, and that her polity is stuck in patterns that inhibit change.

This article argues that such views are misleading, yet they point us toward a need for deeper reflection on the possible nature and meanings of political transformation and change, exploiting the notion of civil society action (CSA). These reflections point both toward the potential of such activities as well as their possible limits. They also illuminate the limits of conceptualizations of change that stress relations between a “civil society” and its context, when the former is understood as, normatively and positively, an independent realm. Indeed, Schuppert (2004, p. 260) argues provocatively that such a role and function of civil society and CSA as a resource, thus a means to improve governance and ameliorate governance problems, is indispensable for any modern state.

Using this concept (CSA), I present the findings of a German-Vietnamese research project that offers evidence that actors within the formal political structures help to initiate appreciable political change that is usually incremental. Based on a combination of governance analysis and in the Vietnamese context, the new and alternative approach of the study of CSA, the multinational research team explored in three case studies potential changes in the three important functional areas of governance already mentioned (legitimate rule, security, and welfare). The study investigated whether and to what extent CSA existed within the state apparatus and to what extent changes in the different functional areas of governance were achieved by that mode of action and which effects such changes produced.
The basic motivation of the research project was thus to investigate whether CSA can and should be seen as a resource to address and to ameliorate problems of governance. Such an approach is clearly very different from an understanding of civil society, which sees such actions as located in a realm separated from and a bulwark against and in opposition to the state. It differs from domains-based approaches in that civil society is understood as a specific mode of action and interaction that not only exists “in society” but also (to a certain extent) within the state apparatus (and the economy and the private realm).

Based on the results of this research project and its case studies, this article documents evidence that indicates that internal security for millions of Vietnamese citizens has increased; that an extremely dangerous HIV/AIDS pandemic has been successfully contained and that inequality in terms of access to public welfare services for hundreds of thousands of patients has been significantly reduced; and that problems of misrepresentation and misrecognition to a certain degree have been successfully addressed.

This article argues that the causes (and limits) of changes as mentioned above are to be found in CSA. CSA pursued by various actors within the state apparatus, supported by actors mainly from nongovernmental organizations (NGOs), but also from other civic organizations, is thus identified as capable of precipitating defined processes of change in the security and welfare areas of governance.

All those changes are extremely important in terms of the VCP’s upheld commitment to principles of socialism—equality and justice—and progress made bespeaks a significant increase in governability.

Even more, both such changes and increase in governability may at least make regime change less likely since they increase the authoritarian system’s legitimacy, which, as Thayer (2009b) convincingly argues, mainly rests on performance. However, in the end, the question of whether such changes lead to a fundamental political transformation or to a perseverance of the existing political system remains open.

Other analyses, though, posit that political change in Vietnam is inevitable, but these often leave the assumed cause rather unsubstantiated (e.g., Gainsborough, 2010).3

This study builds on and complements existing research on Vietnam in that:

- It corroborates the broad consensus in the literature, which says that CSA, mainly “mainstream elite civil society” (Vuving, 2010, p. 369), but also “political civil society” (Thayer, 2009b, p. 2), is “increasingly setting the trend in state-society relations” (Vuving, 2010, p. 369);

- It lends further empirical support to studies that highlight advocacy of political reform articulated by senior party members (e.g., Abuza, 2001);

- It supplements analyses that explore efforts undertaken by “mainstream elite civil society” outside the state and by “reformers” from within the party and government (see, e.g., Vuving, 2009, 2010);

- It adds further empirical evidence to studies that address various challenges dissidence expressed by political civil society pose for Vietnam’s one-party state (e.g., Thayer, 2009a, 2009b). In arguing that CSA within the state is
associated with political change, the analysis here points to important possible constraints on such processes. Such limitations are also stressed by Vuving (2010, p. 382), who describes the potential effects of “reformers’” efforts and assesses their room to maneuver as “dramatically widened,” but nevertheless strictly limited. The latter is an effect of those “reformers’” position as a “minor partner within a ruling coalition” of “conservatives,” “reformers,” and “rent-seekers” (Vuving, 2010, p. 382). Thus, it leads to similar conclusions of those assessments implying that the outcome of such action is not necessarily “regime change,” as Vuving calls it (2010, p. 382), because CSA and political forces related to it and aiming at thorough reforms are too weak;

- It lends support to those scholars who argue that change is put into effect more or less simultaneously from “above” (party and state) and from “below” (citizens and civic organizations outside the party and the state) and that both directions complement each other (Fforde, 2006, 2007). This contrasts with various contemporary studies that argue that processes of change in the era of doi moi mainly started from “above” and from within the Party and state (Gainsborough, 2002, 2010) while others argue that they were—and still are—initiated from “below” and, ultimately, start from outside the Party and state (Kerkvliet, 2005);

- The way of framing political change used here also resonates with economic analyses that have stressed the importance of the positive effects of the internal dynamics of structures, such as state-owned enterprises, that would normally be seen as deeply conservative (Fforde, 2007);

- Finally, the analysis leads to the question Thayer’s (2009b) examination of a crisis of legitimacy opens: do those changes and improvements in terms of governability lead to an increase in performance-based legitimacy, thus a perseverance of the authoritarian regime? This question should enjoy more attention by scholars and clearly needs further research.

In sum, our research offers an explanation of how CSA from within the state apparatus may help to achieve change and stability in a polity that may appear to lack either.

Approaches Tailored to the Analysis of Governance and Civil Society in Single-Party States

Governance

In order to analyze the services that CSA may render to the Vietnamese state, an understanding of governance and civil society is needed that suits the specifics of Vietnam, a country with a polity under single-party rule.

Most definitions of governance and related analyses focus on countries belonging to the Organisation for Economic Co-operation and Development, and in general, they focus on countries with political-administrative systems very different from that in Vietnam. Analyses of governance problems that countries under single-party rule face are rare. Moreover, I am not aware of any analysis
that explicitly addresses governance-related issues in Vietnam. Analyses based on the idea that CSA could be understood as a resource that ameliorates governance problems are barely existent and appear totally absent as far as most of Southeast Asia is concerned.

At first glance, Mayntz’s (2005) widely accepted definition of governance seems applicable for research undertaken in varying types of polities. In her understanding, governance is “the total of all forms of collective regulation of societal affairs existing side by side: from institutionalized self-regulation of civil society, various forms of co-operation between state and private actors, to the sovereign dealings of state actors” (Mayntz, 2005, p. 15, author’s translation). However, a closer look shows that terms part and parcel of this and similar definitions, such as rule(s), regulation(s), and coordination are rather vague; furthermore, in her definition, governance is both structure and action, which poses severe difficulties in using the definition in concrete situations (i.e., it is not easily made operational).

In analyses related to polities under single-party rule, the problems intensify if the term is used as a synonym for any emergent modes of cooperative forms of governing (such as forms of cogovernance and comanagement, to name just two). This is because applying basically nonhierarchical and cooperative understandings of governance to a polity under single-party rule is difficult, since strict hierarchy and power-linked relations are the central aspects of formal political and governance relationships in such a polity.

Governing practices to be found in Vietnam are a case in point. Formally, there are just two means of governing in practice, and both are hierarchical in nature. First, the Vietnamese state issues laws, decrees, and the like in order to regulate societal problems, and then mass media, Fatherland Front, and mass organizations are invoked to implement those new regulations and to enlighten and mobilize the masses. A language of “mobilization” is often encountered. In this formal set of practices, there are no signs that “new” modes of governing may develop in which nonstate, private corporate actors (formal organizations) participate on a par with the state in the formulation and implementation of public policy and in which the state and the private sector work together, such as in the sense of public private partnerships. Hierarchy necessarily denies the possibility of relations where the two parties are on a par with each other.

Thus, an understanding of governance tailored to fit countries under single-party rule has to be decoupled from the mainstream understanding that focuses on specific forms of governance, especially those that are nonhierarchical in nature, should be operational, and should focus on processes rather than results.

