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JUSTICE INDEX

Assessment of Distributive
Justice and Equality
from a Citizen-based Survey in 2012

Ha Noi, July 2013



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ACRONYMS

CECODES	Centre for Community Support and Development Studies
GDP	Gross Domestic Product
GSO	General Statistic Office
HCMC	Ho Chi Minh city
HDI	Human Development Index
JUPI	Justice Index
LURC	Land-use right certificate
MOJ	Ministry of Justice
MOLISA	Ministry of Labor, Invalids and Social Affairs
MONRE	Ministry of Natural Resources and Environment
NA	National Assembly
NASC	National Assembly's Standing Committee
NASAC	National Assembly's Social Affairs Committee
PCI	Provincial Competitive Index
PAPI	Provincial Governance and Public Administration Performance Index
SPC	Supreme People's Court
UNDP	United Nations Development Programme
VASS	Vietnam Association for Social Sciences
VLA	Vietnam Lawyers' Association
WB	World Bank

EXECUTIVE SUMMARY

The Justice Index introduces a new approach to the assessment of the ongoing legal & judicial reform process. Based on prior surveys of access to justice as well as the development of local governance performance indexes in Viet Nam, the first empirical justice index on such a large scale was built in 2012 in order to create a quantitative tool that captures people's opinion and assessment of state institutions' performance, specifically in ensuring justice and fundamental rights. Simultaneously, this index gives stakeholders a chance to assess and monitor positive changes in law enforcement and rights' protection in Viet Nam.

The survey sample of the Justice Index 2012 concentrates on 21 provinces, including Hanoi, Ho Chi Minh City (HCMC) and 19 randomly selected provinces. The Justice Index builds on international knowledge and experience in measuring justice, rule of law, and governance. It's a design, however, takes into account the development context of Viet Nam, characteristics of the Vietnamese judicial system and people's conception of justice. The Justice Index 2012 covers 5 dimensions of law enforcement and rights protection, which are:

- Accessibility;
- Equity;
- Integrity;

- Reliability and efficiency;
- Guarantee of fundamental rights.

The aggregated results and data analyses from 5045 respondents across the 21 provinces and cities are presented in two parts: Overall picture of distributive justice and equality in Chapter 3 and results from the 21 provinces and cities participating in the Justice Index 2012 in Chapter 4. The viewpoints of developing the Justice Index are presented in Chapter 1 and the survey methodology is captured in Chapter 2.

Conclusions and key messages

Synthesized from the overall assessment and performance of provinces, some key findings emerge regarding current accessibility to justice and guarantee of fundamental rights for citizens as well as the operational effectiveness of state institutions in handling legal disputes and administrative complaints in Viet Nam. These are as follows:

1. Unequal access to information and legal services prevents equal and full protection of people's fundamental rights in practice.
2. Limited realization of some fundamental rights has negative impacts on citizens' confidence in public institutions.

3. State agencies' inefficiency in satisfying basic legal requirements and handling civil dispute & administrative complaints induces citizens to seek self-settlement or to choose informal channels of dispute resolution.
4. People expect an efficient, reliable, professional and accessible justice system with a high level of integrity.
5. At present, judicial reform and enhanced law enforcement are currently the most pressing needs for human development in Viet Nam.

Policy recommendations

The report proposes detailed policy recommendations as follows:

1. The judicial reform process should be continued to ensure justice and fundamental rights for citizens. The human development target should be considered more significant than economic development.
2. In developing the administrative and judicial systems, the following objectives need to be prioritized and entrenched: efficiency, integrity, accessibility, equity, democracy, and satisfaction of citizen demands.
3. Constitutional rights should be made into law and the people; and citizens need to know their fundamental rights in accordance with the international standards and the laws on human rights with which Viet Nam must comply as a signatory. Constitutional rights should be made into law and the people should be informed of their fundamental rights in accordance with international standards and laws on

human rights to which Viet Nam is a signatory

4. It is necessary to develop a constitutional protection mechanism that ensures respect and protection for fundamental civil and political rights in practice.
5. The mechanisms for civil dispute resolution should be improved in a way that: shortens handling periods; increases professionalism and efficiency; and above all improves citizens' confidence in public institutions.
6. Judicial administrative and judicial support services should continue to be improved to ensure friendliness and accessibility to citizens, particularly to the poor and other disadvantaged groups.
7. The role of elected bodies in overseeing judicial activities should be reinforced and specified.
8. State agencies and officers should adopt a new approach in monitoring and evaluating results of reform processes, namely legal and judicial reform.
9. It is necessary to do further assessments of the role and efficiency of the grassroots conciliation system. Also, the complaint and denunciation settlement mechanism at local levels should be further studied for amendments to ensure: citizens' legitimate rights and benefits; and reduce prolonged and multi-layered proceedings.

Potential of Justice Index

The 2012 Justice Index may be used by central and local state agencies, social organizations and citizens in three ways:

1. The results of the Justice Index are achieved by aggregating factual data to assess the status quo and analyze policies for effective implementation of the on-going legal and judicial reform processes.
2. The results of the Justice Index may be used as diagnoses to identify shortcomings and problems in ensuring justice for citizens both at the national

level and in comparative correlations between the provinces.

3. The Justice Index results may be used to define specific targets for promotion of judicial reform processes in the future, both at national and local levels as targets for reform.

In addition, the Justice Index's results, if to be aggregated in the future, will allow the tracking of changes over time. Future Justice Index results will be a reliable foundation by which to make state agencies accountable for their institutional performance and reform efforts.

INTRODUCTION

Since 2010 Viet Nam has joined the ranks of lower middle-income countries largely as a result of achievements in economic growth and poverty reduction, demonstrated by meeting the targets set in the Millennium Development Goals. While such achievements are encouraging, they also pose considerable challenges, which require further reforms in restructuring the national economy, building institutions, strengthening democratic governance, and realizing the construction and perfection of the legal and justice system under the rule of law.

In fact, concerns have arisen over the 'overload' of the state system and the subversive role of interest groups. These are considered key factors driving a desire by some to maintain the status quo and delay reforms for policy rent seeking.⁶⁵ Together with increased inequalities of income and opportunity, there are also inequalities in access to the judicial system, resolving legal and civil disputes and how administrative complaints are handled. These shortcomings detract from fair competition and equality among individuals, as well as businesses, and to a larger extent also risk equality between economic sectors, or social classes.

An efficient and non-biased legal and judicial system - which ensures equity and non-discrimination - is seen as the foundation for making activities of state agencies more transparent, predictable and user-friendly. As a result, such a legal system will lead to creating an enabling

environment at the national level for investment, trade and international integration. Further, people will be able to master their own lives given a thorough understanding of their rights and obligations. Clearly, Viet Nam needs to develop an effective, impartial and responsive legal and judicial system, but the question is: how?

This Report proposes the Justice Index as a new tool for analyzing and making legal and judicial policies. It is also an effective tool to make state agencies both at central and local levels accountable to citizens for the performance of public institutions, efforts to ensure justice – or fairness and equality – for citizens.

The Report begins by explaining the demand for a policy tool to help measure and assess people's experience of justice in Chapter 1. Chapter 2 introduces the research and survey methodology. Chapter 3 gives a national overview of distributive justice and equality in practice, identifying the challenges faced by local people in getting access to the judicial system and/or public institutions in general. It also identifies shortcomings in: resolving civil disputes and administrative complaints; as well as ensuring the fundamental rights of the people. Chapter 4 presents the results of the 21 surveyed provinces of the 2012 Justice Index. The report concludes by listing some policy implications, based on 2012 Justice Index findings, in Chapter 5.

⁶⁵ Wilkinson (editor) 2008; Pincus and other authors 2012.

CHAPTER 1

JUSTICE INDEX DEVELOPMENT CONCEPT



Laws from ancient times have been the pillars for great works of the country, however, in the eyes of farmers, they are normally known through the presence of police staff, judicial official, the head of village and rarely do they come to a mediator. In a society appreciating gratitude and affection, the whole district can't see a lawyer anywhere; the court and procuracy are located somewhere in the district center, close to the district committee, party office and police... Ensuring the mind of worrying people at rest for being protected by the laws, simple as it is, but this is the very first sign of a justice society... The law in the eyes of the poor is simply the wish for a foundation to cope with countless daily sorrows, the more sustainable the foundation is, the greater the trust in the laws is.

Phạm Duy Nghĩa⁶⁶

66 Phạm Duy Nghĩa, 2010.

1.1. Necessity to measure justice

Monitoring and evaluating implementation of legal and judicial reform strategies – The targets identified in the Judicial Reform Strategy until 2020 include 'to build a ethical, strong, democratic, strict and fair justice sector that protects justice and is gradually modernized to serve the people'; 'to ensure that judicial activities, among which adjudication plays the key role, will be carried out highly effectively and efficiently.'⁶⁷ This viewpoint is built based on the statement that the role of judicial agencies: 'shall be what people can really count on in protection of justice, human rights, and be an effective tool to protect the law.' Under the task of reforming the legal and judicial system towards building a rule-by-law society, in the last two decades, since the introduction of Doi Moi (renovation) and economic reforms

toward an market-oriented economy, Viet Nam's laws have developed from being very small in number to hundreds of laws and ordinances, not to mention thousands of guiding documents introduced to guide the interpretation of law and its enforcement. In addition to law-making activity, strengthening the capacity of state agencies and officials has also been a priority during implementation of the reform targets.

After five years implementing the Strategy for the development and improvement of Viet Nam's legal system and the Judicial Reform Strategy⁶⁸, reports at conferences on preliminary review of implementation of the two strategies, show that in the 2005-2010 period there were more than 120 laws and ordinances issued, courts at different levels resolved 1,107,158 cases, and estimates of recurrent expenditures for judicial agencies increased steadily at over 10% annually. At the end of 2010, nationally there were 4,681 judges (an increase of 827

⁶⁷ See objectives of Justice Reform Strategy: Politburo 2005b.

⁶⁸ Politburo 2005a; 2005b.

judges compared with 2005), more than 800 notaries, and there was one lawyer to every 14,000 citizens.⁶⁹

The reports reveal remarkable results in investment in staff training, construction of infrastructure, and facilitation of activities for the development of judicial agencies and officers. However, the reports barely mention the criteria and data necessary to assess the efficiency and social impacts of the implemented activities. For example: questions whether reforms help make the court more accessible, increase citizens' and businesses' confidence in the fairness of judges, and/or simplify and shorten judicial administrative procedures, have not been addressed.

The existing National Statistical Indicator System (issued under Decision No. 43/2010/QĐ-TTg) includes a group of indicators of 'social and judicial order and safety'. Of the 9 indicators in this group, there are 6 indicators related to activities of judicial agencies. 3 indicators go to the number of criminal cases, people indicted and convicted under the general responsibility of the People's Supreme Procuracy and People's Supreme Court; and 3 indicators dealing with the number of people who receive legal aid, number lawyers, and number of notaries under the general responsibility of the Ministry of Justice.⁷⁰

In fact, the People's Supreme Court has published statistics of cases resolved at the courts of first-instance, the appellate courts and the cassation courts since 2011 on its website, but the statistical data about the proportion of those accused who have access to counsel remain unpublished.⁷¹ The Ministry of Justice publishes on its website statistics of legal aid aggregated

from reports of provincial departments of justice throughout the country. However, when last accessing the website on 22 July 2013, only statistics concerning the incidence of legal aid in 2009 and 2010 were available.⁷²

Recently, the Government issued the Regulation on standards for legal access of citizens at local levels (according to Decision 29/2013/QĐ-TTg) to 'monitor citizens' access to law at local levels'.⁷³ The Regulation on standards for legal access, includes 41 criteria assessed on a 1,000-point scale, to be used by People's Committees at different levels to conduct their own annual assessments of 'legal access for citizens' for the period from 1 July of the previous year to June 30 of the following year. Based on these self-assessments, the Council for Legal Access Assessment, the Ministry of Justice, and the People's Committees of provinces and cities will together rank, commend and reward the localities based on the Law on Emulation, Commendation and Rewards dated 26/11/2003 (amended and supplemented in 2005).

In general, assessment of legal and judicial reform activities of the judicial system are only based on a very limited number of statistical items, self-assessment indicators, or statistics of issued legal normative documents. The above-mentioned data may reveal changes in legislation, legal procedures, personnel of the judicial system, function and activities of judicial agencies, but they do not answer the question whether these changes with people's social lives and ensure justice for citizens. Further objective and reliable information sources are needed. There is a lack of criteria by which to monitor and evaluate the implementation, the assessment approach in use is one-

⁶⁹ MOJ 2010; the Secretariat of the Steering Committee for Central Judicial Reform in 2011.

⁷⁰ Government 2010.

⁷¹ Supreme People's Court 2013b.

⁷² MOJ 2013.

⁷³ Government 2013a.

sided and outdated. Emphasis is put on priorities to enhance capacity for state agencies, instead of developing an effective mechanism and solutions to protect justice and citizens' fundamental rights and interests according to the law. Such limitations, if not properly addressed, shall hinder more fundamental and extensive reform efforts.

Citizens' idea of justice – In difficult economic times, workers in a private enterprise accept hard working conditions with low wages, but when unpaid, they did not know where to go or to whom to complain.⁷⁴ Two families had disputes over their land boundary, they failed to resolve issues on their own, and even after reconciliation at the commune's people's committee, they had to come to the court. The judge demonstrated corruption when making a favorable decision for one party. The loser submitted an application for a rehearing, leading to a prolonged dispute.⁷⁵ Residents in a countryside area had to suffer for many years air pollution caused by an untreated food-processing plant. Unable to negotiate with the plant manager, and having sent complaint letters to state agencies at different levels with no discernable results, the local people poured concrete to block the road to the plant, paralyzing all production activities.⁷⁶

The examples, mentioned above, illustrate just a few of the legal issues affecting the people in terms of their livelihood, property, health and well-being. People's ideas and expectations of law and justice are measured by their personal experience and interaction with public institutions. Rules on paper or not be strictly enforced

do not mean much in real life, but risk undermining the credibility of the authority. Many concerns have been expressed about regulations and policies having been made in an unrealistic and unworkable fashion, and even at times such policies and laws violating fundamental principles of human rights.⁷⁷ It is, therefore, necessary for the judiciary reforms, along with innovations in law-making and administrative reforms, to be able to address the urgent and specific needs of the people experiencing disputes and conflicts, thereby protecting justice, and contributing to social stability. It is also important to mention an important principle of the relationship between legal & judicial reforms and development stressed by Amartya Sen: 'respect the formation and completion of an effective legal and judicial system as an important part of the development process itself, rather than value it as a driver for the economy, politics or other aspects of development.'⁷⁸

New challenges on justice and social equality - To better meet the people's requirements of justice, it is necessary to first identify the challenges and shortcomings in practice. Some results have been achieved in reducing poverty and creating justice and equality for all strata of society, however, Viet Nam's socio-economic restructuring is expected to invite new challenges. More specifically, large and persistent disparities among socio-economic groups, and among different regions, inferior basic social services reflecting a household's ability to pay, weak state management and rule of law, and systematic corruption combined negatively to impact development.⁷⁹

⁷⁴ The enterprise's unpaid wages reported by the press at the year end of 2012: Vietnamnet 2012.