Hyden, Court, and Mease’s (2005, p. 16) understanding of governance fulfills those requirements. The definition refers to the formation and stewardship of the formal and informal rules that regulate the public realm, the arena in which state as well as economic and societal actors interact to make decisions. Governance, then, refers to behavioural positions rather than technical capacities.

Hence, governance “sets the parameters for how policy is made and implemented. . . Governance becomes a meta-activity that influences outcomes . . . depending on the nature of the rules adopted” (Hyden et al., 2005, p. 16).
Civil Society

From a theoretical point of view, most analyses of civil society in Vietnam (and elsewhere) are based on the premises of a domains-based approach (Wischermann, 2010, pp. 5–9). Following these basic assumptions, civil society is understood as a realm separate from the state, economy, and the private sphere, in which associations of various sorts are active and in one way or the other serve democracy and/or foster processes of democratization or at least pursue common interests if not the common good.

A closer look at the assumptions behind this approach reveals various theoretical issues that become more important when attempts are made to apply this approach to polities under single-party rule. These problems concern, among other things, the presumed clear-cut boundaries between state, economy, and society and the question of who “qualifies” as an actor within such a realm and why this should be the case (or not). The presumption that civil society should be fully autonomous from the state “tends to preclude that civil society can exist only under more or less democratic regimes, because it is obvious that under authoritarian rule no organization can be wholly autonomous and separate from the state” (Perinova, 2004, p. 7). This boundary issue also means that such an approach cannot allow for the assumption of CSA within the state apparatus. Rather, civil society more often than not is portrayed as a “countervailing power” that creates “an image of state–society dichotomy in which the state is associated with coercion and civil society with freedom” (Perinova, 2004, p. 7).

Pursuing approaches based on such assumptions makes it very difficult to analyze civil societies under authoritarian rule.

It is for these reasons that we follow a view of civil society based on the logic of action rather than a conceptualization based on the logic of domains (for the following, and a more comprehensive theoretical derivation of CSA, see Wischermann, 2010, pp. 9–13). In this understanding, civil society is an adjective, not a noun, and is used to refer to certain modes of action and interaction—CSA (Uphoff & Krishna, 2004, p. 358).

The analysis here thus takes CSA as differing from other types of action and interaction. It contrasts with those of power and rule, with their concomitant hierarchical relationships; exchange and other market-related activities; those of family and kinship that are based on closeness and personal relations; and those involved in fighting wars and acts of force.

This understanding of specifics of CSA derives from analyses of modern capitalist and other modern societies by various sociologists (such as Alexander, Giddens, and Parsons), but also political scientists (such as Offe) and philosophers (e.g., Habermas). Their analyses are based on the assumption that within such societies, various societal subsystems such as economy, state, and a private sphere do exist and that all these subsystems are equipped with specific means of social coordination that help to coordinate actors’ activities. These authors concur in the assumption that those various spheres penetrate each other and that they are merged; they also adhere to the assumption that different mechanisms exist in various ratios in all spheres but that they are dominant in only one of them (money, e.g., in the market sphere, power in the state sphere, CSA only in the
Thus, it is possible to define CSA as a specific type of action and interaction that takes place not only in the public sphere, but also in other spheres. In other words, CSA may exist within the state apparatus, but there it is not dominant, according to theory.

“Mutual recognition” is at the core of this understanding of CSA and “the empirical validation of the principle of ‘mutual recognition’ is the central criterion of civil society” (Gosewinkel, 2003, p. 5, n13, author’s translation).

As short form and for heuristic purposes, we used the following description of CSA: “civil society relations imply respect, but not like-mindedness and social closeness; recognition of procedural rules, but not a commonality of world vision; readiness to compromise, but not a convergence of interest; empathy, but not unconditional identification” (Gosewinkel & Rucht, 2004, p. 50, author’s translation).

From an operational point of view, CSA for us thus has the following four dimensions: respect, empathy/sympathy, willingness to compromise, and adherence to agreed-upon rules that regulate conflicts (see Table 1). These are crucial aspects of “mutual recognition” and its validation.

Given the role of difference in our understanding of CSA, it follows that the categories of gender analysis are integral not only to the analysis of states, markets, and families, but also to the analysis of CSA (Howell, 2007, p. 428). Thus, CSA is not only constituted by gender relations, but it also shapes these in diverse ways (Howell, 2007, p. 427). Any conceptualization of CSA must therefore be “gendered.”

**Table 1**

**The Four Dimensions of CSA**

**Respect** is an attitude, that is, a complex “way-of-being-toward something” (Dillon, 2007) in the sense of a recognition of the Other “in virtue of shared humanity” (Fraser, 2003, p. 99, n32), independent of his or her social standing, individual characteristics, or proven achievements or moral merits, as well as independent of one’s own wishes, ideas, and interpretations (Dillon, 2007).

**Empathy and sympathy** are two intertwined facets of a single though multidimensional phenomenon with cognitive as well as affective aspects, encompassing a set of constructs having to do with responses of one individual to the experiences of another. We follow Davis’s (2004, p. 21) suggestion to understand sympathy as one element of a comprehensive model of empathy-related processes and outcomes.

**Willingness to compromise** means to be willing and able, at least according to the situation and/or time, fully or partly, permanently or temporarily, to relinquish one’s own goals.

**Adherence to rules.** On a practical level, mutual recognition crystallizes in procedural rules (i.e., the acceptance of certain ways of dealing with others). Acceptance and adherence to agreed-upon rules of conduct (especially those that are meant to regulate conflicts) imply the willingness and ability to relinquish the use of illegitimate means of reaching a goal.
Research Framework and Methodological Issues

The selection of our three case studies is based on issues that pose problems to the formal system and the governance architecture as laid out in the VCP’s 1991 manifesto and preserved hitherto. Any possible effects and achievements of CSA were investigated where public goods are either not at all or to a limited degree available in many parts of Vietnam, where certain portions of the population have no or little access to these, and where citizens may be excluded from access to such goods by certain intersubjective sociocultural mechanisms. This offered a “problem space” within which interviews and debates could be discussed and analyzed.

Following Hyden and colleagues’ (2005, p. 16) definition, we define governance in a way that stresses the importance of rules. Accordingly, in the three case studies we asked questions about rules. We asked about the rules of the political game in each functional area of governance; who changes which rules (or at least intends to do so); what the effects of such changes are; and, finally, in which sense and to what extent such changes to rules could be seen as precipitated by CSA within the party and state.4

To gain additional analytical traction, in each functional area of governance, we asked “hypothetically” about three potential “old” and three potential “new” rules. Those rules we differentiated with three dimensions—the regulative, the normative, and the cognitive-cultural. We assumed that changes from “old” to “new” rules could take place either in all three, just two, or just one of those dimensions, leaving the interviewee or the data to lead us on.

Questions about these hypothesized “old” and “new” rules were pretested in semi-standardized interviews with various local and international experts in the respective area of governance and were then empirically investigated in the three case studies by means of semi-standardized interviews with state actors who were involved in processes toward changes of those rules, as well as examination of other sources of data (see below).

A list of seven potential effects, based on Fraser’s (2003) idea of justice as “parity of participation” (pp. 36, 37, 67–69), was used to assess what, if anything, had been achieved by CSA. Thus, we looked for achievements brought about by CSA from within the state apparatus when and insofar as such action helps to reach “new” rules that:

1. Support social equality on the level of intersubjective sociocultural affiliation or “status order”;  
2. Support economic equality at the level of material resources;  
3. Support political equality in terms of equal political representation;  
4. Support effectively the development of a “culture of conflict” as opposed to a “culture of harmony and syncretism”;  
5. Increase the communication, discourse, and dialogue capabilities/abilities of all those partaking in the process and foster a “culture of true dialogue”;  
6. Support effective measures to incorporate (new) rules into the fabric of society;  
7. Support efforts to create a public sphere.
“Effects” were in turn defined as changes of governance that can be observed directly and in the short term, can be attributed to CSA pursued by particular actors in the respective sector of governance, and that signify changes in the sense of the criteria delineated above.

The methodology applied to the research project exploited a strategy of process tracing and pattern matching (Gerring, 2004, p. 348) in order to assess the effectiveness of the given causal mechanism (here, CSA).

The cases are “crucial cases” (Gerring, 2001, p. 219) in terms of an increase in governability and with regard to the issue of what sort of change CSA leads to (continuation or regime change). All three cases represent issues central for the regime’s ability to govern and its claim to develop a polity based on socialist principles such as equality and fairness. From a governance perspective, the ability to govern is defined by the fact that the state must deliver such goods as security and public welfare, but also the need to establish political authority, with its rule legitimized in various ways, and the implementation of binding rules. More precisely, Case Study 1 focuses on the recognition and acceptance of various societal actors; Case Study 2 addresses the issue of providing (internal) security, namely physical integrity for those 4 to 15 million females who suffer domestic violence; and Case Study 3 in the area of public welfare focuses on a danger that threatens people “in terms of health, life, social order and safety, development of the country and future of human race” (Central Committee’s Secretariat, Directive No. 54-CT/TW, 2005).

The first case study looked at issues concerning the registration of associations and was quite sensitive. We therefore avoided formal interviews and relied instead on media analysis (i.e., articles in Vietnamese newspapers, journals, gazettes, articles on Web sites, and papers distributed among Vietnamese and other scholars). This provided detailed information about the public debates on issues, rules, and regulations related to the registration of associations. Additionally, informal talks with a small number of institutional stakeholders from Vietnam were held and information from international institutions collected. The empirical data for Case Study 2 and Case Study 3, which looked in turn at gender equality and gender-related violence and then the treatment of PLWHIV, were, however, collected through semi-standardized interviews with Vietnamese state officials involved in potential changes of rules in the governance areas of security and welfare. In the two latter studies, it was therefore possible to examine the apparent motivations and justifications of officials more closely. We keep the interviewed state officials anonymous and do not display their exact position in the apparatus.

A Case Study on Legitimate Rule: Recognition and Acceptance of Nonstate Actors and Civic Organizations

Introduction: The New Decree 45

In this case study on legitimate rule, the point of departure was the so far largely unchanged formal governance architecture as laid out in the VCP’s 1991 manifesto.
At the peak and center of this governance architecture is the VCP itself. Its dominance is enshrined in the Vietnamese Constitution. Based on Article 4, the VCP claims to represent not only certain strata of the Vietnamese people but the whole nation. Even more important, the VCP claims to be the only political force entitled to lead the state and nation (Socialist Republic of Vietnam, 2001).

The focal point of our analysis is then the problem of recognition, or rather the lack thereof, respectively, of civic organizations by the Vietnamese state and the status of those organizations and their actors, especially whether they are accepted as being on a par with official bodies such as mass organizations.

The negotiations on the status and the role of nonstate actors are encapsulated in the discussions of the “Law on Associations,” which officially started in 1992–1993. Up to now, 13 drafts have been presented, although the last one was finally withdrawn from the political agenda in early 2008 and no new one has been presented since then. While some key aspects related to the eighth and further drafts of the “Law on Associations” build the context for the case study, I focus on the new Decree on Associations No. 45/2010/ND-CP, issued April 21, 2010, which came into effect by July 1, 2010 (hereafter referred to as Decree 45) (Government of Vietnam, 2010). It replaced Decree 88/2003/ND-CP, issued July 30, 2003 (hereafter referred to as Decree 88) (Government of Vietnam, 2003).

The supremacy of the party and the state it controls are not only mirrored in this new decree. In accordance with the constitution, people do not have the right to associate as such but only the right to associate under certain limited conditions set by the state (Sidel, 2008). Thus, in this decree and in other legal documents, it is stipulated that the “party/state,” as the juxtaposition of party and state is called in Vietnamese, “allows” (cho phep) people to associate and allows certain civic organizations to be established under specific conditions.

Decree 45 on Associations addresses the organization, operation, and state management of what are called “associations” and constitutes the legal basis for the registration and operation of most Vietnamese civic organizations. The decree, significantly, does not apply to mass organizations. Decree 45 can be understood as a provisional result on behalf of the party/state in the long process of formulating a comprehensive legal and regulatory framework to deal with the associational sector.

Comparing Decree 45 with Decree 88 issued in 2003, one major change stands out: in the new decree and in a new chapter 6, so-called “specific associations” (Hoi co tinh chat dac thu) are introduced. Without mentioning them explicitly, it is clear that here the “umbrella organizations” are meant. The right to select those organizations belongs exclusively to the prime minister. The decree stipulates that these “specific associations” will receive funds from the state that should help them to cover costs for personnel, offices, “duties associated with state functions,” and “assignments of state management tasks” (Article 35). Article 34 of the decree states that those specific civic organizations have specific rights (quyen) as well as certain obligations (nghia vu).

The new regulation clarifies that “in case of refusal, there must be a written reply clearly stating the reasons for refusal” by the authorities (Article 9). Besides, if established civic organizations are dissolved, they have the right to complain “according to law provisions” (Article 32). However, in this new decree, there has
been no change in the position that the party/state allows (cho phep) the establishment of civic organizations instead of simply registration (dang ky) by means of an uncomplicated registration procedure.6

Why Have Rules So Far Not Been Changed? Intentions of the Actors From Within and Outside the Party/State

Analyzing in what sense and to what extent the new Decree on Associations brought about changes toward new rules, I find that there is almost no development in certain key areas related to the list of rules:

- Rule 1, which would imply that new civic organizations should be required just to register instead of asking for permission. More specifically, there are no changes observable in either the regulative dimension or any other dimension.7

- Rule 2, which would include that all organizations are on a par. Here, again, no changes in any of the three dimensions toward a potential new rule can be observed.8

- Rule 3, which would indicate that civic organizations and citizens have the unreserved right to take part in and to control collective binding decisions. However, there are very first steps toward such a potential new rule brought about by Decree 45 in terms of changes in the regulative and the normative dimension of such a new rule. However, these first steps apply only to the right of “specific associations” to participate in policy formulation processes and implementation.9

The reasons why almost all the old rules have remained in place become clear when we look at the stated intentions of actors from within the party/state who were involved in processes that were among those that led to Decree 45.

The dominant position of party/state members vis-à-vis society basically says that society and citizens are subordinate to the state. Moreover, the issue of the right of citizens to associate and to establish civic organizations is seen by those in power as a “political” problem (i.e., an issue that touches upon the issue of who holds political power and at least implicitly the issue of control or even sharing of political power). It can be assumed that as long as those views persist, none of the three old rules will be changed.

In the process leading to Decree 45, the overriding intention of the government was to formulate a legal corridor allowing for the more efficient management and addressing of the issues surrounding the establishment, registration, etc., of various types of civic organizations, at least for a transitional phase and as long as a Law on Associations has not yet been developed and passed. For the party/state, issuing a Law on Associations is not a burning issue.

What Are the Effects of the Lack of Changes to Such Rules?

The logical outcome of the above findings is that political, economic, or social equality has not been achieved and that this outcome is what the powerful sought and intended.
Even more, one could argue that by creating the category of “specific associations” and by means of reinforcing a tiered ranking order of civic organizations (mass organizations, specific associations, and other civic organizations), political and social inequality between various types of civic organizations has been increased.

As regards other effects included in our list of criteria, the efforts that we observed in the period 2005–2008 and that could be understood as steps toward the establishment of a “culture of conflict” (as opposed to a culture of “harmony and synthesis”) were brought to a halt for reasons we can only speculate on. In the same vein, first steps toward the creation of a “public sphere” where lively debate on contested issues can take place were halted in 2008.