⁷⁵ The press's coverage on court officials: Kienthucnet 2012.

⁷⁶ Pollution due to fish powder production in Thai Thuy, Thai Binh: Thai Binh Provincial Lawyers' Association 2012.

⁷⁷ Singling out feedbacks/opinions by the people towards some decrees and circulars: 'Phụ nữ ngày nay' newspaper 2013.

⁷⁸ Sen 2006: page 49.

⁷⁹ UNDP – VASS 2011.

The Socio-economic Development Strategy for the period 2011-2020 gives prominence to comprehensive development and inclusive growth, specifically 'economic growth must be harmoniously combined with the realization of social progress and justice'. Strategic orientation, as well as objectives of the Socio-economic Development Plan (2011-2015)⁸⁰ and other national target programs, continue to emphasize and prioritize resources and measures for economic growth and a number of basic public services such as education and health, but fail to provide for specific objectives that help monitor the Strategy's implementation. They also lack an assessment of multi-dimensional integration between the growth targets and institutional reform, between poverty reduction with more difficult targets, such as equality and equal rights, guaranteed substantive participation or civil rights and social justice for the poor, minorities and the vulnerable.⁸¹

Poverty and inequality – According to the 'Viet Nam Human Development Report 2011: Social Services for Human Development' advances in the delivery of social services and improvements in the human development indicators of Viet Nam (HDI) in the past two decades are primarily due to economic growth. Unequal access to public services- especially health and education, an unstable macro-economic environment, accelerated urbanization and internal migration are challenges hindering the implementation of the higher human development goals in Viet Nam at present as well as in the future. Taking into account geographical and regional differences, the report observes that an overall increase in inequality has become a characteristic of the growth pattern in Viet Nam.⁸²

⁸⁰ National Assembly 2011.

⁸¹ Government 2012a; 2012b; 2012c.

⁸² UNDP - VASS 2011.

Despite significant progress, the task of poverty reduction in Viet Nam remains unfinished. The Viet Nam Poverty Assessment Report 2012 observes that citizens, whether urban or rural, rich or poor, largely agree that there has been a significant increase in equality over the past 5 years, not only in income, but also in opportunity.⁸³ Inequality has been observed in social status, in relationships and in voice in policy formulation processes. At the same time, inequality is embodied in many different forms: inequality in the government's treatment in the land conversion process which is seen as more beneficial for investors than for land owners; or biased public service provision in hospitals and schools; lack of equitable employment opportunities in the public sector; and abuse of power and relationships to find employment in the public sector.⁸⁴ The abuse of social status, power, and relationships and illegal or corrupt practices involving rent seeking, and misappropriation of public assets as well as unequal access to better opportunities are considered unfair. This is a major contributing factor to social discontent and perceptions of inequality. These problems are likely to undermine benefits from economic growth, adversely affecting cohesion and consensus within society, and ultimately causing harm to the legitimacy of public institutions unless it is properly resolved and controlled.

Social development and legal needs -

Along with the development process with increasing dynamism and complexity, many social changes are taking place. According to the court statistics, the rate of cases resolved annually by courts gradually increased to 12% in 2010-2011, but

⁸³ WB 2012.

⁸⁴ "Those who are officials in State agencies often receive favorable treatment in handling administrative procedures": WB 2012; WB and GI 2012; CECODES, VFF-CRT & UNDP 2013.

decreased to 9% in 2012.⁸⁵ Administrative complaints increased and became more complicated within the same period. As reported by the Government Inspectorate at the National Conference on the reception of citizens, settlement of complaints and denunciations on May 2nd 2012, in the period from 2008 to 2011, 1,571,500 citizens approached state administrative agencies to lodge complaints and denunciations which resulted in the processing of 672,990 complaints. The number of cases increased by 26.4% between 2008 and 2011 and collective cases involving large groups grew by 64.5%.⁸⁶ Increases in transactions, disputes, administrative complaints and lawsuits are a reality which necessitate the establishment of democratic and effective institutions to meet needs and expectations in the society.

Box 1 provides some information about the court system according to the statistics of the Supreme People's Court as of to 30 September 2012.⁸⁷

1.2. Justice Index development concept

Governance indices that measure and assess performance of public institutions are relatively common around the world. These indices can be operated within a country, some are used across countries measuring the same themes. The World Governance Index and the Rule of Law Index⁸⁸ are two such international indices measuring justice, rule of law and governance in many countries, including Viet Nam. Sharing the view that 'if you cannot measure it, you cannot improve it'⁸⁹, sociologists and index

⁸⁵ SPC 2013a.

⁸⁶ GI 2012.

⁸⁷ SPC 2013a.

⁸⁸ *The Rule of Law Index has been introduced and published its third annual iteration. The latest report for 2012-2013 covered 97 countries including Viet Nam; WGI 2013. World Governance Index, WGI 2012.*

⁸⁹ William Thomson 1824-1907.

Box 1: Court statistics

Currently, there are 4,914 judges, 698 district courts, 63 provincial courts, 5 specialized courts and 3 courts of appeal under the Supreme People's Court (SPC).

There has been a gradual increase in the number of accepted cases by approximately 11% according to data between 2010 and 2012.

The percentage of annual cases resolved has gradually improved, from 90.7% in 2010 to 92% in 2012.

As of September 2012 a total of 28,073 cases remain unresolved.

The court system is organized in two tiers: courts of first- instance and courts of appeal. Additionally, a cassation review can be conducted where a legally enforceable judgment or decision is based on a serious breach of the law. The retrial is conducted upon the discovery of new evidence which is basically changing the case (which has already come into effect).

developers largely agree on the necessity to quantify processes and institutional performances. However, they have very different views on indexing frameworks, design methodologies, data collection and survey methodologies.⁹⁰ Further, how indices and quantitative tools should be used in policy making and advocacy, or more broadly speaking, views on how to put such indices to good use are very diverse. Therefore, it is recommended to interpret indices (findings and data associated with an index) with caution to ensure objectivity and an understanding of the specific development background for

⁹⁰ Botero et al. 2011.

which a particular index is designed and implemented.⁹¹

Viet Nam has two national local governance indices in place. The first one is the Provincial Competitiveness Index (PCI) introduced back in 2000 and the second is the Provincial Governance and Public Administration Performance Index (PAPI) launched in 2009. There is no index measuring justice, or in other words, performance of state institutions in ensuring justice for the people.

In Viet Nam, the first research and survey efforts reflecting public opinion about justice and the exercise of justice was conducted under the support of UNDP. In 2003, in the survey 'Access to Justice Viet Nam: Survey from a People's Perspective', 3 criteria were used: (i) awareness, (ii) accessibility, and (iii) confidence in administrative and judicial agencies. In 2010, the second survey on access to justice from people's perspective was carried out to update changes over the 5-year period since the Legal System Development and Improvement Strategy and the Justice Reform Strategy were initiated. These surveys have provided many useful information on research experience, assessment criteria and people's perceptions on the judicial system (court, procuracy, the police) and other supporting institutions, such as lawyer and legal aid. However, due to limitations in the survey sample and scope, these surveys failed to identify shortcomings in specific areas as well as provide an analysis based on local areas and regions, or social groups. The collected information provided an insufficient basis for the development of policy recommendations or specific action plans towards improving access to justice.

Based on these experiences, the Justice

Index has been designed, developed and tested in an effort to reflect and quantify people's perceptions of law enforcement and performance of state institutions in ensuring justice and fundamental rights. The Justice Index⁹² offers an analytical tool that seeks to provide objective and reliable information for state agencies, social organizations and citizens to use in planning and oversight of performance of the justice system, and on a broader extend, monitoring and evaluating the Legal System Development and Improvement Strategy and the Justice Reform Strategy initiated by the Party and the State of Viet Nam.

1.3. Justice Index 2012

In this experimental research, the approach to protection of justice for the people does not focus on theoretical issues, such as what is justice or what agencies belong to the justice system. Instead, it gives priority to a perspective of distributive justice in reality. Justice in life is what people interface and witness daily, not legal norms on paper which for the majority of Vietnamese people are still difficult to find out and understand properly.

The approach to measure justice in this sense significantly influences the design framework and the scoping of this project. The scope of research and assessment of Justice Index is not limited to judicial agencies and public institutions that have functions mandated by Vietnamese laws, but also extends to quasi judicial institutions, informal mechanisms and methods people use to negotiate and resolve disputes in practice. Within this study, the Vietnamese terms "judicial system" or "judicial authority" are broadly defined as the collection of state agencies,

⁹¹ Botero, cited.

⁹² Justice Index methodology has been piloted in 3 provinces in 2010 and extended in 21 provinces in 2012.

including Government agencies, courts and procuracies – which all more or less participate in ensuring law enforcement and justice for the people. Whatever the source of information, it is essential that the information gathered in this research represents ordinary people's views and experiences, not those of academia or researchers.

The Justice Index, therefore, is designed with the aim of:

- Providing reliable data - gathered from citizens' perspective and independent sources – for Government, business, and social organizations to analyze, assess and oversee judicial activities, and ensure justice and the protection of citizens' rights in Viet Nam;
- Enabling analysis and comparison of institutional performance, law enforcement and protection of justice at the sub-national level;
- Providing a practical tool to assess performance of the justice system, protection of rights and access to justice; in turn, helping to plan public policies at the national and sub-national level to guarantee the implementation of the legal and judicial reform strategies in Viet Nam;
- Gathering information, particularly data as a baseline for assessing the performance of the justice system and protection of citizen's rights in the future.

The research tools used by the Justice Index are anchored to the experiences and opinions of ordinary people who are exposed to law and justice in different aspects of daily life. These aspects include, for example, birth registration, conversion of the purpose of land use, conflicts with

neighbors about land boundaries, formal legal proceedings against businesses for causing pollution and seeking fair compensation. In tandem with the collection of demographic data of the population and household representatives in the sample, the use of a questionnaire has been our primary interviewing tool in the Justice Index survey. It is designed to cover seven key substantive issues:

- Labor disputes
- Economic, commercial, and civil disputes
- Land disputes
- Environmental complaints
- Social entitlement claims
- Fundamental rights
- Legal knowledge

Though pursuing an open and multi-dimensional approach, the Justice Index is limited in scope to non-criminal matters. The main reason is that the criminal justice system has characteristics that require specific research methods that can be more appropriately tackled in separate research. Given the sensitivity of the issues as well as concern for the research subject, survey methodologies and interviewing techniques used for research in civil and administrative fields would be inappropriate in the domain of criminal justice.

The 2012 Justice Index sample focuses on 21 randomly selected provinces, accounting for one third of the cities and provinces in Viet Nam. It is expected that the next iteration, tentatively in 2014, will work on a national sample.

In short, the Justice Index is a quantitative tool designed to help convey ordinary

citizens' opinions and assessments of the performance of state institutions in ensuring justice and fundamental rights in practice. Further, it is designed to help stakeholders assess and oversee "on the ground", evidenced-based developments in law enforcement and justice protection in Viet Nam.

Selection of the Justice Index 2012 dimensions and indicators has been conducted based on international experience in measuring justice, rule of law, governance and other sociological indices. For instance, some of the 9 dimensions of the Rule of Law Index address integrity, fundamental rights and justice in civil dispute resolution. The last dimension of the 6 dimensions of the World Governance Index covers control of corruption. As mentioned earlier, given the diverse viewpoints and specific design methodologies of each index, identically named dimensions do not necessarily contain similar or the same indicators and items.

At the same time, the Justice Index has been designed to match Viet Nam's specific development context, characteristics of the judicial system and the Vietnamese people's conception of justice. In effect, the Justice Index 2012 covers 5 substantive areas – or dimensions – in law enforcement and justice protection as perceived and experienced by the people. These include:

- Accessibility;
- Equity;
- Integrity;
- Reliability and efficiency;
- Guarantee of fundamental rights.

Chapter 2 and appendices describe in

detail the survey sample, methodology and indexing. Chapter 3 and 4 present general findings and results of all the provinces participated in Justice Index 2012.

Box 2: The Justice Index

Justice Index is a quantitative tool designed to help convey ordinary citizens' opinions and assessment of the performance of state institutions in ensuring justice and fundamental rights in practice. It further helps stakeholders assess and oversee "on the ground", evidence-based developments in law enforcement and justice protection in Viet Nam.

The Justice Index measures 5 dimensions:

- Accessibility;
- Equity;
- Integrity;
- Reliability and efficiency;
- Guarantee of fundamental rights.

CHAPTER 2

SURVEY METHODOLOGY



2.1. Quality and representativeness of sample

General considerations

The Justice Index builds on the sound methodological experience of survey and sampling from implementation of the Provincial Governance and Public Administration Performance Index (PAPI) operated since 2009. CECODES, the survey firm that developed these indexes, has built an extensive network of field supervisors and interviewers nationwide. In addition, CECODES has acquired the capability to maintain and update an accurate sample frame for Viet Nam as a whole.

The Justice Index leverages from this approach in two ways. First, by using a similar sampling design to select districts, communes and villages, this project was able to save significant time and expense at the survey implementation stage. Furthermore, this strategy is methodologically beneficial, since both surveys rely on identical sampling units. This ensures that aggregate data obtained from both projects can be directly compared, thus allowing an exploration of whether findings regarding the Justice Index and PAPI correlate or not.

Sampling design

As the first of its kind, the 2012 Justice Index is somewhat experimental. It does not seek to collect data from every province

of Viet Nam. Instead, this exploratory effort focuses on a random sample of 21 provinces, in which the municipalities of Hanoi and Ho Chi Minh City (HCMC) are added as 'self-representing units' given their demographic, economic and administrative importance. In fact, in order to maintain a more equal probability of selection of respondents across provincial units, their sample sizes were tripled relative to that of ordinary provinces in order to reflect the magnitude of these two cities. Similarly, the sample size in An Giang, an unusually large province, was doubled in order to better reflect its demographic importance.

The remaining provinces were selected at random using a scheme that grouped them in approximately equally-sized sub-strata each containing three to four provinces. These strata were defined based on the provincial Human Development Index (HDI) score. Thus, the first sub-stratum groups the top HDI performers in Viet Nam, the second one the next three, and so on down to the group with the lowest HDI. Finally, one province per sub-stratum was selected using the standard method of selection proportional to measure of size (PPMS), using provincial population as our measure of size.

The PPMS method is helpful in two ways. First, it ensures that the data can be used as a representative sample of Viet Nam as a whole. Chapter 3 of this Report discusses the substantive findings at the national level, and does so because the sampling design ensures that the set of selected

provinces is representative of the country, not only because the range of socio-economic conditions is fully covered (thanks to the sub-stratification by HDI) but also because the principle of PPS selection does not give undue importance to the smaller provinces (which would be the case if they had been selected by Simple Random Sampling --SRS-- instead)

Below the provinces, the selection process entails the purposive selection of the district that is the seat of the provincial capital, as well as two other districts selected by PPMS. (The exceptions are Ha Noi and HCMC where six districts were selected in each city (including the seats of the municipal governments). Below the district, the commune (ward) that is the seat of the district was purposively selected, while another one was selected by PPMS. Similarly, the village (neighborhood) that is the seat of each sampled commune (ward) was included along with another one selected by PPMS. The enumerators then collected, and verified the lists of all inhabitants in each village above the age of 18, from which households were

drawn at random. Finally, one eligible member in each sampled household was selected at random and invited to meet the interviewing team.⁹³

The methodological processes and procedures adopted in this project aim to obtain information from a representative selection of Vietnamese citizens above the age of 18. CEDODES uses state-of-the-art procedures and statistical software to select respondents in compliance with international standards for multistage and random sampling methods. In doing so, the sample captures experiences and perceptions of the population with various stratified demographic backgrounds regarding gender, ethnicity, age, education, occupation and socio-economic status. Sampling is done following five stages to select (i) districts, (ii) communes, (iii) villages, (iv) households and, finally, (v) respondents.

⁹³ It is important to note that while the lists of households at the village level were the same for both this project and PAPI 2012, the random selection of households and then individuals within households virtually ensures that the same respondents were not asked to be interviewed for both studies.

Table 1: Comparison of key demographic variables between Census 2009, PAPI 2012 and Justice Index 2012 data

Demographic variables	2009 Population census (%)	PAPI 2012 (%)	Justice Index 2012* (%)
Gender			
Male	49.41	47.33	45.63
Female	50.59	52.67	54.37
Ethnicity			
Kinh	85.73	84.35	79.65
Others	14.27	15.64	20.35

*Un-weighted

The reliability of the Justice Index can be checked against the variables that have been made available since the release of National population census in 2009. Table 1 compares the distribution of key demographic variables between the 2012 Justice Index, 2012 PAPI and available 2009 Census data. It confirms the closeness of the sample to the actual demographic characteristics of the Vietnamese population. Since by design the subsample of provinces selected for Justice Index covered the full spectrum of HDI scores, the most disadvantaged provinces (including mountainous ones that tend to have small populations) are slightly over-represented, which explains the somewhat inflated share of ethnic minority respondents in the Justice Index sample.

2.2. Fieldwork implementation

The implementation of the Justice Survey took place as follows:

- Questionnaire development
- Pre-testing
- Questionnaire review
- Interviewer's manual development
- Training of enumerators
- Actual interviews began on 19 November 2012 and were completed on 22 January 2013.

Survey process and quality control

The survey process started with the training of field controllers, who led and supervised data collection teams in 21 provinces.

The interviewers were mostly final year students or graduates with majors in sociology or social work or relevant fields who were carefully screened by "Live & Learn", a local NGO working in the area of youth development in Viet Nam. This process helped strengthen the objectivity and independence of the fieldwork. Each team of interviewers underwent training, detailed guidance, interview and supervise by field enumerators.

Completed questionnaire surveys were post-checked by UNDP and CECODES in Ha Noi immediately upon the completion of field visits to each province. Each completed questionnaire was reviewed one more time during data entry.

Face-to-face interviews

Overall, 5,045 respondents were directly interviewed for the Justice Index project, accounting for approximately 80% of the maximum sampled population: $n = 6.036$ and for 99.5% of the target: $n = 5.070$. Summary of the sample by province is set out in Appendix 2.

CHAPTER 3

DISTRIBUTIVE JUSTICE AND EQUALITY IN PRACTICE



It is common sense that land is as good as gold. Gold, however, is metal and uneatable. Land, on the otherhand, is where you can grow crops for food. People do not need to be provided with rice, what they need is the Government to enable them to own land for their home-grown food. People grow plants, so do state-owned forestation yards. Why are such yards allowed to grow plants and we are not? It is not fair. If there is no other way, we have reluctantly to run risks and do wrong.

Hồ Thị Con⁹⁴

94 Interview of Hồ Thị Con, Vân Kiều, Quang Binh. Oxfam – Institute for Legislative Studies 2013: page 59

Introduction of data and overview of general analysis method

Inequality, as mentioned in Chapter 1, can be identified through the parameters of income and education, as well as through human and social capital that facilitate access to specific legal and public services that are relevant to the dispute resolution process. In order to provide fresh and nationally representative data to help measure the degree of inequality in Viet Nam, the research team focused on the analysis of information about individual resources, human and social capital.

In this report, we use some simplified terminologies: human capital includes both general educational and legal knowledge; social capital includes gender, ethnicity, membership of political, social and professional organizations and personal networks.

Box 3: Analysis by social groups and measures

In order to tease out the degree of inequality among vulnerable categories, we coded each respondent among four key social dimensions. Specifically, (1) gender (female=1), (2) education (coded 1 if the respondent has obtained a high school degree or better, zero otherwise), (3) poverty (coded 1 if the respondent's household is classified as poor or near poor), zero otherwise, (4) the social status of the respondent. Based on information about current and previous occupation, 'social status' is coded 1 if respondent is current or former official of People's committees at all levels, leader of a Party organization, head of hamlet/village, judge, prosecutor or the police. In order to measure whether a specific category is disadvantaged or not, we use a multiple regression technique to test statistically whether belonging to any of these four categories has both a substantive and significant effect on items of interest that are included in the survey.

In the Justice Index, there are 52 items of interest which were analyzed by social group. Each dependent variable is binary, as are the four independent variables marking each of the social groups of interest. For each item, we estimated a logistic regression:

$$Y = \text{logit}(\beta_1 * \text{gender} + \beta_2 * \text{education} + \beta_3 * \text{poverty} + \beta_4 * \text{social_status} + \text{constant}).$$

We detect evidence of inequality between categories (e.g. women vs. men) if $|\beta| > 0$ and if the coefficient reaches statistical significance at the 90% level or better: the larger the coefficient, the larger the gap between the category of interest and the control group. For easier reading of the data, the results were computed as odds ratios ($\exp(\beta)$), so that values greater than one denote positive odds. Conversely, odds ratios between 0 and 1 imply a negative coefficient.

According to these mentioned groups of criteria, and depending on the issues or analysis, we either use data from the total sample, or a sample drawing on the 4 groups: Female vs. Male; Low education vs. Average and high education; (Near) poor vs. Non (near) poor; Social status vs. Non-social status

The analytical results of the control group will be calculated by as follows: the coefficient of 1.0 is the benchmark to identify equality status in a control group—for example, between male and female. A disadvantaged group is the one with coefficient below 1.0 respectively; the advantageous group shall have a coefficient greater than 1.0.

On the basis of synthesized quantitative analysis and analysis by social group, this Chapter will focus on presenting the key findings of the level of inequality and discrimination in access to justice; people's choices facing the dynamic and complex dispute resolution system, the role of state institutions in the resolution of legal disputes and ensuring justice in practice. As described in Chapter 2 of the survey methodology and sampling, the results of the analysis and findings from the Justice Index presented in this Chapter are representative and show the typical characteristics of the country, and not limited to the practical situation evident in the 21 surveyed provinces.

3.1. Gaps in guarantee distributive justice and equality

The survey data revealed that a low level of education and limited knowledge are the major factors behind inequality with respect to the law and legal institutions. While education is considered a prerequisite to reduce poverty and inequality, 31% of survey respondents (aged from 18 to 61) have never been to school or only attended grade 5 or below, whereas only 16% graduated from college and university, and only 1% obtained a master's degree or higher. The educational background of the respondents clearly affects their understanding of social and legal issues. For instance, people's understanding of fundamental legal rights in law or the constitutional amendment process which was a widely-communicated at the time of the survey reflected this.

Constitutional amendments and people's participation— Although the slogan of 'live and work under the Constitution and the laws' is commonplace in the mass media when the first draft revision to the

1992 Constitution was being discussed by the National Assembly XIII, session 5, up to 42.4% of the survey respondents 'had never heard of' or 'did not know about' the Constitution. Among those who acknowledged the Constitution, 23% were unaware of the ongoing Constitutional revision process. When asked about the right to participate and be consulted about the constitutional revision, 88.6% believed people had the right to participate while 74.2% believed people should have the right for a Constitutional referendum.

Table 2 contrasts the perceptions and opinions by social group about popular participation in the constitutional revision

process. It is especially noteworthy that contrasts for control groups are highly significant for all social categories. Consider for instance item h01: women are 2.25 times -- namely $(1/0.444) \times 100$ -- less likely than men to know about the constitution, while respondents with lower education are six times -- $(1/0.159) \times 100$ -- less likely to know about it than those who have the advantage of a high-school education or better. As for the poor, they are 1.6 times less likely to know about it than the wealthier respondents. Conversely, respondents who have the benefit of a higher social status are 6 times more likely to know about it than ordinary citizens.

Table 2: Constitutional amendments and public participation

Question Social group	h01: Know about Constitution	h02: Know about Constitutional revision	h04: Citizens have the right to participate	h05: Citizens have the right for a Constitutional referendum
Female	0.444***	0.523***	0.542***	0.680***
Low education	0.159***	0.163***	0.179***	0.255***
Poor	0.613***	0.461***	0.557***	0.683***
Higher social status	5.190***	3.598***	3.603***	1.682***

*Note: Numbers are odds ratios. *** denotes significance at the 0.001 level, ** at the 0.05 level and * at the 0.1 level.*

Meanwhile, three vulnerable groups (women, the less educated and the poor) are strongly disadvantaged for all items from h01 to h05, namely their associated odds ratios fall sharply below 1 at the 0.001 level of significance, in contrast to respondents with higher social status who are always strongly advantaged (odds ratios > 1 and significant at the 0.001 level).

Fundamental right consciousness and guarantee of rights in practice - Despite

the still relatively low level of education, both among the Justice Survey respondents and the wider adult population of Viet Nam, our study indicates that the level of legal education is considerably high. Table 3 indicates the percentage of correct answers to 10 items about legal knowledge (consistent with the law of Viet Nam). The items were selected with varying levels of difficulty and yet relate to concrete aspects of the lives of ordinary citizens.

Table 3: Legal knowledge

Item	Question	Percent correct answer (%)
k01	A person living on particular land for more than 10 years shall certainly have a land-use right certificate (LURC)	23
k09	The term of a National Assembly delegate is three years	39
k03	Under Vietnamese law, a juvenile (under 18 years old) does not have the right to counsel	43
k10	Elementary school is compulsory and free	44
k04	Under Vietnamese law, a married daughter does not have the right of inheritance	66
k05	Only the name of the male household owner is recorded on land-use certificates	70
k02	A divorced father who fails to pay for child support can be sued by his former wife	81
k08	If a husband dies, his wife has the right to inherit at least 50% of the common assets of the family	85
k07	Under Vietnamese law, hiring an employee for more than six months requires a contract	86
k06	Poor households are entitled to free legal aid	88

The survey results show that more than 66% of the answers to six out of ten items covering legal knowledge are correct. Among those, two items are answered correctly 66% (k04) and 70% (k05) of the time. Four questions were answered correctly more than 81% of the time. By contrast, items k01, k09, k03 and k10 were frequently answered incorrectly, ranking for

a very low 23% for k01 to 44% for k10.

Table 4 contrasts results on the three legal knowledge items most frequently answered incorrectly by social group. All vulnerable groups (female, less educated and poor) are disadvantaged for all items in the table, in contrast to respondents with higher social status who are always strongly advantaged.

Table 4: Legal knowledge, by social group, for items most frequently answered incorrectly

Social group	Total result	k01	k09	k03
Female	0.834***	0.862*	0.603***	0.822***
Less educated	0.274***	0.369***	0.292***	0.559***
Poor	0.457***	0.616***	0.646***	0.669***
Higher social status	1.769***	1.324**	2.500***	1.246*

Note: Numbers are odds ratios. *** denotes significance at the 0.001 level, ** at the 0.05 level and * at the 0.1 level.

Using the content of the 1992 Constitution as a guide, the Justice Index asked about the realization of fundamental rights in practice. Table 5 reveals that a large proportion of the public consider the right to demonstrate, to establish associations, as well as to freedom of expression and freedom of the press are not well protected in practice. Noticeably, the rights to demonstrate and to establish associations fall in the lowest tier. One

explanation for this finding is that even though these rights are explicitly referenced by the Constitution of 1992, they not been set out in any law. Many experts have explained the lack of legislation to implement such rights causes difficulty in protecting the rights in practice.⁹⁵

⁹⁵ VLA 2013; VLA 2013; The initiative of developing the Law on demonstration proposed by the Prime Minister has been discussed in the Session 3, National Assembly XIII: The Office of National Assembly, 2013

Table 5: Protection of rights in practice

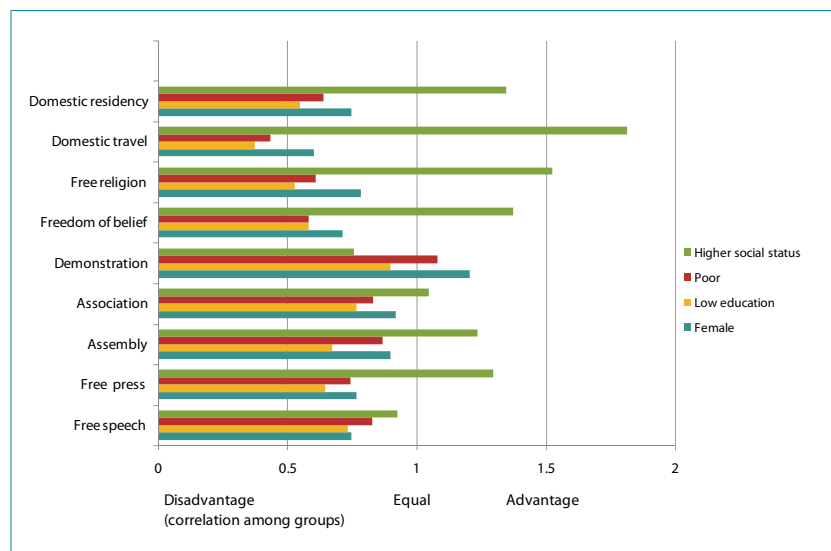
	Freedom of business	Gender equality	Freedom of expression	Freedom of press	Right to information	Freedom to assembly	Freedom to associate	Right to demonstrate	Freedom of belief	Freedom of religion	Right to complain & denunciation	Free to travel	Free to migrate
Female	94.8	94.5	88.4	88.6	92.1	92.7	85.8	54.5	94.2	95.5	94.4	97.7	94.8
Low education	94.1	95.0	91.5	91.5	92.2	94.5	88.2	54.8	94.0	94.0	91.5	96.6	94.8
Poor	93.0	94.4	89.7	89.6	91.0	94.3	85.9	55.1	92.3	92.7	91.2	95.8	94.5
Higher social status	94.6	95.4	86.0	88.6	92.8	92.5	81.0	38.3	94.8	95.9	95.6	98.7	95.5

Note: Color codes: ■ green = high; ■ shades of orange and yellow = average, in need of improvement; ■ light pink and red = low. Numbers denote % of respondents who agree that a given right is respected in practice.