CSA and Where It Is (Not) Traceable

In this case study, actions of members from within the state apparatus and the results thereof do show patterns of CSA, though to a minimal extent. Referring to the Table 1 above, we find the following:

Respect, in the sense that actors from various civic organizations, irrespective of the type of civic organization they represent and the type their respective organization belongs to, are seen as fundamentally equal, is barely detectable. Rather, by means of attributing various types of civic organizations various statuses, actors from the party/state reinforced a precedence of order. In the same vein, keeping the “apply and permit” mechanism does not provide for equality of and between citizens.

Sympathy/empathy on behalf of the various actors from the state apparatus is detectable, if at all, only in a very low dosage. If those actors did not follow a strategy of “divide and rule” when introducing the category of “specific associations,” then one could assume that a certain degree of sympathy for professionals of those civic organizations and appreciation of their work and the expertise they contributed to various state activities inspired state actors to introduce chapter 6 of Decree 45 (thus assigning them a “special status”). Sympathy among various members of the state apparatus also seems to exist for members of civic organizations and networks of those organizations such as “Towards a Bright Future” and the “Domestic Violence Prevention Network in Vietnam” (DOVIPNET).

Willingness to compromise is observable to a minimal extent. Actors from the party/state over the course of formulating Decree 45 followed a strategy in which they did their utmost to push through their own ideas of formulating the new and not so new legal regulations.

Such a low level of willingness to compromise also tells us a lot about the actors’ respective capabilities and willingness to address conflicts. The actors from within the state apparatus have gone to great lengths to avoid conflicts, and at the same time push through their own standpoints. Thus, respective capabilities of those actors to address conflicts can be seen as low.

While CSA, if at all, is detectable among actors from within the state apparatus to just a limited extent, there were almost no opportunities for support of such CSA and/or exchange of views between members of the state apparatus and representatives of civic organizations concerning the introduction of new rules regulating state-society relations since 2008.
Conclusion: Limits and Potentials

CSA is detectable among actors concerned with regulations on civic organizations and party/state-society relations, respectively, from within the state apparatus. However, where such action is detectable, it exists only in homeopathic doses. Further development of such a mode of action and interaction is blocked by the view that the right to associate as well as the establishment and registration of civic organizations are political issues and unwelcome.

A Case Study on Security: Gender Equality and Gender-Related Violence

Introduction: Gender and Gender Relations From a Vietnamese Perspective

In this case study, I analyze potential changes in rules that help to solve societal and other conflicts without resorting to violent means. The focal point of this case study is the problem of domestic violence and thus the exclusion of a significant part of the population from a public good: security.12

At the center of the security problem in terms of domestic violence in Vietnam (and elsewhere) is the combination of unequal power relations (Kabeer, Tran Văn Anh, & Vu Manh Loi, 2005) and the view that domestic violence is a private and not a public matter.

For quite a long time the space where domestic violence happens was seen, by and large, as being free from state intervention and legal provisions. If violence got out of hand and “serious” injuries occurred, the community was seen as entitled to intervene.

Domestic violence is rooted in specific, in parts contradictory, patterns of understanding of gender and gender relations that rest on the belief that gender divisions are normal, natural, and unchangeable. Such “gendering” devises varying statuses for men and women; gender-related violence evolves from women’s alleged subordinate gender status in society.

However, while all over the world such gender divisions and what comes along with them are seen as normal in various ways, in Vietnam this “gendering” takes an interesting turn. This is because many if not most Vietnamese scholars, politicians, members of civic organizations, etc., emphasize the importance of the principle of equality between men and women. However, in the same breath they will often state that women are different from men. It is in this context that many, if not most, then refer to unchangeable “biological differences” that assign women special functions and lead to the unchangeable roles that women, as potential mothers and caregivers, have to play. Some even claim that women and men do not have the same capabilities (therefore, e.g., women are not capable of leading organizations). Such reference to “biological facts” includes various gender prejudices and stereotypes and, if nothing else, opens the door to gender discrimination.

It is this essentialization of bodily differences that underlies most, but not all, of our interviewees’ understanding of differences between men and women and the associated consequences.13
How and When the Issue of Domestic Violence Came on the Political Agenda

The issue of domestic violence found its way onto the political agenda in the late 1990s. The idea of formulating a law was put forward twice (late 1990s and 2003) by members of the National Assembly’s Committee of Social Affairs, both times to no avail.

In 2005 the third effort was successful. Findings from a survey that the Social Committee of the National Assembly had commissioned in 2003–2004 “revealed that domestic violence was quite common.... Findings of this survey served as a basis for making a decision on the necessity for formulating a law on domestic violence prevention and control as well as a basis to gain support of deputies of the National Assembly,” says Mr. Tn., a member of the Drafting Team.

That domestic violence was framed as a societal problem and not as a political problem allowed for the introduction of new rules, Mr. Tn. pointed out. Furthermore, domestic violence was described as violating Vietnamese cultural traditions and blocking further economic and sociocultural development, which might have helped to countervail any argument that with the new rule the state intrudes into the private sphere of families.

The Law on Domestic Violence and Control, which was issued on November 21, 2007, by the National Assembly, but was enacted only after August 2008, initiated a “new” rule saying that (a) domestic violence is not “normal,” and (b) acts of domestic violence will be punished (Viet Nam National Assembly, 2007b).

Changing the Rules and Intentions of the Actors to Change the Rules—The Extent of Change

Analyzing in what sense and to what extent the Law on Domestic Violence, and the processes and discussions accompanying the formulation and issuance of this law, respectively brought about changes toward new rules, I find—based on the interviewees’ assessments—changes toward a new:

• Rule 1, which implies that domestic violence is a public matter. To a greater or lesser extent, changes toward such a new rule can be observed in all three dimensions.

• Rule 2, which signifies that women and men are equal in each and every respect. However, as regards this new rule, it is mainly in terms of its regulative dimension, rather than its normative and cultural-cognitive dimension, that change is recognizable.

As regards a new Rule 3, which would include civic organizations’ and citizens’ unreserved right to take part in and to control collective binding decisions, there is no change observable in even a single dimension of this potential new rule.

Thus, whereas actors achieved rules and regulations that forbid any gender-related violence, make domestic violence a public issue, and shut out any justification of such violence, changes toward unrestricted equality between men and women were basically kept limited to changes in terms of regulations that ensure formal equality. Necessary changes in terms of normative and sociocultural dimensions were left out.
But it is here, in the normative and sociocultural foundations of such rules, that domestic violence is rooted—in the view that men and women are not equal in each and every respect; that due to “biological facts,” men and women do not have the same capabilities and that women lack, for example, the capability to lead an organization; and that men are allowed to “teach their wife” (as an old Vietnamese saying goes) since women have a lower status and are subordinate to men.

The motivations, values, and attitudes of state actors involved in changes of rules bespeak the fact that, on the one hand, they wanted to ensure legal protection for women (and children) and that they wanted to thwart gender prejudices, stereotypes, and other phenomena of gender-related misrecognition.

On the other hand, however, the degree to which the actors we talked to intended to bring about changes as regards values, norms, and cognitive-cultural dispositions existing in the Vietnamese polity varied strongly. Moreover, not every interviewee shared the conviction that such more general and/or complimentary changes are necessary. Thus, if at all, then most actors we talked with at least intended, in a rather limited way, to change those rules.

It is the specific “gendering” mentioned above (see above, Introduction: Gender and Gender Relations From a Vietnamese Perspective”) that precipitates such limitations. The essentialization of differences between men and women leads to the acceptance of differences not only in functions, roles, and status; in the end it also results in forms of gender equality that are more or less formal in nature. This essentialization is prevalent among our interviewees (see below, “There is CSA”).

Effects

First, interviewees disclose that any achievements of the law in terms of economic, social, and political equality between men and women are not, or at least not yet, observable.