Figure 1 summarizes how for the majority of fundamental rights, regression-based analysis by group confirms that women, the less educated and the poor are indeed at a significant disadvantage. Almost all odds-ratios fall below one (one implies equality between the target and control group), except the women's assessment of the right to demonstrate, which is just as low as their male counterparts. Once again, the odds ratios for respondents who enjoy a higher social status are always greater than one,

which indicates a clear advantage over ordinary citizens. However, it is noteworthy that the social elites are the most pessimistic among all groups in their assessment of the freedom of expression (their odds ratio relative to ordinary citizens falls below one). Yet, for the vast majority of the items where inequality by group was explicitly tested, we found that respondents with a higher social status believe that their fundamental rights are much better protected than others'.

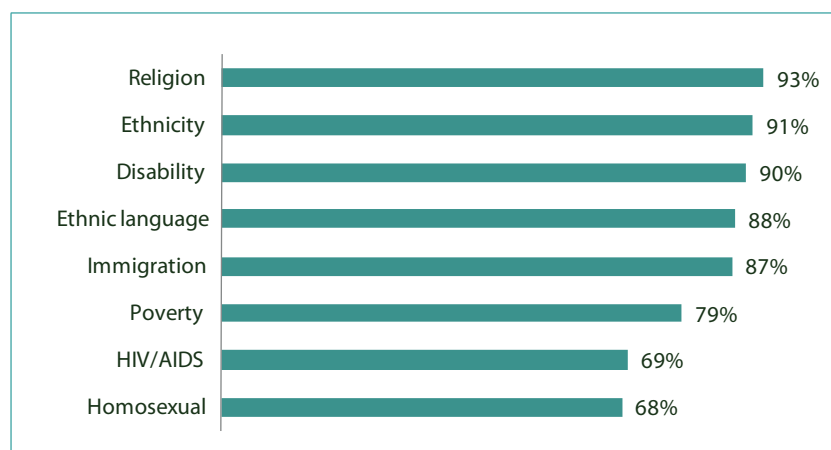
Figure 1: Guarantee of rights in practice_ by social group



The survey also enquired about 'the prevalence of discrimination when citizens come in contact with agencies or government officials at the local level'. The items include ethnicity, cultural and social status (religion, language, sexual orientation), physical condition (gender, disability and people living with HIV/AIDS), as well as financial means and household

registration status. Figure 2 summarizes the degree of perceived discrimination against these groups. The data suggest that as many as 32% of the respondent believe that homosexuals and 31% of the respondents for people infected with HIV/AIDS are victims of discrimination.

Figure 2: Discrimination in practice



Note: percentages denote respondents perceived 'non-discrimination'.

The analysis by social group is detailed in Table 6. The data suggest that social elites do not perceive the existence of discrimination among ethnic and sexual minorities, or among victims of HIV/Aids (the odds ratios are greater than zero, but are not statistically significant) but they do agree that discrimination exists among the remaining categories (religion, disability, internal migrants and wealth). The

results are also ambiguous among women and the lesser-educated respondents. However, the poor not only claim to witness discrimination among all categories as listed in the Figure 2, but their associated odds-ratios are almost always highly statistically significant.

Table 6: Discrimination analyzed by social group

Social group	Ethnicity	Religion	Minority language	Disabled	Migrant	Homosexual	People with HIV/AIDS	Economic status
Female	0.748**	0.802*	0.713***	0.834	0.959	0.899	0.839**	1.002
Low education	0.727**	0.655***	0.874	0.716***	0.785**	0.876	0.737***	0.911
Poor	0.759*	0.575***	0.739**	0.624***	0.724**	0.942	0.806**	0.802*
Higher social status	1.036	1.810*	1.106	1.903**	1.391*	1.031	1.062	1.296*

*Note: Numbers are odds ratios. *** denotes significance at the .001 level, ** at the .05 level and * at the .1 level.*

‘Bringing laws to life’ and the role of information – In addition to education, information plays an important role to ensure that people are updated and understand rules and policies as well as related rights and obligations. The state has recognized the importance and allocated significant resources to promote legal dissemination and education to citizens over last 10 years.⁹⁶

⁹⁶ Law on legal dissemination and education was passed by NA in June 2012 and came into effect January 2013. In the past, the Government approved a national action plan on legal dissemination and education to local officers and citizens at communes and wards according to Decision 212/2004/QĐ-TTg dated 16/12/2004; Decision 37/2008/QĐ-TTg dated 12/03/2008 approved a national action plan on legal dissemination and education for the period of 2008 - 2012. Each line ministries and local governments have their own action plans for legal dissemination in their responsible areas. MOJ 2011.

However, the survey indicates that 9.42% of the respondents do not follow information about the ‘news, socio-economic situation of the country’ through any source, probably because they are too busy making their living. Those interested, however, mainly gain access to issues through popular television channels, newspapers, and radios (See Table 7 for details).

Table 7: Sources of information for daily socio-economic news

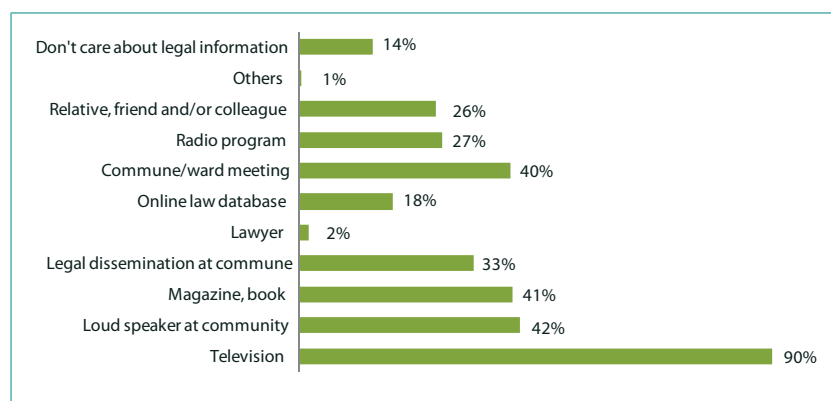
Information sources	Number of people access (%)
Television	96.7
Newspaper/magazine	41.0
Radio/Loud speaker	40.4
Internet	20.9
Relative, friend	27.9
Meeting, gathering	25.4
Others	0.2

Information about the National Assembly sessions-especially the discussion and questioning sessions of National Assembly delegates-have been aired live on television and radio since 1994.⁹⁷ As many as 57.8% of those surveyed respondents in 2012 said that they watched some of those sessions (whether live or re-broadcast).

⁹⁷ Vu Mao 2009: page 16.

A worrisome group concerns the 14% who said they have ‘no interest’ in legal information. Those who are interested receive their information from legal dissemination and education sessions in provinces and law websites, but rarely do they refer to information from lawyers. (see Figure 3 for details).

Figure 3: Source of legal information. Note: percentages denote accessibility.



Analysis by social group shows that group with higher social status is two times advantage than women and the poor, and

even six times advantage than the low educated people.

Table 8: Access to legal information by social group

Social group	Results
Women	0.863*
Low education	0.306***
Poor	0.838*
Higher social status	1.843***

*Note: Numbers are odds ratios. *** denotes significance at the 0.001 level, ** at the 0.05 level and * at the 0.1 level.*

‘Socialization’ of quasi-judicial services

- The government has made considerable efforts to implement judicial administrative reform through socializing judicial support services in order to better serve citizens. Judicial support services or quasi-judicial services are defined by the Government including the services of public notary, lawyer, legal aid and judicial examination.

However, for various reasons, the system of judicial officials has far from satisfied the requirements of the people, especially in

mountainous and ethnic minority areas. Data from the survey shows that people are still struggling to accomplish even simple judicial administrative services: birth registration accounts for 22.2% of civil problems (exclusive of land or housing); and 14.5% and 16.7% for marriage registration and residence permits respectively. Box 4 provides some statistics of the judicial support system and its human resource.

Box 4: Human resources according to statistics of Ministry of Justice as of September 2012

The total number of legal officers of all levels: 20,486 of which, 1,577 are from the Ministry of Justice's agencies, 4,768 from the provincial departments of justice; 2,946 from district legal divisions; 11,195 legal cum residence registrars at commune level.

State legal assistance center: 63

Notary offices: 631

Total number of notaries: 1,154

Number of lawyer: 8,300 (according to statistics of Viet Nam Bar Federation by mid-2013).

This preliminary information demonstrates gaps in equity and social equality, within the framework of fundamental rights, as well as gaps between legal text and actual practice. Barriers of resources, human capital and social capital in ensuring justice, fairness and equality in society are also better identified. The data and findings again confirm the importance of establishment of mechanisms to empower people so that they can be more proactive in protecting their legitimate rights and interests.

The next section seeks to identify the legal issues, problems people face and the methods of dispute settlement they often use.

3.2. Disputes and complaints – the current status and challenges

To identify the types of common problems and disputes, the research team uses data on disputes arising in 2011. Information from the survey provides data on disputes that took place from as far back as 1960 to 2012, in the most recent cases. We chose not to use data of any disputes arising in 2012 as three quarters of the field work was conducted in the fourth quarter of 2012, meaning that for these respondents contacted during this period, the figures only cover the first 9-10 months of 2012. Using 2011 data ensures that we use a comparable metric across all respondents for the latest complete year available.

Data on disputes arising in 2011 in Table 9 shows that labor disputes are the most common, with nearly 2% of respondents who are formally employed or informally hired reporting problems in labor relations; labor disputes are followed by economic and trade disputes impacting nearly 1.9% of individuals/households doing business and trade; a little over 1% of respondents reported land disputes. However land disputes rank at the top of the total number of cases encountered in 2011, followed by economic, trade and civil disputes, since the number of respondents interviewed on each type of cases encountered are different. For example, all respondents (5,045 people)--regardless of their employment status-- were asked about land disputes impacting their household; while the survey asked only people doing business (2,762 people) about their commercial legal problems and disputes.

Table 9: Statistics of disputes arising in 2011

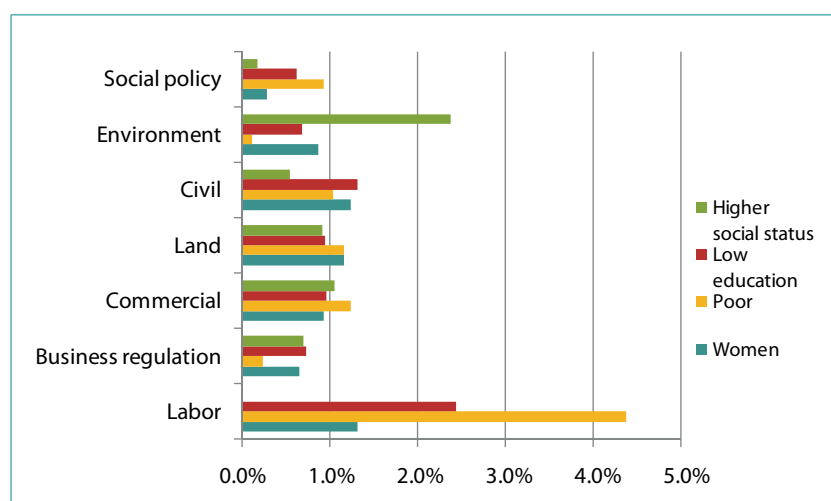
Type of disputes	Number of respondents	% disputes	Number of cases in 2011
Labor*	1693	1.95	33
Economics, trade**	2762	1.85	51
Land	5045	1.15	58
Civil	5045	0.99	50
Environment	5045	0.89	45
Social policy	5045	0.42	21

Note: * denotes aggregation of working people. ** denotes aggregation of people doing business.

The analysis by social group provides further information about the distribution of disputes among vulnerable groups. Figure 4 shows that the proportion of poor respondents reporting labor problems jumps to 4.4%, against 2.4% among the less

educated. Both groups exceed the sample average of 2%. It is noteworthy that not a single respondent from the higher social status group reported a labor problem in 2011.

Figure 4: Prevalence dispute - analysis by social group in 2011



Notably, regarding environmental issues, the proportion of complaints about pollution reached 2.4% for higher social status, three times the sample mean of 0.89%; meanwhile, it is 0.9% for women, 0.7% for the less educated, but only 0.1% for the poor.

Labor relations and jobs –According to survey data, the most common labor problem is related to wages, accounting for nearly 59% of labor disputes (as shown in Figure 5). Nearly 40% of the problems occur among seasonal or short-term workers those employed for less than 3 months and

those who have not signed a written labor contract. The former Labor Code as well as the amended Labor Code, approved in June 2012, and other guiding documents do not request labor contracts where a party is employed for less than three months.⁹⁸ It seems that this mechanism simplifies labor engagement procedure, but it puts the workers in this labor relationship at a disadvantage when it comes to protecting their economic rights.

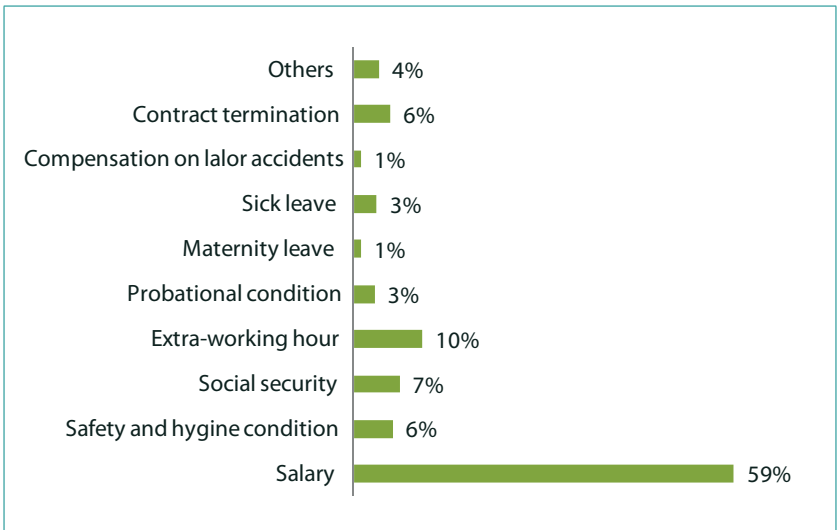
Child labor is also a common problem. Nearly 19% of the survey respondents said the use of children under 15 years old as

⁹⁸ The new Labor Code has been passed in June 2012 and became effective from January 2013. The new Code replaces the Labor Code of 1994 and its implementation documents which were in effective at the time of this survey.

laborers is widespread in their provinces. In implementation of the 2012 Labor Code, Circular No.11/2013/TT-BLĐTBXH stipulates the categories of light work where a person under the age of fifteen can be employed: these include actors, athletes and some traditional crafts and arts.⁹⁹ Changing the practice of using child labor will require effective review, investigation and handling of violations as stipulated in this Circular. Further, children's rights have to be protected according to the conventions on children's rights and labor that Viet Nam has ratified.

⁹⁹ Circular 11/2013/TT-BLĐTBXH replaces Circular 21/1999/TT-BLĐTBXH. The lists of light work categories in these two Circular are similar, except a new revision in the Circular 11 which lifts the minimum age of labor from 12 to 13.

Figure 5: Labor disputes by category



Land disputes, complaints and lawsuits

– The most common reasons for disputes concern land boundaries, land-use right certificates (LURC), compensation and resolution, as illustrated in Figure 6. Of the 513 land disputes recorded among respondents, nearly 38% were administrative disputes or complaints,

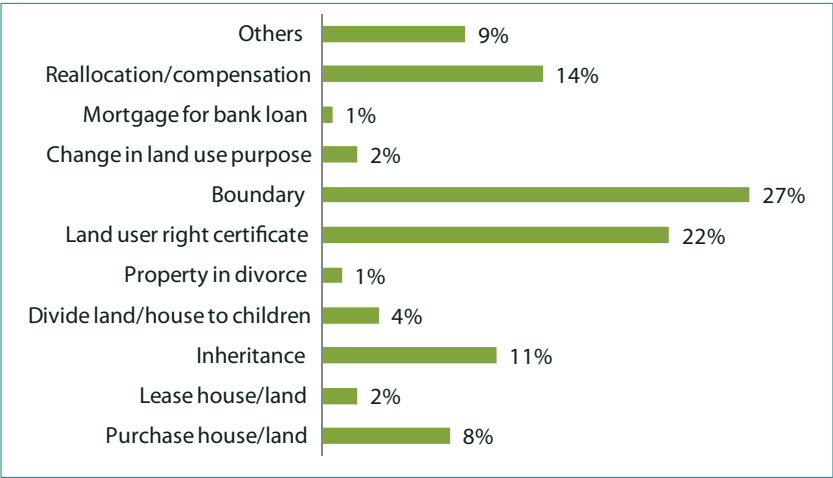
or even lawsuits against state agencies regarding support and compensation for removal and reallocation, conversion of land-use purposes, or LURC. The remaining 62% were civil disputes related to land boundaries, inheritance, and land or house trading and other related disputes.

Nearly 43% of the respondents considered land disputes and complaints as ‘hot issues’ in their own province. The shortcomings in land management policies of provinces which led to class actions, disputes and complaints, have been recognized and

analyzed in many policy studies and forums in recent years.¹⁰⁰

100 Report of the Government Inspectorate during the National Assembly’s session in November 2012 on settlement of land-related complaint and denunciation of citizens in the period of 2003-2012; “Compulsory land acquisition and voluntary land conversion in Viet Nam”, WB 2011.

Figure 6: Land-related disputes. Note: % of disputes by category



Pollution and environmental complaints

– Almost 31% of respondents report living in polluted areas, affected by water sources, air, or noise. According to citizens, the main causes of pollution include household waste in residential areas, polluted underground

and natural water such as rivers and lakes, production facilities and livestock farms near residential areas, untreated sewage from factories and industrial zones (see Table 10).

Table 10: Sources of pollution

Sources of pollution	Rate (%)
Household waste	39.7
Rivers/lakes and underground water	30.2
Livestock farms and production facilities near residential areas	12.0
Untreated sewage from factories and industrial zones	9.8
Mining sites	2.0
Others	6.4

This data offers important information to government authorities of all levels and bodies responsible for pollution

management about the priorities to be considered to address environmental problems in residential areas at commune

levels in Viet Nam. Serious environmental problems at national level such as pollution of major river basins, pollution from mining activities, damages to biodiversity and risks related to climate change have already been highlighted, but are yet to be resolved.¹⁰¹

Only 12% of residents who reported living in polluted areas have taken complaints or lawsuits to local governmental agencies to request removal of sources of pollution and to seek compensation for damages. While many raised their concerns about the quality of their local living environment, the majority did not take any action to resolve such concerns.

This partially highlights the shortcomings of the feedback mechanism for people's problems and the difficulty in lodging complaints about environmental pollution in Viet Nam.¹⁰² There is also lack of regulations on class action procedures for

pollution compensation. Moreover, the absence of an effective legal mechanism to enable people to request settlement and stop pollution as well as compensation for damages from the pollution have clearly impeded the protection of people's economic rights, health and livelihood.¹⁰³

To a great extent, the environmental degradation and serious pollution in certain provinces in recent years is due to the policy preference for economic development above all else. Indeed, over 60% of survey respondents think that their local governments 'prioritize economic development rather than environmental protection'. Lack of strictness on behalf of the authorities in dealing with acts of pollution and environmental crimes is also considered a cause of this condition.¹⁰⁴

Business disputes – The main problems among those conducting business have to do with state management authorities, notably disputes over taxes (36%) and business registration procedures (20%) (see Figure 7). Meanwhile, the main private business disputes, among citizens or between citizens and firms, are related to capital mobilization, bank loans (51%), or personal credit (37%).

101 Report no. 39/BC-UBTV QH13 dated 20/11/2011 on 'results of supervision of the implementation of environmental policies and laws in economic zones and craft villages', warning of 'environmental dangers' due to insufficient attention paid to environmental protection and lack of 'strict measures' when 18 industrial zones (established under a Prime Minister's Decision by December 2011) have been constructed and come into operation at the designed capacity. Due to the serious environmental pollution caused by disposal of untreated sewage, plant protection chemicals, activities of craft villages, and pollution at the basins of three big rivers (Cầu River, Nhuệ River-Đáy River and Đồng Nai River System), the Government defined the main objectives for the National Target Program (Decision no. 1206/QĐ-TTg) on reducing pollution and improving environment in the period of 2012–2015; approved on 2/9/2012.

102 Major shortcomings of the Civil Procedure Code and the Law on Environmental Protection on handling of violations and compensation mechanisms for citizens include: (i) lack of provisions stipulating procedures for class actions in the Civil Procedure Code causes difficulties to judicial bodies in handling related legal cases and particularly to citizens as they have to file dedicated legal dossiers and provide evidence to prove the damages; time for initiation of civil proceedings is inconsistent with environmental pollution; plaintiff is required to prove the cause and effect nexus between the polluting action and the damages; difficulties in evidence collection and damage definition. See Vũ Thu Hạnh 2012; Trương Trọng Nghĩa 2011.

103 Summary of opinions from Lawyer Truong Trong Nghia, Dinh Van Que, Truong Xuan Tam, Nguyen Duc and Nguyen Van Hau on mechanism for taking legal action and request for compensation for environmental pollution. VLA-UNDP 2011.

104 From 2010 to now, the Police forces against environmental crimes nation-wide have found and settled 25,000 environmental violations, in which 350 cases have been prosecuted and fines for almost 200 billion Viet Nam Dong; The Government e-newspaper 2013.

Figure 7: Economic disputes: citizen- state authorities

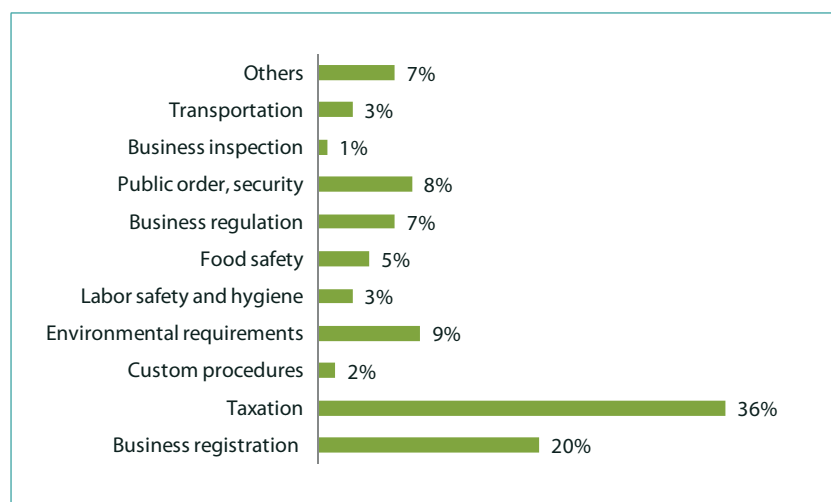
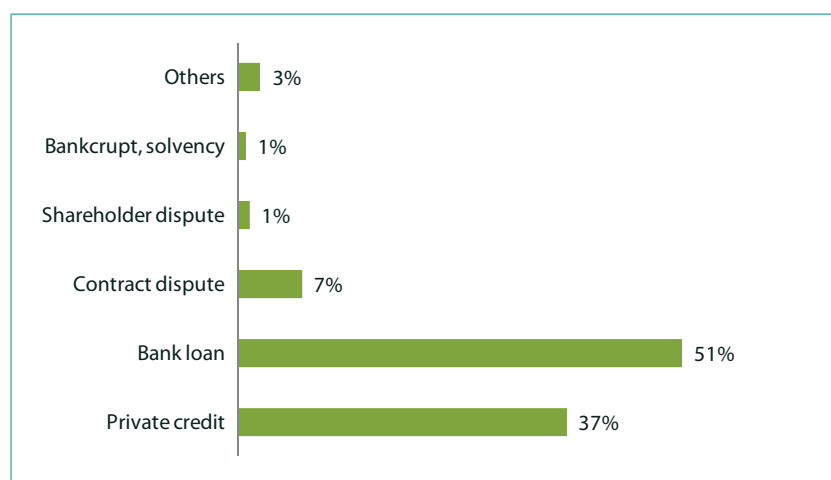


Figure 8: Civil economic disputes



Social welfare – ‘Gratitude’ policies for people with merit, families under preferential policies, and patronage policies for the poor and the disabled have been implemented for a long time, yet many people still face problems with the implementation of social welfare policies

in their own province. The distribution of citizens’ complaints about social welfare is as follows: 36.9% complain about policies targeting poor (and near poverty line) households; 32% complain about policies for people with merits; and 10.7% complain about policies targeting the disable.

Table 11: Complaints on social policy

Social policy	Ratio of complaint (%)
Policies for poor and near poor households	36.9
Policies for people with merits	32.0
Policies for disables	10.7
Others	20.4

3.3. Citizens' dispute remedies

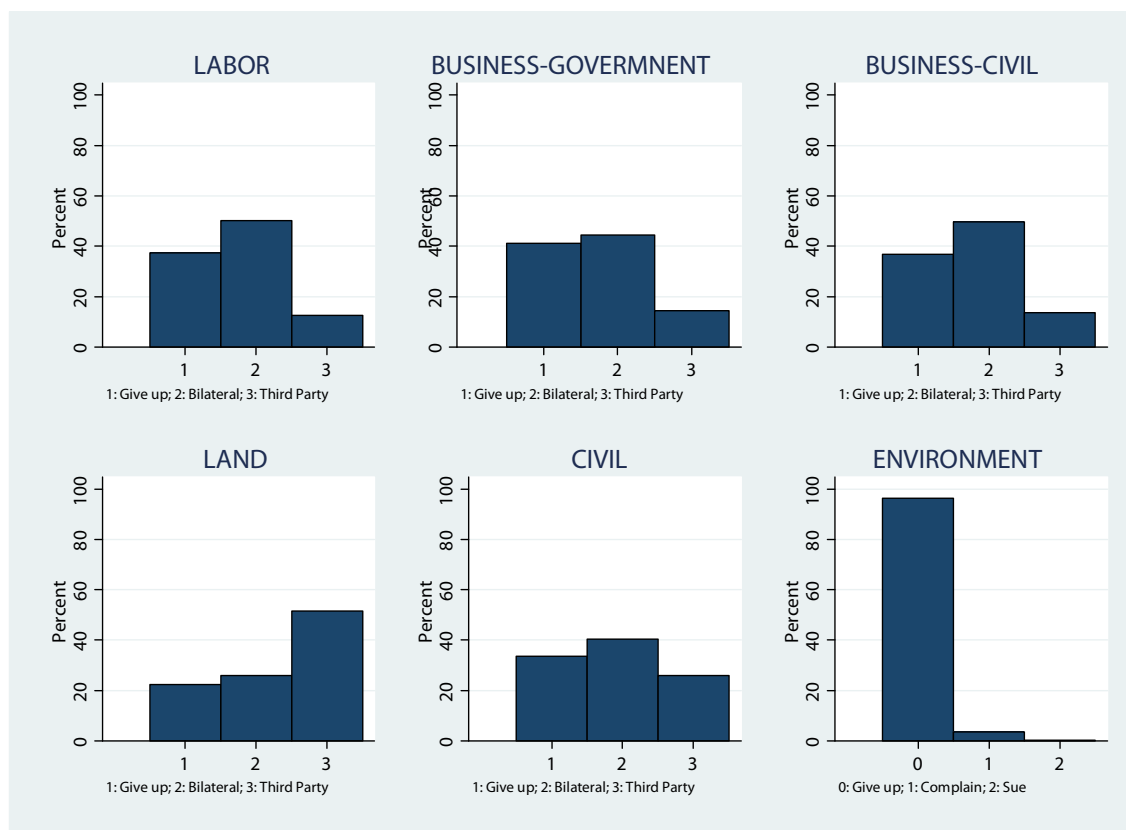
The analysis above has highlighted the problems that citizens face in their daily life that lead to either alienation or dispute escalation, most of which are related to labor, land and business. The analysis also indicates that different social groups often have different problems, namely: the poor and those with low educational background are much more likely to encounter problems with labor and employment than other categories; those in the elite group report no difficulties with employment and hardly have any complaints about social welfare but show more distinctive patterns of concern about the quality of their living environment than any other group. This partially reflects the practical interests of different population groups in present day Vietnamese society. This section will focus on analyzing the findings acquired from the survey to answer the following questions: What do citizens do when they have legal problems or disputes? How do the remedies for civil disputes and administrative

complaints work in practice? What are the outcomes?