However, interviewees see at least a rising level of awareness concerning the fact that domestic violence as such is now illegal. It is in this context that one of the interviewees pointed out that thanks to the law, victims of domestic violence now dare to stand up to denounce violent acts their husbands committed, since they are aware of the fact that they are protected by the law. Thus, those victims no longer feel subordinate to men, and those victims of domestic violence have at least made the first steps toward more social equality.

Second, most interviewees did not see that women’s capabilities to address conflicts have increased. Third, the interviewees provide no indication that the capabilities of women and men to talk to each other, thus fostering a “culture of true dialogue,” have increased. Fourth, from at least some answers it can be concluded that the issue of domestic violence has come to greater public attention. Indeed, there are some criminal cases related to domestic violence that have been brought to court and information related to those trials has been disseminated via mass media. Finally, among our seven interviewees, at least two turned out to be optimistic and claimed that the new rules had started to take root in Vietnamese society.

Thus, at present, effects brought about by the new rules are still limited. They primarily, but not exclusively, affect the regulative dimensions of the security problems women face.
How Such Change and Effects Came About: There Is (Almost) No CSA Within the State Apparatus—As Seen From the Actors’ Perspective

Four out of seven interviewees do know the term civil society. Asked about their understanding, two refer to the ideas that “civil society is represented in civic organizations” and that “civil society is the most democratic society”; a third relates civil society basically to NGOs that substitute for certain state functions and tasks; and a fourth, in a general sense, refers to an idea of civil society that focuses on “civil” attitudes and practices and that has a long tradition in Europe, where it is called “societas civile.”

However, none of those four interviewees, like the remaining three (who did not know the term civil society), perceived their participation in the process of changing the rules as being related to civil society and CSA. Just one interviewee answered that instead of CSA, the term civil spirit (meaning “working for the public interest”) would be appropriate to describe his work in the field of domestic violence prevention and control (Mr. M., member of the drafting team).

There Is CSA and It Impacts Rules-Changing Processes—The Analytical Perspective

If I apply our theoretically founded understanding of CSA, then the analysis of attitudes and practices shows that actors from within the state apparatus, who have been actively involved in the process of changing the rules, clearly follow observable characteristics of CSA. Even more, this kind of action did impact the process of changing the rules from the very start in the late 1990s to the enactment of both laws in late 2007–2008 and led to changes in the dimensions of at least two out of the three rules mentioned above, though that happened to a varying degree.

As already mentioned, at the core of my understanding of CSA used here is respect. The interviewees express a high degree of respect vis-à-vis women. This respect is detectable in the intentions the law makers disclose when they talk about what they wanted to achieve with this law: besides security for women, the new law should help to achieve gender equality not only before the law but also in daily life and in relationships between husband and wife, in the family, and in the community. Even more, at least one interviewee claimed that it was not just women’s awareness that should be improved, but also that of the whole society. He also gave high priority to raising male awareness of “female issues” (as he called it) because he believed that patriarchal behavior by Vietnamese men is still common.

Respect thus coexisted with an essentialist view of difference. Despite all claims that they fought for gender equality, when asked for their understanding of gender differences between men and women, two-thirds of our interviewees from the state apparatus leaned toward a position that was basically essentialist and was at least open to various discriminatory views vis-à-vis women. More often than not, essentialist views were combined with views that refer to a “suitable” division of labor between men and women, an assignment of jobs and tasks to women that claims to take into account women’s specific capabilities, dedications, functions, etc.
This essentialist understanding of differences between men and women hampers more far-reaching changes in terms of new rules based on unreserved principles of equality. Thus, it impedes far-reaching effects that signify thorough changes toward social, economic, and political equality. Finally, it blocks a further development of a culture of conflict and true dialogue between men and women, since this would imply recognition of each other on par.

The next dimension of CSA used here is *sympathy/empathy*. At least four out of seven interviewees mention more or less explicitly that in the course of their work for a change of rules in this governance area, they developed sympathy with victims of gender-based violence.

All interviewees from the state apparatus show a high degree of *willingness to compromise* and to give in, after a copious and rigorous exchange of arguments at the National Assembly, but they just gave in as far as some articles of the proposed draft law were concerned. This happened in order to save the law and to get the interdiction of domestic violence enacted. The interviewees stated that they had wanted to achieve much more, but the law, as it stands, was all that could be achieved under the given circumstances.

State officials do not only exhibit and hold onto *conflicting views*. As regards the circumstances of the debate between the team of drafters and deputies from the National Assembly, the interviewees reported that the debate was heated and had, at least in parts, a rather abrasive and raucous character. Thus, it can be said that this debate was *fraught with conflict* and that most members of the drafting team did not try to escape those conflicts, but stood firm. They did so, and finally this law was approved.

As regards the necessity to reach a *consensus*, the interviewed state apparatus members point out that to enforce a law and to convince the society that a change in rules is needed, it is required that the law makers are convinced of the usefulness and feasibility of the law. Thus, a consensus is needed. Besides, there is the opinion that a “good” law is characterized by getting as much assent as possible (in the National Assembly and beyond).

Last but not least, it is not difficult to detect that the members of the state apparatus with whom we talked *adhere to rules once these have been agreed upon, especially rules that aim at regulating conflicts*. Moreover, those actors used all the rules and regulations offered for internal procedures by the National Assembly very competently and thoughtfully in order to regulate conflicts and feed in all the information, scientific evidence, practical experiences, etc., needed in order to develop, improve, and get a feasible Law on Domestic Violence passed and enacted.

**The Catalytic Role of NGOs and Mass Organizations**

In the course of changing the rules, a close cooperation between members of the state apparatus and NGOs, mass organizations, and experts from other organizations took place. These experts were able to bring in the knowledge as well as the practical experience that the actors from the state apparatus did not have. State officials are more than aware of those deficiencies: “Government agencies are very weak in this field, thus participation of NGOs is very important,” said Mr. Tn., a member of the drafting team.
Not only did the expertise provided by NGOs help to get the draft law formulated, but also such support helped to get the draft law through the National Assembly and get the new rules approved. It was here, again, that cooperation with local NGOs such as the Center for Studies and Applied Sciences in Gender, Family, Women and Adolescents (CSAGA); the Institute for Reproductive and Family Health (RaFH); and a network of NGOs (Domestic Violence Prevention Network in Vietnam [DOVIPNET]) was fruitful and that those experts from NGOs played a masterful part in their role as advocates for a change of rules.

The support from NGOs, mass organizations, experts, and persons concerned was also decisive for the process of compromising and reaching a consensus: by helping to stage hearings, by providing studies and scientific findings, and by sharing and exchanging ideas and experiences, they helped to provide knowledge based upon which it was hard for those actors opposing the introduction of “new” rules to stick to their opinion and to defend it in those discussions and debates leading to the new rules.

The role of NGOs and other civic organizations can be seen as catalytic for those changes in rules achieved.

**Conclusion: Limits and Potential**

Various elements of CSA undoubtedly played an important role in achieving the new rules. They can be traced at many critical points in the formulation of these new rules, though this happened to a varying degree as far as the characteristics of CSA are concerned and in terms of the actors involved. This kind of action and interaction leads to various effects that in turn espouse first steps toward more equality between men and women and more public attention paid to domestic violence, but not the development of a critical public in general.

However, essentialization of gender differences and the consequences thereof confine and severely curtail changes in the rules and any effects they precipitated. Further progress depends on overcoming gender-related prejudices, stereotypes, and an essentialist understanding of gender. The actors from within the state apparatus have the potential to achieve this goal.

**A Case Study on Welfare: Limits to the Treatment and Nondiscrimination of PLWHIV**

**Introduction: The Spread of HIV/AIDS in Vietnam and the “Social Evils” Campaign**

In this third case study, addressing welfare as an area of governance in Vietnam, I analyze potential changes in governance that may help to address problems facing PLWHIV who suffer stigmatization and discrimination, and their insufficient access to the public good of health care. This provides a useful series of insights into the roles played by CSA and its potential and limits in political transformation, for an antidiscrimination law, issued in 2007 and enacted in 2008, amounted to a complete turnaround in the party/state’s policy toward HIV/AIDS.
The number of HIV/AIDS-infected people in Vietnam has rapidly increased since the first case was detected in 1990. Between 2000 and 2006, the estimated number of PLWHIV more than doubled. Moreover, by 2005 data collected by the Ministry of Health and the United Nations in Vietnam Joint United Nations Program on HIV/AIDS (UNAIDS) disclosed that HIV/AIDS had started to spread among the broader population, mainly, but not only, in the big urban areas (UNAIDS, 2006, p. 2). In 2009, the overall number of PLWHIV stabilized at approximately 300,000. Forecasts for 2010 have predicted that the HIV prevalence rate among adults (aged 15–49) will be 0.54%. Yet, the rate is almost or even more than double the national level in several cities and regions such as Ho Chi Minh-City (1.079%), Hanoi (0.845%), and North East Coast (0.988%; Ministry of Health, Vietnam Administration of HIV/AIDS Control, 2009). Moreover, PLWHIV are getting younger and heterosexual transmission of the virus is becoming more significant.

For years, the pandemic was considered a problem of drug users and prostitutes, and these people were largely seen as becoming infected with the virus due to their own deviant lifestyle. HIV/AIDS and people infected with the virus were thus regarded as “social evils.” In the mid-1990s, the government of Prime Minister Phan Van Khai even proclaimed a war against “social evils.” However, treating HIV/AIDS as a “social evil” did not result in its reduction (United Nations Development Program, 2005, p. 4). Into this policy problem came the possibilities offered by CSA.

How and When the Problem of Addressing the Problem of HIV/AIDS Effectively Came Onto the Political Agenda

By the early 2000s, it became clear to the highest-ranking politicians that the regulations, programs, and strategies for addressing HIV/AIDS were neither efficient nor successful. This view is encapsulated in the Central Committee’s Directive No. 54-CT/TW (2005):

At present, HIV/AIDS infection tendency is still complicated in our country. HIV/AIDS occurs in all provinces/cities and has a trend to expand. Beside high risk groups of HIV/AIDS infection (injecting drug use, prostitution, homosexual intercourse, etc.), an HIV/AIDS infection rate of pregnant women, children and youth has rapidly increased. HIV/AIDS is threatening people in terms of health, life, social order and safety, development of the country and future of human race.

As an “urgent task,” the Party’s Central Committee Directive suggested developing “action plans for necessary solution for HIV/AIDS prevention and control, together with drug use, prostitution prevention and control, and in co-ordination with socio-economic development programs.” The party committee explicitly suggested that the state should develop measures to “prevent stigma and discrimination towards PLWHA.”

This complete turnaround from all former positions (in no single line was the idea or term social evils mentioned) was precipitated and supported by a close cooperation of the National Ideology and Culture Committee of the Central Committee of the Communist Party of Viet Nam with experts from local NGOs,
specifically Ms. Khuat Thi Hai Oanh (Institute of Social Development Studies [ISDS]). She convinced the Committee for Culture and Ideology to support new approaches.

Thus, with the Central Committee’s Directive 54, the party issued a “document of the authorities” (chinh sach), and party, government, National Assembly, and various civic organizations were asked to issue and implement new “rules.” The frame in which new “rules” should be worked out implied that:

- HIV/AIDS was framed as a medical issue;
- relating PLWHIV to social evils was no longer seen as appropriate; and
- introducing mitigation and antidiscrimination measures was seen as appropriate.

The role the directive played in the process of formulating a comprehensive legal framework and new “rules” was emphasized by at least three of our interviewees (Mr. S., Ministry of Justice; Mr. K., Ministry of Labour—Invalids and Social Affairs; Mr. H., Ministry of Health) and cannot be underestimated.

Whereas experts like Ms. Khuat Thi Hai Oanh had identified and propagated mitigation and awareness-raising measures, the idea to introduce measures to prevent the discrimination and stigmatization of PLWHIV came “from law makers,” Ms. Khuat Thi Hai Oanh recalled.

It was the members of the National Assembly’s Social Committee who, after long debates about measures to be taken against the pandemic within the National Assembly and between the assembly and its Social Committee on the one side and various ministries on the other side, came up with the idea of formulating a new law that should include antidiscrimination measures, besides measures that should help to prevent and control the spread of HIV/AIDS.16

The Draft Law on HIV/AIDS Prevention and Control was discussed at the eighth session of the 11th National Assembly convened in November 2005, and it passed at the ninth session of the 11th National Assembly, which took place in early 2006 (Viet Nam National Assembly, 2007a).

The general aim of the Law on HIV/AIDS Prevention and Control was to enhance health care services and guarantee PLWHIV’s access to them. Moreover, the law aimed at preventing and eliminating stigma and discrimination against HIV-positive people. The law stipulated that PLWHIV have “impresscriptible rights” and should be treated without any stigmatization and discrimination at their workplace, in institutions of health care, and in schools, and sanctions were put in place against offenders of such rules and regulations (Socialist Republic of Vietnam, 2006, p. 5). This was a major change from before.

### Changing the Rules and Intentions of the Actors to Change the Rules—The Extent of Change

Analyzing in which sense and to what extent the Law on HIV/AIDS Prevention and Control, and the processes and discussions accompanying the formulation and issuance of this Law, respectively brought about changes toward new rules, I found—based on the interviewees’ assessments—a series of changes toward new rules:
• Rule 1, which implies that people living with HIV/AIDS are “normal” people and must not be stigmatized and discriminated against. Here changes toward such a new rule in all three dimensions of the new rule are observable, with a clear focus on and strongest change in terms of its regulative dimension.

• Rule 2, which says that HIV/AIDS—same as drug addiction—is a medical condition that requires treatment. Here changes toward such a new rule in all three dimensions of such a new rule are recognizable.

• Rule 3, stating that civic organizations and citizens have the unreserved right to take part in and control collective binding decisions. However, change can only be observed in terms of the normative dimension, whereas no change in terms of the regulative and in the cognitive-cultural dimension of such a new Rule 3 is discernible.

These rule changes precipitated a number of effects.

Effects
First, most, if not all, interviewees said that at least social equality had improved, which in turn could lead to improvements in terms of economic equality. Mr. M. (Office of the National Assembly) even asserted that the rights of PLWHIV “to have employment and education opportunities are guaranteed.” Political equality is—from the interviewees’ point of view—not an issue as far as PLWHIV are concerned. Second, there is no indication that the capabilities of PLWHIV to strengthen their self-confidence and to address conflicts, and the capabilities of PLWHA and the broader population to talk to each other had effectively increased. Third, the issue of stigma and discrimination had come to public attention. All interviewees stressed that the mass media had changed the ways HIV/AIDS and PLWHIV were seen in public.

Finally, among the interviewees, the opinion prevailed that in Vietnamese society the new rule that says “HIV/AIDS is a medical problem and not related to ‘social evils,’ security and problems of private and public morale” was gaining ground. There were the first signs, they assessed, that the new rules and the law had taken root both in the state administration and in society. However, for many members of the Vietnamese public, the fight to ensure equal rights of and status for PLWHIV was clearly not yet over, and our interviewees stress that those clearly given preference were those who “behave properly” and/or are “innocent victims” of the disease. Moreover, law enforcement “had weaknesses.”

How Such Change and Effects Came About: There Is (Almost) No CSA Within the State Apparatus—As Seen From the Actors’ Perspective
Three out of six interviewees knew the term civil society. Two of them saw “civil society as represented in civic associations,” another one described his understanding as a combination of such an understanding and a view that sees that “civil society is a distinct sphere between state, economy, and the private realm.”
However, when asked if they would see their own action as CSA-like, five out of six either refused to answer this question or replied that they did not understand it. Only one interviewee saw her work as being related to such ideas.