People's choices of remedies vary greatly depending on the type of dispute. According to the survey findings, bilateral negotiation is a popular remedy for labor, business and civil disputes. As for land disputes, citizens tend to take more far-reaching action, including not only negotiation between the disputing parties but also seeking support from state authorities, judicial assistance agencies and multiple stakeholders. Further, the dispute resolution process for land disputes often takes longer than for other types of disputes.

Figure 9 presents a comparison between the three most likely types of action taken in disputes: 1. 'Give up' which also means 'do nothing', 2. 'Bilateral negotiation', or 3. 'Ask for support from a third party for resolution'. For environmental issues, the three actions include: 1. 'Give up', 2. 'Complain', and 3. 'Sue'.

Figure 9: Actions in disputes



The survey questionnaire includes both items about respondents' actual experience as well as hypothetical questions about typical legal situations related to labor, land and environment. The initial questionnaire was pre-tested using both types of questions in Phu Tho, Thua Thien Hue and Vinh Long in 2010, which provided reliable findings and allowed the research team to use the same methodology for the

2012 survey.¹⁰⁵ The results acquired from a comparative analysis of citizens' actions based on real experience (Figure 6 on land related disputes) and a hypothetical situation (Box 5) allowed us to recognize the differences in their actions depending on each issue and the seriousness of each situation.

¹⁰⁵ Landry et al 2011.

Table 12: Actions in land disputes

Actions	Actual experience (%)	Hypothetical (%)
Give up	22	13
Take action	77	84
Don't know what to do	1	2

For example, regarding land disputes, as shown in Table 12, 22% of the survey respondents did not actually take any action when involved in land or housing disputes, but when asked about what they would do if they were confronted with a situation in which the compensation rate for an 'urban area construction project is only one tenth of the market price' (Box 5), the percentage who state that they would 'give up' dropped to 13%. Accordingly, more than 83% of the respondents 'would not accept the compensation rate (offered by the investor and the Provincial People's Committee) and would continue to request a more reasonable compensation rate', and 2% would not know what to do.

Box 5: Hypothetical vignette on land dispute

A Provincial People's Committee approved a project for the development of a new urban area. Doing so required relocating more than 500 households in two communes. One year later, the project developer launched the site clearance and infrastructure construction although they had neither paid compensation nor arranged places for resettlement of the households. It made the households homeless as they had nowhere to live. The compensation offer was set ten times lower than the market price.

If you/your family were one of these 500 households, what would you do? 3 optional answers:

- ☐ 1. Accept the offer even it is unreasonable
- ☐ 2. Reject the offer, continue to fight for a more reasonable one
- ☐ 88. Don't know

The same pattern holds for labor disputes, where 37% chose 'not to take any action' when they confronted specific labor problems (Figure 5 on labor disputes by category). However, with the answers to the hypothetical vignette on salary debt (Box 6), the proportion who would 'give up' was only 19%, while almost 73% would choose to stay on the job in the hope that their wages would be paid when 'the business' operations return to normal or would find ways to make the business owners pay the wages', while 8% would not know what to do (see Table 13).

Box 6: Hypothetical vignette on labor dispute

Because of financial difficulties a private enterprise has not paid wages for its 150 workers for 6 months. While the workers continue to work at the enterprise, they don't know when their salaries will be fully paid.

If you were one of those workers, what would you do to protect your interests? 4 optional answers:

- ☐ 1. Quit the job and accept the loss of 6-months worth of salary.
- ☐ 2. Continue working and hope to be paid when the enterprise becomes financially viable again
- ☐ 3. Disagree to lose 6-months worth of salary and find a way to request the enterprise owner to pay the outstanding salary.
- ☐ 88. Don't know

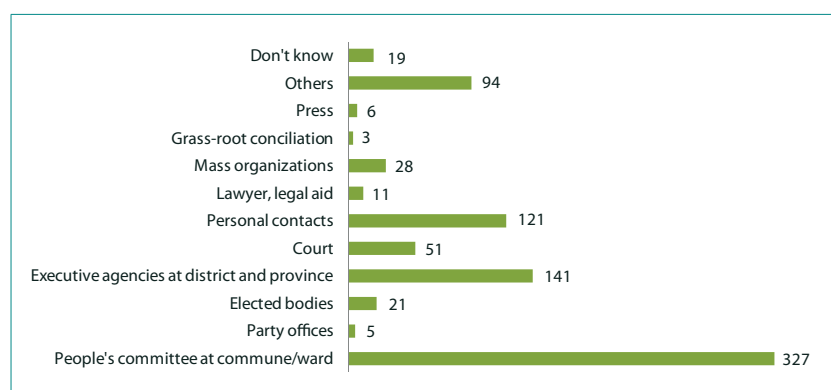
Table 13: Actions regarding labor disputes

Action	Actual Experience (%)	Hypothetical (%)
Give up	37	19
Take action	62	73
Don't know what to do	2	8

Proactivity – The respondents’ answers reveal which agencies, organizations and individuals they seek out for support in the resolution of their disputes. We found that the number of agencies and organizations that were approached ranged from 1 to 5. Particularly for land disputes and complaints about social welfare, the number of such agencies/organizations amounted to 3 to 5; for other types of disputes, citizens chose to only access to 1 to 3 institutions.

Having decided to ‘take action’, citizens often choose to come to local administrative agencies – at commune/ward levels – for resolution and support. Administrative bodies at higher levels (district and provincial level) are also popular destinations for disputants. Figure 10 presents the bodies and organizations that people often come to for resolutions of disputes, complaints and lawsuits, based on the data synthesized from all dispute cases recorded by the survey.

Figure 10: Organizations and individuals accessed by disputants. Note: figures denote number of cases involved.



Of the 1545 disputes of all types recorded by the survey,¹⁰⁶ only 51 (3.3% of the total) ever reached the courts. Among those, 27 were about land, 14 concerned civil disputes, 7 were related to compensation

¹⁰⁶ Due to the questionnaire design, only details of 1545 disputes (out of the total number of 1656 disputes) have been recorded from the survey. The 5045 respondents reported 1656 legal problems and disputes (excluding criminal cases) -- regardless of time of occurrence, nature and seriousness of the problem or dispute.

for damages caused by pollution, 2 were private business disputes and 1 was about social welfare.

People’s courses of action for dispute resolution in three popular areas, specifically land, environment, and social welf are are compared and analyzed in detail below. Despite their prevalence in 2011, the data on labor disputes is too limited to undertake

sophisticated quantitative analysis and generalize about roles and efficiency of the institutions involved in resolution processes because the majority of disputants simply chose to ignore their grievance and gave up.

Selection of dispute resolution

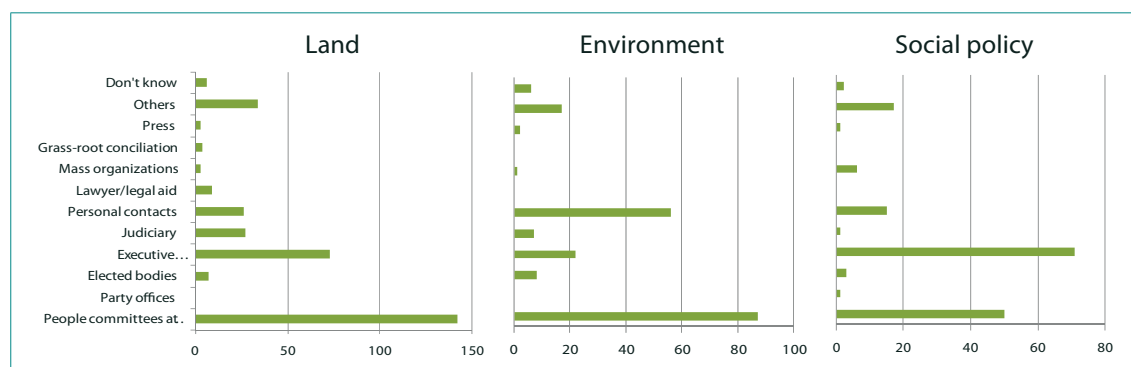
mechanisms – Figure 11 describes the state agencies approached by citizens for dispute resolution. Data is gathered and grouped, including executive bodies (including People’s Committees and administrative agencies at provincial and district levels), judicial bodies (courts), elected bodies, mass organizations, personal contacts, legal services (lawyers and legal aid) and so on. Among these groups, local People’s Committees were also a popular point of contact for disputes related to land, environment, and social welfare. Particularly for social welfare, provincial and district administrative agencies were contacted more frequently than commune People’s Committees. However, the survey findings suggest that the role of locally elected

bodies and Party organizations is rather insignificant.

In addition to formal mechanisms of dispute resolution, the use of personal contacts was quite prevalent, ranking second only to administrative agencies of all levels. People also had contact with and used judicial assistance services (lawyers, legal aid centers) and other mechanisms such as conciliation at grassroots level, seeking support from mass organizations (Viet Nam Fatherland Front, Farmer’s Assotiation, Women’s Association) or the press.

However, once again the survey data reveals the very limited use of mentioned mechanisms. For example, of the 1545 disputes, only 3 cases used conciliation at the grassroots level and 6 cases contacted the press for support. Although legal aid centers and bar associations have been established over the country, only 11 out of 1545 cases ever used lawyers and/or legal aid services. Among them, 9 cases concerned land disputes and 2 cases were civil disputes.

Figure 11: Organizations and individuals accessed by disputants. Note: figures denote number of cases involved.



Social welfare complaints

Despite the key role of commune/ward administrative agencies, executive agencies at higher levels were more

often selected for the resolution of social welfare complaints. The majority of citizens approached administrative agencies at higher levels for complaints about policies for poor (or near poverty

line) households which normally fall under the jurisdiction of People's Committee at commune/ward. It appears that people sought out agencies at higher levels after their demands were not settled satisfactorily at lower levels.

Although the poor, the disable and people of families with revolutionary merits are entitled to legal support according to the Law on Legal Aid,¹⁰⁷ but none of the 82 citizens who had social welfare complaints (policies for poor households, families with merits and the disable) received such support during the entire dispute resolution process.

Land disputes

Land disputes were brought to court for resolution more frequently than others. According to the survey findings, 27 land disputes escalated to formal legal proceedings, which amount to almost 6% of the total number of land disputes. This confirms that the majority of land problems and disputes are now settled out of the court.¹⁰⁸ It also shows a slight tendency to seek resolution for land disputes through the courts, lawyers, and legal aid centers.

Environmental complaints

Citizens prefer elected bodies for petitions and resolution of their concerns about pollution rather than for other

disputes. Specifically, 9% of people with environmental complaints responded that they contacted elected bodies while 5% of people with environmental disputes and 6% of people with social welfare complaints seek elected bodies for settlement.

It should be noted that 7 legal cases claiming damages for pollution were all submitted in the 2010-2012 period. According to citizens' answers, only one of these cases was settled while the other 6 cases remained pending at the time of survey.

3.4. Dispute resolution outcomes

The survey revealed significant problems with the dispute resolution process. In this section, the team synthesized data from all 1545 disputes recorded by the survey. Figure 12 shows that the business and civil disputes represent the highest proportions of 'completed' resolutions, which are about 70-71%; disputes that were still unresolved by 50% include environmental cases (30%), land (38%), and social welfare (43%). Environmental, social welfare, and labor disputes account for the highest proportions of 'unsolved' disputes, ranging from 20% to 30%. Notably, 2 of the cases that were still mostly 'unsolved' are administrative disputes, under authority of local governments.

Furthermore, particularly in cases related to the environment or social welfare, respectively 21% and 22% of respondents have not received any feedback from local state agencies after filing a request. Better results are observed for civil and business disputes, where respectively 70% and 71% of disputes have been resolved.

¹⁰⁷ NA 2006.

¹⁰⁸ In fact, the percentage of citizens who complain about decisions by state administrative agencies regarding land disputes—or 'complaints and denunciations about land disputes'—considered for resolution by the courts may be even lower than the 6% recorded from the survey. According to the Government Inspectorate's Report at the 4th Session of the National Assembly XIII, there were 700,000 land complaints sent to the Inspectorate in the 2010-2012 period. Comparatively, 6,046 administrative proceedings—including lawsuits against administrative decisions on land disputes and other administrative cases—were handled by the court system in the same period. The proportion of land complaints considered by administrative bodies at all levels and finally brought to court was less than 0.9%. GI 2012b; SPC 2013b.