There Is CSA and It Impacts Rules-Changing Processes—
The Analytical Perspective

With respect to those state actors interviewed who took an active part in processes leading to changes of the rules in this area of governance, however, the analysis of the interviews shows that attitudes and practices clearly bespeak characteristics of CSA.

Respect is at the core of the understanding of CSA used here. From the interviews with those state actors, it becomes abundantly clear that they sense full respect vis-à-vis PLWHIV. Interviewees stress that in their view, “HIV-positive people are ordinary people like others” (Mr. K., Ministry of Labour—Invalids and Social Affairs); that they are “as normal as others” (Mr. T., Ministry of Health, retired). Their full respect also finds its expression in those actors’ aim that the new law should help to achieve equality and ensure legal protection for PLWHIV. Finally, this full respect easily can be seen in the guarantee (enshrined in the law) of “fundamental citizens’ rights and specific rights of HIV-positive people based on the legal principles” (Mr. M., Office of the National Assembly). There is no indication for a relativization of the respect that interviewees show vis-à-vis PLWHIV.

Those actors’ full respect vis-à-vis PLWHIV left its marks in the changes in both new rules (Rules 1 and 2) already mentioned.

Another dimension of CSA is sympathy/empathy. That those actors have such feelings vis-à-vis PLWHIV can be seen not only in statements in which they indicate that they sympathize with those who are “innocent victims” (children, and women who became infected by their husbands). Rather, one interviewee stated that he “sympathizes with HIV-positive people because they suffer disadvantages due to social biases” (Mr. M., Office of the National Assembly). Another interviewee explicitly showed unrestrained sympathy for infected people independent of the source of their infection. Finally, the general goal that actors pursued may also reflect some sympathy/empathy for PLWHIV: they wanted to change the rules in order to help to ameliorate the living conditions of PLWHIV, and they hoped to help to achieve better integration of PLWHIV into the Vietnamese society.

Moreover, interviewed state actors show a high degree of willingness to compromise. They put this willingness into practice successfully in at least one issue at stake. As regards another issue, the drafting team members had to make a concession. Here I refer to the still ongoing controversy concerning the issue of compulsory testing applicable to certain professions (pilots and members of the army).

As in Case Study 2, all interviewees from the state apparatus show a high degree of acceptance not only of controversies and opposing views, but also of conflicts with opponents. Likewise, they weathered through conflicts, which broke up in intense and hot debates between the drafting team and deputies from the National Assembly.
Interviewees saw consensus as being not only necessary in order to formulate the law, but also in order to reach the idea of coming to “new” rules—first in the drafting team, then in the National Assembly, and, after that, in the society.

The Catalytic Role of Civic Organizations and NGOs

In the whole process leading to the “new” rules, a close cooperation between actors from within the party/state with NGOs, mass organizations, and experts from other organizations took place.

NGOs such as the ISDS, the RaFH, the network of PLWHIV “For a Better and Brighter Tomorrow,” and other civic organizations and individual experts played a catalytic role in developing the new rules: “Without . . . NGOs and experts, it would have been impossible to formulate the Law,” Mr. S. (Ministry of Justice) asserts.

However, the extent of consultations with experts from NGOs and other civic organizations diminished during the process of formulating sublaws, decrees, and circulars, Ms. T. (Ministry of Health, retired) recalled. It is in this context that critical voices from civic organizations point out that those organizations and their experts have not undertaken policy advocacy in a systematic way. Whether the civic organizations are playing the strong role that is meant for them in the implementation of the new rules and regulations, however, remains unclear.

Conclusion: Limits and Potentials

This case study shows in detail that the interviewees’ mode of action and interaction shows what CSA is about: respect in the sense of recognition of the Other “in virtue of shared humanity” (Fraser, 2003, p. 99, n32); showing sympathy/empathy for those who got infected by the virus; compromising after an exchange of arguments and, when necessary, to get new rules accepted without sacrificing one’s own principles; and, finally, using rules that help to regulate conflicts.

This mode of action and interaction has left its mark in changes of rules and in the effects precipitated thereby that reflect the effectiveness of CSA within the state apparatus: the “new” rules have helped to attain effects such as more social equality between “normal” people and PLWHIV, first steps toward more economic equality for PLWHIV, and a decrease in stigmatization and discrimination of PLWHIV.

The cooperation between civic organizations and state actors was pivotal for the process of changing the rules and highly welcomed by all actors involved. However, this intensive cooperation did not lead to institutionalized forms of cooperation between both, let alone cooperation on a par.

Conclusion

The research project upon which this article is based started from the observation that Vietnam is encountering especially great difficulties and challenges in three functional areas of governance (legitimate rule, security, and welfare).
Various contemporary analyses suggest that those challenges are threatening governability and potentially even the ruling VCP’s position of power. They foresee a structural political crisis in Vietnam, predict that thorough political change is inevitable, and see this happening either in a top-down or bottom-up manner. However, more often than not, questions such as which kind of actors will bring about this change and why this should be the case, how change will happen, and to which result it will lead, are left unanswered.

Findings from the three cases presented in this article offer evidence for the conclusion that processes of change in Vietnam’s polity are discernible; they stem from clearly definable agents; and those processes of change proceed in an incremental, traceable way; but they do not necessarily lead to regime change and have interesting limits.

Using an approach that understands civil society not as a realm independent from the state, economy, and family but as a particular mode of action and interaction, results of the three case studies show the following:

- There is CSA action within the state apparatus and this specific mode of action and interaction effects changes in governance.

- Patterns of change precipitated by such a mode of action and interaction vary from moderate changes in the governance area of security to more substantial changes in the governance area of welfare. In both areas, problems of misrepresentation and misrecognition to a certain degree have been successfully addressed.

- Thus, at least in two out of three areas of governance, I found CSA occurring within the formal political structures and as such serving as a resource to address and ameliorate problems of governance and governability.

However, CSA seems to have interesting limits:

- Findings from Case Study 1 especially suggest that if there is change, then this happens just in homeopathic doses and CSA is subordinated to the imperatives that maintaining power seem to imply. In this area of governance, the powerful seem to see any further change to the formal governance architecture as implying fundamental questions of their own political power, and thus reject it.

- Effectiveness of CSA from within the state apparatus seems to increase significantly if and when there is support for such action from societal actors. However, even close and trusting cooperation between actors from the state apparatus and nonstate actors (in the governance area of welfare and security) did not develop further into institutionalized cooperation “on a par,” let alone a thorough change in state-society relations. Here the limits of CSA become observable that partly seem to be self-inflicted and partly refer to how actors see the boundaries set by the political system.

- Tacit or open support from supreme bodies of the ruling party was part and parcel of those processes. Even more, as the case study in the area of legitimate rule illustrates, without such assent, or even support from “above,” changes of rules are very difficult to achieve. In Vietnam, processes of change
are not necessarily initiated either from “above” (from within the party/state) or from “below” (by societal actors), and CSA within the state apparatus plays an important, mediating role.

Finally, potentials and limits of CSA become clear when we consider if and how issues get on the political agenda and opportunities open up for changes of rules. This depends on how the issue is framed. Decisive is how far away the respective issue is from what rulers see as questions of political, economic, and socioculturally rooted power and the political order based thereupon.

Those potentials and limitations of CSA illuminate the specifics of a polity under single-party rule and may reflect the extent to which development of CSA leads to incremental change but not to regime change.

There is further evidence from outside the case studies that supports this argument. Moreover, another question can be derived from the literature: what if such change leads not only to “positive” (in terms of CSA) but also to “negative” change, namely the persistence of the authoritarian regime? This question begs further research.