Figure 12: Dispute resolution results

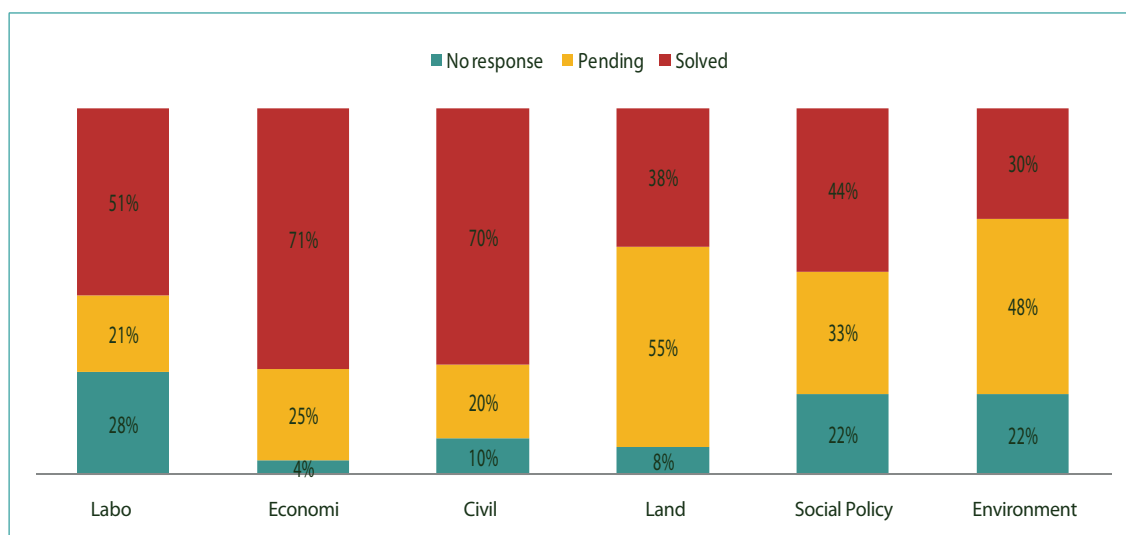
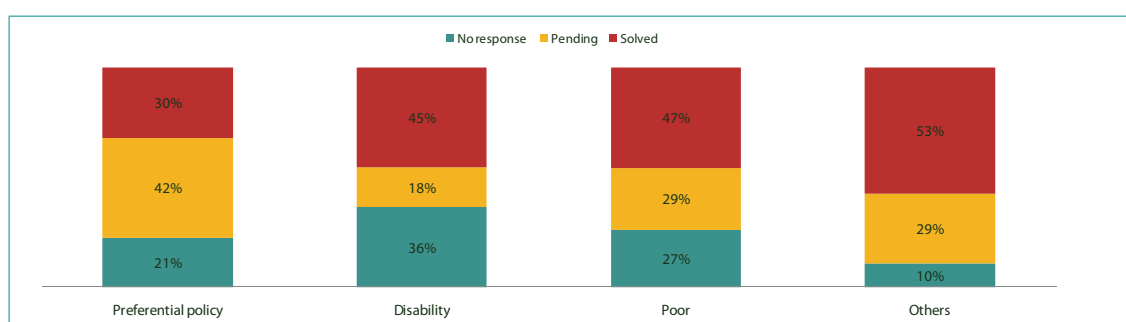


Figure 13 describes outcomes for social welfare complaints. A comparison of the three types of complaints in relation to the execution of social policies recorded by the survey shows that one third of the

complaints about policies for the poor and the disabled were not resolved; meanwhile, almost half of the claims regarding policies for people with merits and families under preferential policies remain unfinished.

Figure 13: Results of social welfare complaints



The survey data only reveals part of the overall picture about the performance of social welfare institutions in Viet Nam.

In general, preferential policies for poor (and near the poverty line) households only partially satisfy the demands for social welfare in the country. The main reason for this, according to the World Bank's

assessment,¹⁰⁹ is the artificially low poverty line as defined by the Government as well as the methods used for the determination whether a household is poor or not. The traditional approach to measure poverty is no longer suitable now that Viet Nam is reaching the lower threshold of a middle

¹⁰⁹ WB 2012.

income country (MIC).¹¹⁰ According to opinions of the MOLISA Minister about social welfare,¹¹¹ regulations on social welfare do not cover all disadvantaged and vulnerable groups in society, including: ‘people with low income in urban areas; some groups of poor ethnic minorities; farmers who lose their means of production due to urbanization or industrialization and who are unable to switch to non-agricultural work and have to migrate to cities to seek jobs, face a lot of difficulties in finding accommodation and accessing basic social services’.

3.5. Citizens’ assessment of public institutions

Duration for handling legal requests and administrative complaints – In reality, citizens’ complaints sent to local state agencies often receive late feedback. Vietnamese legislation stipulates a two-months response period for legal and administrative complaints handled by state agencies. Specifically, according to provisions of Articles 36, 37 and 42 of the Law on Complaints no. 02/2011/QH13, the resolution period for first-time complaints against state agencies’ decisions is no more than 30 days (45 days for the second-time) from the date of receipt of the case; for

complicated cases, the resolution period may last longer, but may not exceed 45 days for first-time complaints (60 days for second-time) from the date of receipt of the case. For remote areas, the resolution period for first-time complaints must not last longer than 45 days (60 days for second-time). Also for complicated cases, the resolution period may last no longer than 60 days from date of receipt for first-time complaints (75 days for second-time). After the resolution deadline for second-time complaints has passed, if the complaint remains unsolved or if the plaintiff does not agree with the decision made about the second complaint, he/she has the right to initiate legal proceedings for administrative cases in court in accordance with provisions of the Law on Proceeding of Administrative Cases.

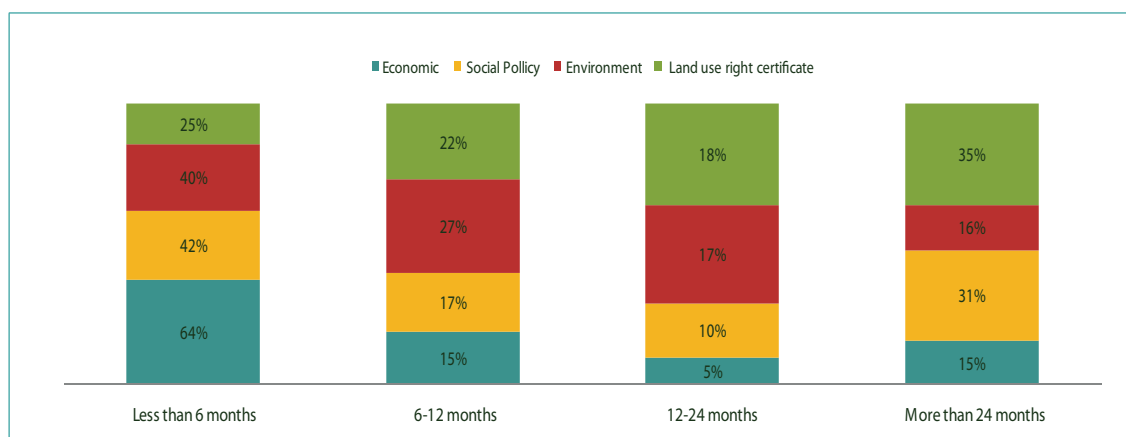
According to the survey findings, actual resolution periods are much longer than what the law stipulates, even for issues that are *prima facie* uncomplicated in nature: the average duration for handling environmental and social welfare complaints are 17 months and 27 months respectively. Meanwhile, the duration for business complaints takes about 16 months.

Many complaints have been pending for over 2 years, but still remain unfinished, namely social welfare complaints (31%); requests for environmental pollution treatment and compensation (16%), and requests for state authorities’ resolution of tax and business registration problems (15%). Figure 13 illustrates duration to handle disputes by different categories.

¹¹⁰ In the Viet Nam Human Development Report, UNDP introduced and proposed a new approach, i.e. Multi-dimensional Poverty Index – MPI—to measure 9 aspects of health, education and living standards. The Multi-dimensional Poverty Index has been used and demonstrated its methodology preeminence in multi-dimensional analysis of urban poverty in Hanoi and Ho Chi Minh City; see UNDP-VASS 2011; UNDP 2010.

¹¹¹ National Assembly’s Committee for Social Affairs 2012.

Figure 14: Durations for handling various types of citizens' requests



Similarly to the waiting periods described above for complaints, application procedures for land use right certificates (LURC) also take a lot of time. Those respondents who did not possess a LURC for their land or house on the day of the interview despite having applied for one already had been asked: 'how long it has been since the submission of their application'. The obtained answers show an average waiting period of 41 months (almost 3.5 years).

Professional conduct– evidence from handling traffic violations

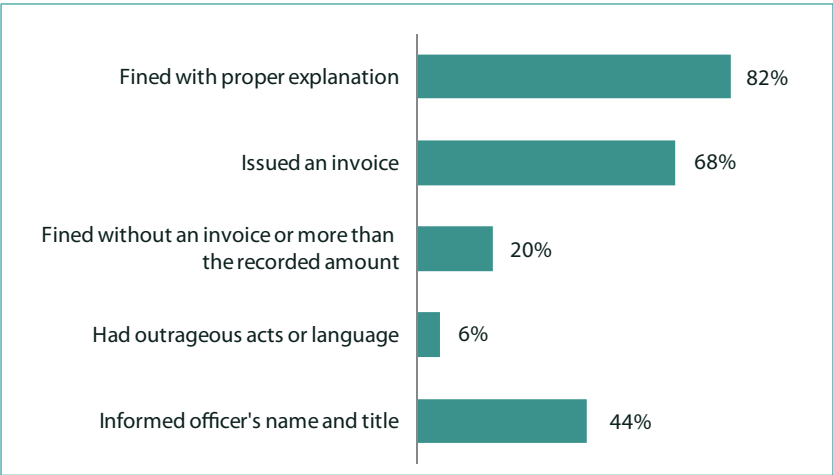
383 respondents (8% of the sample) reported having been fined for violations of road traffic regulations 'in the last two years'. On average, the fined respondents were ticketed six times over a two year period. Remarkably, 18 reported being fined 88 times and 10 were fined as much as 111 times during this period.¹¹² The data of mentioned fines is inductive of an abnormal pattern in settlement of traffic violations,

¹¹² According to the survey data, violators' vehicles include 14 coaches and lorries, 1 state car, 2 taxis, 1 water vehicle, and personal cars and motorbikes.

raising questions about the lawfulness of imposing 44 to 55 fines to an individual in one year or the possibility that these drivers are instead hapless victims of abuse of traffic police power.

Figure 15 presents respondents' comments about the professional conduct of traffic police officers when they handled violations. In general, traffic police followed a clear process, which included explaining the reason for the fine, and the majority did indeed make a written record of the violation; however, 6% reported being abused physically or verbally, while 20% confirmed that they have paid fines that were not properly recorded, were not issued with receipts for paid fines or obtained receipts stating a lesser amount than the actual cash amount that was paid to the police officer.

Figure 15: Professional conduct of police officers when handling traffic violations



SUMMARY

The quantitative analysis of the survey results provides an overview of access to justice, law implementation and the performance of the state system in settling civil and administrative disputes and conflicts in Viet Nam. Following is a summary of key evidence-based findings:

- Presence of inequality of rights, opportunities and access to public institutions are recognized in vulnerable groups (women, the poor, low education).
- Existence of discrimination against homosexuals, people with HIV/AIDS.
- Although the State has made substantial efforts to disseminate the Constitution and laws to the people, a significant proportion of people do not know about the Constitution. Television and community-based information channels are the main sources for legal information to the people.
- Protection for a number of fundamental rights (such as freedom of press, freedom to assembly and right to demonstration) is in fact very

limited.

- State executive agencies at local level play a major role in the settlement of legal disputes. People still have difficulty accessing basic legal services, such as registration of marriage, residence and birth.
- In general, the use of legal services and access to the courts for settlement of civil disputes and administrative complaints is very limited.
- The absence of written contracts for short-term employment prevents employees from seeking protection for their economic rights and interests.
- The effectiveness of public institutions in the resolution of legal disputes based on the following two criteria is limited: prolonged processing time and the low level of satisfaction of people with settlement results.
- People’s opinion on effectiveness and reliability of official institutions showed that they expect a more effective and professional judicial system.

CHAPTER 4

RESULTS OF JUSTICE INDEX 2012



Justice Index methodology

The Justice Index explores five dimensions that were identified by the research team as key indicators of justice for citizens in Viet Nam. They are: (1) accessibility; (2) equity; (3) integrity; (4) reliability and efficiency; and (5) guarantee of fundamental rights.

Principles of Justice Index construction

The Justice Index' indicators are based on the widely used quantitative indices that measure rule of law, access to justice and democratic governance ¹¹³. Considerations of the country-specific development background and characteristics of the Vietnamese justice system were reflected in the index design. The indexing concept was developed in consultation with various law, economic, politics, sociology and statistics experts before it was finalized and used for computing the Justice Index 2012.

The Justice Index 2012 includes 5 dimensions. Each is built on three (3) indicators. Each indicator normally includes 3-9 sub-indicators. These sub-indicators measure different areas of the justice system and at the same time are closely interrelated as a whole to ensure the most objective and adequate assessment of the indicators, the corresponding dimension, and ultimately, the overall justice performance at provincial levels.

¹¹³ World Justice Programme 2013; *Worldwide Governance Index 2012*; UNDP APRC 2011; *Asian Barometer Survey of Democracy 2012*.

Aggregation of questionnaire items into sub-indicators

Each of the five dimensions draws on multiple indicators, grouped together coherently. For example, indicator 1.1 on 'Access to legal information' which captures respondents' awareness of the relevant state institutions available to solve legal problems. This indicator comprises 6 sub-indicators and aggregates 13 items across the entire questionnaire. These items include, for example, the share of respondents who mention formal legal institutions as the main source of legal information or the share of respondents who know where to go in a civil dispute.

Each of these items is measured in such a way that zero (0) denotes poor performance and that the value of one (1) denotes the best performance. Some of these items require conditional filters. For instance, only land disputes between the people and state agencies related to administrative decisions of compensation and resettlement are filtered from the entire data collected regarding types of land disputes.

We then computed the mean provincial score of each properly conditioned item and the mean score of each sub-indicator. Thus, binary answers (yes/no) at the individual level are averaged into continuous variables ranging from 0 to 1 that take up to 21 unique values (i.e. as many values as the number of provinces included in the study).

From the results for indicator 1.1, we thus produced an indicator with the mean of 0.71 across provinces and a standard deviation of 0.06.

We performed similar computations for every indicator and sub-indicator with the exception of sub-indicator 2.1.2 on 'Substantive equality' among social groups. In this sub-indicator, we measured inequality among social groups by averaging variance rates of each group on 52 logic regressions including a 0-1 range to compute all units of the Justice Index in all items. Items with statistical effect inconsiderably higher than 0 were coded as 0 (i.e. its counter-balance is 1). This coding allows only inequality elements, which are evidence-based in terms of substance and statistical significance, to be recorded in the analysis.