Suffice it to mention just some of the most recent scholarship that supports my conclusion of limited change:

- Vuving’s (2010) analyses show that “modernizers” in the government try to establish incremental changes in the governance structure, especially those that bring more decision-making power to the state and accountability to government, National Assembly, members of Parliament, etc. Even more, since “modernizers” need more public space so that they can raise their voice, they take up the cause and seek the support of “mainstream civil society” outside the state apparatus (Vuving, 2010, pp. 376, 381) but also, one might conclude, from CSA within the state apparatus. Up to now, none of those “modernizers’’ efforts have led to thorough changes in the existing governance structure (with the VCP as the sole reigning power, beyond the state and the constitution, and de facto not to be held to accountability by anyone). This limited effect has to do with the fact that those “reformers” are a clear minority within the ruling party, where a majority of “conservatives” and “rent-seekers” dictates the process of political change that so far has been “both gradual and measured” (Thayer, 2009b, p. 20). What those “reformers,” though, have in common with the majority is that like both other factions, they want to keep the party in power (Vuving, 2010, p. 382). This fact further curtails the power of “modernizers,” whom Vuving (2010) characterizes as a “minority within a ruling coalition” (p. 376). Thus, “reformers” might be close allies of CSA within the state apparatus and of “mainstream civil society” outside the party/state and strong enough to initiate limited change, but they are too weak to initiate thorough changes.

- Thayer (2009) shows in detail that “the state is clearly liberalizing but not fully democratizing” (p. 63) and that the “party elites appear willing to consider the views of internal critics and accommodate those views when feasible” (Thayer, 2009a, p. 63); moreover, he concludes that “Vietnam’s leaders have and are continuing to negotiate among themselves the pace and scope of change” (Thayer, 2009a, p. 64). This finding of limited change is supported by
his detailed analysis of how “political civil society” has been effectively “decapitated” and left without political influence after the crackdowns on various members after 2007 and especially in 2010–early 2011 (before the party congress in January 2011). Finally, Thayer’s (2009a, 2009b) analyses lead to the conclusion that civil society in general, namely NGOs working as service providers and those civic organizations closely affiliated with the party/state, might even enhance and support legitimacy and efficiency of the authoritarian regime.

This brief reprise of the literature suggests that there is incremental change, but no sign of regime change—the same conclusion I draw from the results of the three case studies. “Reformers” in the party and in the state apparatus are eager to press for incremental change as is CSA within the state apparatus, as shown in detail in at least two of the three case studies. The limitations of those reform intentions—both self-inflicted and imposed by the party/state—are clearly visible from Case Study 1.

But both the case studies and the literature also suggest that CSA within the state apparatus willy-nilly might lead to support of the persistence of the authoritarian regime. This may happen mainly in that the legitimacy of the authoritarian system is increased through advancements in welfare delivery, which civic organizations and CSA outside the state apparatus help to achieve; as well as through reforms in the governance areas of security and welfare, which CSA from within the party/state help to accomplish. These achievements might support an increase in acceptance if not support of a regime whose legitimacy rests mainly on performance (Thayer, 2009b, p. 21).

How to explore in greater detail the net effect of “positive” and “negative” changes brought about by CSA from within and outside the state apparatus clearly should be on the research agenda, and not only as far as Vietnam is concerned.

Acknowledgments

The author wants to express his sincerest thanks to the German Research Foundation (DFG), which funded the project for a term of 24 months (Ref. KO 3513/3-1); to the German Institute of Global and Area Studies (GIGA), which added funding for an additional two-month period; and to two anonymous reviewers and Prof. Dr. Adam Fforde, who helped decisively to improve earlier versions of this article.

Notes

1The concept of three functional areas of governance goes back to Czempiel (1981) and is used, for example, by Risse et al. in Freie Universitaet Berlin Research Centre’s (SFB 700) research on governance in areas of limited statehood (see, e.g., Draude, 2007, pp. 10–12; Risse & Lehmkuhl, 2006, p. 4).

2The research team in Vietnam comprised Prof. Dr. Bui The Cuong (Head), Prof. Nguyen Quang Vinh, Ms. Nguyen Thi Minh Chau (all from the Southern Institute of Sustainable Development/Vietnamese Academy of Social Sciences, Ho Chi Minh-City), Ms. Dang Thi Viet Phuong (Institute of Sociology/Vietnamese Academy of Social Sciences, Ha Noi), and Ms. Le Hai Ha (Department of Health Social/Hanoi School of Public Health). In Germany, the research team consisted of PD Dr. Patrick Köllner (Head), Dr. Jörg Wischermann, and Mr. Dennis Eucker (all from the German Institute of Global and Area Studies/Institute of Asian Studies, Hamburg). Whereas the research project was a collective effort, the analysis and presentation of the data in this article are the author’s responsibility. He is responsible for all mistakes.
"When political change occurs in Vietnam, and it inevitably will, … a broadening of political space is as likely to come from changes within state institutions as from the rise of an assertive civil society" (Gainsborough, 2010, p. 24).

We conceive rules as institutions and, based on this understanding, as “multifaceted, durable social structures, made up of symbolic elements, social activities, and material resources” (Scott, 2001, pp. 49–50). Rules steer political and social processes indirectly. They have regulative but also a sense-making and/or orientational function.

Based on the General Statistics Office’s most recently published study on violence against women, 34% of ever-married women suffer “physical and/or sexual violence” during their lifetime (General Statistics Office, 2010, p. 20).

This is one step back from what had already been achieved. At least the 11th Draft Law on Associations stipulated in Article 2 that citizens had the right to establish associations (Vietnam National Assembly, 2006).

In the regulative dimension, we hypothesized that people have the right to organize themselves; civic organizations should be required just to register. In the normative dimension, we hypothesized that the right to associate is a natural right based on the constitution. In the cultural-cognitive dimension, we hypothesized that civic organizations are a part of sociopolitical life in Vietnam, and the right to establish civic organizations is beyond question.

In the regulative dimension, we hypothesized that equality among civic organizations is legally ensured and there is no provision for a specific order of precedence among different groups of civic organizations. In the normative dimension, we hypothesized that civic organizations are on a par and have the same legal status. In the cultural-cognitive dimension, we hypothesized that there is no reason for granting some civic organizations a higher status than others.

In the regulative dimension, we hypothesized that legal provisions ensure all civic organizations’ and citizens’ unreserved right to participate in policy formulation, decision making, and implementation; all collective binding decisions are subject to popular control. In the normative dimension, we hypothesized that all civic organizations and citizens have the natural right to participate in decision-making processes and to control collective binding decisions; widening and enhancing participation of civic organizations helps to improve cooperation between the party, party/state, and civic organizations and fosters socioeconomic, political, and sociocultural development. In the cultural-cognitive dimension, we hypothesized that a “culture of participation” should be supported because it is fruitful for the country’s development.

In 2005–2006, the Ministry of Home Affairs and the Vietnam Union of Science and Technology Associations presented alternative versions of the Draft Law of Associations. There were hot debates in the course of two workshops organized by the Office of the Government in Hanoi and Da Nang, where the ministry’s draft was discussed. Furthermore, hot debates on various drafts of the law in the National Assembly in 2006 and 2007 offered actors from within and outside the state apparatus at least opportunities to change those drafts and to embody their ideas of a Law on Associations.

12See note 6 above.

13What is left out in those belief systems and related discourses is that “inequalities between men and females are the result of social processes, not natural bodily differences,” as Holmes (2007, p. 108) points out. Not even biological differences can be understood without reference to the ways such differences are produced by the society: “Bodies do matter, but the way they matter is a social phenomenon,” Lorber (2000, p. 84) asserts.

14This is because an essentialist understanding of gender differences at least implies the opportunity for discrimination in that it codifies unchangeable “natural” differences between men and women in terms of roles and tasks, if not capabilities.

15Data were stated on the site of the World Health Organization Representative Office in Vietnam (n.d.).

16A new law instead of improvements of various decrees was necessary, among other reasons, in order to overcome various legal contradictions.

17A compromise was achieved in the controversy related to the right to medical treatment. The drafting team and the National Assembly identified further priority groups eligible for access to mitigation and treatment programs.

References