In a few instances, we encountered the difficulty that in certain provinces none of the respondents experienced a given issue, resulting in missing data for the entire province. In such cases, we performed a mean imputation (replacing the missing data with the average provincial score). We sometimes also replaced missing data with a full score (1) when it was not warranted to penalize a province for not experiencing certain kinds of problems in the first place. When the proportion of missing data was excessive, we refrained from using the item altogether. This problem was especially prevalent with business disputes, which are quite rare in the sample since the overall proportion of respondents engaged in

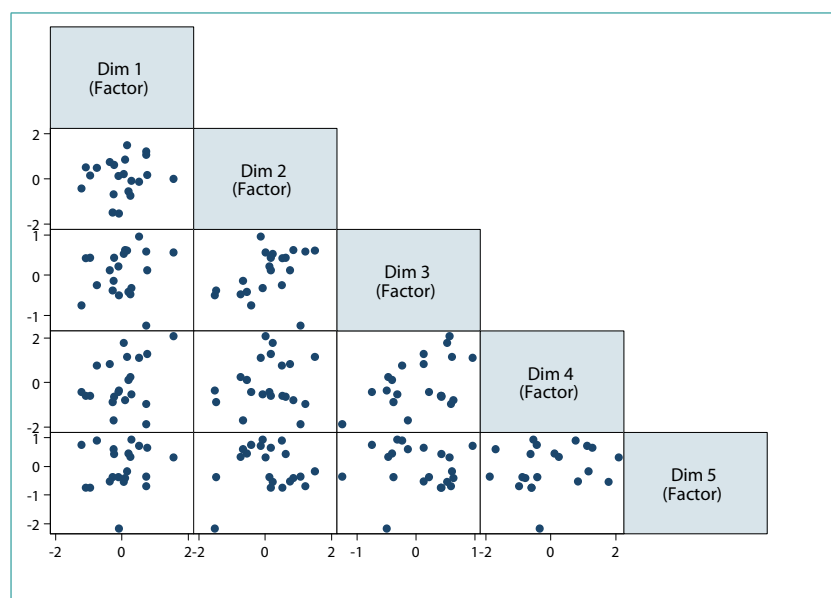
business activities in the total population is inherently small.

Method of computing the overall Justice Index

The technique selected for our analysis and computing of the Justice Index 2012 is the additive linear index based on factor scores. The technique known broadly as factor analysis can help better 'stretch' the data across provinces. Simply put, factor analysis can be used to create a set of weights among a range of items based on their contribution to the overall variance of the data. Items that contribute little to the variance are deemphasized, while those that 'stretch' the data better contribute more to the overall factor score.

Figure 16 indicates that the correlations between all dimensions are relatively low, which suggests that the Justice Index properly captures substantively different dimensions of justice. In other words, the index is not hampered by unnecessary duplication across dimensions. Instead, there is strong evidence that each dimension is distinctive and makes a meaningful contribution to the overall index.

Figure 16: Correlations between sub-indicators in factor analysis index



The decision to select the additive method based on factor scores was made after we had considered three alternative methods: (i) additive linear method; (ii) additive method based on factor scores; and (iii) method based on weighted factor scores. The detailed presentation of all the methods

considered, their statistical advantages and drawbacks are elaborated in Appendix 3.

The next section describes in detail all the dimensions constituting the Justice Index and results for all provinces in the 2012 sample.

DIMENSION 1: ACCESSIBILITY

The focus of the first dimension is accessibility to information and resources necessary for dispute resolution and protection of citizens' fundamental rights seen from two perspectives: citizens' rights to information and state agencies' responsibility to ensure citizens' accessibility. The three indicators of this dimension include: accessibility of legal information; availability of basic legal services; and affordability of legal services.

1.1. Accessibility of legal information

Access to legal information is the first indicator of Dimension 1 'Accessibility'. It measures ease of access to sources of legal information for the majority of citizens, enabling them to understand statutory measures and methods to resolve their disputes such as disputes about land use right certificates (LURC), request for payment of unpaid wages, or other civil problems. The six sub-indicators used to measure this indicator include:

Available sources of legal information (1.1.1);

- Awareness about the importance of LURC and conditions to apply for LURC (1.1.2);
- Awareness about available remedies for business disputes (1.1.3);
- Awareness about available remedies for labor disputes (1.1.4);
- Awareness about available remedies for land disputes (1.1.5);
- Awareness about available remedies for civil disputes (1.1.6).

On the accessibility of legal information for citizens, Article 2 of the Law on Legal Dissemination and Education stipulates: 'Citizens have the right to be informed of the law and are responsible for actively raising their own awareness of the law'. Further, the State is responsible for 'ensuring and creating favorable conditions for citizens to implement their rights to legal information'.¹¹⁴ The Law on Legal Dissemination and Education has been passed where the Law on Access to Information, though having been included in the National Assembly XII's law-making program and now moved to the National Assembly XIII's tentative program. This demonstrates in part the limitations of law-making in Viet Nam.

Sub-indicator 1.1.1 (available sources of legal information) relates to the question 'what sources have actually been made accessible to citizens'. As the analysis in Chapter 3 shows, television and community-based information channels have been popular sources providing a wide range of information to the majority of Vietnamese people. In order to assess the proactive role

of local government in disseminating legal information, this sub-indicator is based on aggregation from three specific sources: legal dissemination and education, lawyers and legal information websites to measure how proactive provincial governments are in providing legal information. The lowest score 0 is assigned to a province where all respondents say they have no access to any of the three sources. Conversely, a province scoring the maximum value of 1 must have all its respondents stating that they have access to those sources. The 0-1 scale was used to measure sub-indicators, indicators and overall results for each dimension. On this scale, 0.5 is the mean score in each sub-indicator/indicator/dimension.

The aggregation in Table 14 shows the province of Da Nang stands out at 0.91, a far cry from its peers. An Giang and Tra Vinh slide to the last places at 0.18-0.19 compared to the national average of 0.48 for sub-indicator 1.1.1. The low average of this sub-indicator (under 0.5) suggests quite limited accessibility to legal information through specifically dedicated sources in Viet Nam.

Among the three legal information sources, 33% of respondents deemed the local dissemination sessions as the most easily assessed source of legal information, followed by websites (18%) and lawyers (2%) (see Figure 3 for a summary of legal information sources).

Sub-indicator 1.1.2 (awareness of necessity and conditions for applying LURCs) was computed based on respondent perceptions. Although the conditions for the LURC are specified in the Land Law and conditions for house ownership certificates are prescribed in the Housing Law and guiding documents, issuance of such legal documents depends greatly on the implementation of local governments. Since

¹¹⁴ NA 2013: Article 2

1993, around 36 million LURCs have been issued country-wide, covering about 82.5% of land area entitled to LURCs, according to statistics from the Ministry of Natural Resources and Environment ¹¹⁵.

Sub-indicator 1.1.2 also averaged at a low 0.5, with respondents in the provinces of Cao Bang and Long An being the least aware of LURC conditions. In view of the remaining 17.5% of land areas for which local state agencies still need to grant LURCs, more efforts should be made to improve accessibility of information on LURCs and land management policies in general.

The four sub-indicators 1.1.3 to 1.1.6 recorded public perceptions of labor, land, business and other civil disputes based on personal experience. The results show that many respondents did not know from whom to seek help, what procedures to comply with and where to go for settlement during the dispute process.

There are no regulations in place making mandatory the public listings of civil dispute resolution procedures at people's committees' offices. For the courts, making public all procedural and legal proceedings for civil, business, labor, and administrative disputes at court is mandatory. However, up to 25% of district courts and 33% of provincial courts do not comply, and only a few local courts have websites providing information on disputes and court activities. ¹¹⁶

The results for the four sub-indicators show there is less awareness of labor dispute remedies (with an average score of 0.74) than of other civil dispute remedies (at average of 0.81 for land disputes, 0.84 for civil disputes and 0.92 for business and commercial disputes).

¹¹⁵ National resources and environment newspaper 2013.

¹¹⁶ The Secretariat of the Steering Committee for Justice Reform 2012.

The aggregate scores of the indicator on accessibility of legal information (Table 8, 8th column from the left) demonstrate a clear difference between the top-scoring province, Da Nang, at 0.85 and the lowest-scoring province, An Giang, at 0.59.

1.2. Availability of legal services

The government is responsible for the provision of public services, including basic legal and administrative judicial services. Ensuring such services means ensuring fundamental civil rights such as the right to register a birth; notify of a death; ethnicity identification; change/identification of family name and first name under the Civil Law; issuance of LURCs under the Land Law; issuance of marriage certificates under the Marriage and Family Law.

Indicator 1.2 measures how well these fundamental legal services have been provided in practice by using the following sub-indicators:

- Marriage registration (1.2.1);
- Availability of basic judicial services (1.2.2);
- Delay in providing basic judicial services (1.2.3);
- LURC application procedures (1.2.4).

Since the introduction of the 2003 Marriage and Family Law, which does not recognize *de facto* marriages, marriage registration serves to protect the rights of both parties to a recognized marriage, especially when a *de facto* marriage affects women's and children's rights. However, our survey statistics show that around 13-21% of respondents in Long An, Kon Tum, An Giang and Tay Ninh provinces stated they were married without a formal

Table 14: Dimension 1 - Accessibility

Province	1.1.1	1.1.2	1.1.3	1.1.4	1.1.5	1.1.6	1.1	1.2.1	1.2.2	1.2.3	1.2.4	1.2	1.3.1	1.3.2	1.3.3	1.3	1_ALL
An Giang	0.18	0.66	0.57	0.78	0.70	0.64	0.59	0.80	0.17	0.17	0.91	0.51	0.89	0.89	0.70	0.83	0.64
Bac Giang	0.41	0.47	1.00	0.67	1.00	1.00	0.76	0.98	0.00	1.00	0.24	0.56	1.00	0.91	0.35	0.75	0.69
Bac Kan	0.40	0.50	1.00	1.00	0.86	0.50	0.71	0.98	0.00	1.00	0.43	0.60	0.93	0.90	0.70	0.84	0.72
Cao Bang	0.32	0.38	1.00	0.88	0.67	0.80	0.67	0.95	0.80	0.67	0.53	0.74	0.97	0.99	0.69	0.88	0.76
Da Nang	0.91	0.66	1.00	0.64	0.88	1.00	0.85	0.99	0.90	0.86	0.74	0.87	0.76	0.79	0.55	0.70	0.81
Dak Lak	0.67	0.50	0.94	0.80	0.63	0.95	0.75	0.89	0.93	0.90	0.35	0.77	0.91	0.74	0.47	0.71	0.74
Ha Noi	0.52	0.52	0.94	0.73	0.71	0.94	0.73	0.99	0.96	0.95	0.46	0.84	0.97	0.91	0.74	0.87	0.81
Hai Duong	0.74	0.48	1.00	0.75	0.92	1.00	0.81	1.00	1.00	1.00	0.43	0.86	0.98	0.86	0.76	0.87	0.85
Khanh Hoa	0.60	0.49	1.00	0.63	1.00	0.57	0.71	0.95	0.50	0.57	0.43	0.61	0.81	0.86	0.77	0.81	0.71
Kon Tum	0.56	0.46	0.89	0.56	0.61	0.50	0.60	0.86	0.50	0.50	0.58	0.61	0.91	0.78	0.89	0.86	0.69
Lam Dong	0.46	0.55	1.00	1.00	0.71	0.56	0.71	0.98	0.57	0.50	0.65	0.68	0.87	0.97	0.85	0.90	0.76
Lang Son	0.51	0.55	1.00	0.80	0.70	1.00	0.76	0.98	1.00	1.00	0.60	0.90	0.98	0.91	0.70	0.86	0.84
Long An	0.48	0.38	0.50	0.86	0.83	1.00	0.67	0.87	1.00	1.00	0.57	0.86	0.75	0.98	0.75	0.83	0.79
Phu Tho	0.30	0.48	0.67	0.79	0.88	0.75	0.64	0.99	0.00	0.00	0.35	0.34	1.00	0.99	0.63	0.87	0.62
Quang Nam	0.58	0.48	1.00	0.75	0.56	1.00	0.73	0.94	1.00	1.00	0.57	0.88	0.83	0.85	0.53	0.73	0.78
Son La	0.44	0.55	1.00	0.50	0.86	1.00	0.72	0.99	0.95	0.91	0.52	0.84	0.97	0.86	0.82	0.88	0.82
Ho Chi Minh City	0.45	0.51	0.93	0.83	0.87	0.75	0.72	0.95	0.50	0.50	0.68	0.66	0.84	0.83	0.59	0.75	0.71
Tay Ninh	0.37	0.43	1.00	0.88	1.00	1.00	0.78	0.79	0.00	0.00	0.67	0.36	0.96	0.87	0.71	0.85	0.66
Thua Thien Hue	0.51	0.45	0.86	0.60	0.67	0.67	0.63	0.96	1.00	1.00	0.57	0.88	0.89	0.83	0.69	0.80	0.77
Tra Vinh	0.19	0.47	1.00	0.67	1.00	0.89	0.70	0.88	1.00	1.00	0.67	0.89	0.90	0.96	0.78	0.88	0.82
Tuyen Quang	0.44	0.49	1.00	0.44	0.93	1.00	0.72	0.96	0.50	0.50	0.13	0.52	0.96	0.99	0.94	0.97	0.74
Average	0.48	0.50	0.92	0.74	0.81	0.83	0.71	0.94	0.63	0.72	0.53	0.70	0.91	0.89	0.70	0.83	0.75

registration. The result of this sub-indicator 1.2.1 ranging between 0.79 and 0.87 can be seen in Table 14.

Sub-indicator 1.2.2 aggregates obstacles respondents faced during registration of birth, marriage or residency. Results with low values correspond to a high number of obstacles.

Since 2001, the Ministry of Justice has launched a national campaign on birth registration. The national household registration to date has reached 90% on average (95-98% in delta provinces and cities and nearly 85% in mountainous provinces).¹¹⁷ However, the survey data shows there are still constraints for people requiring basic judicial services like birth registration or residency registration. The mean score of 0.63 for this sub-indicator indicates there is room for further improvement in the delivery of local judicial services.

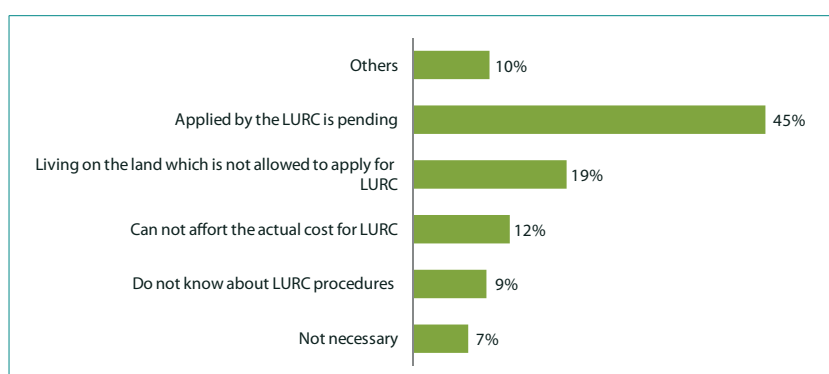
117 MOJ 2012.

In relation to basic judicial services, sub-indicator 1.2.3 aggregates data on pending or unresolved requests for basic judicial services. The mean score of 0.72 does not reflect well on local judicial services. In fact, given the aforementioned basic judicial services, 30 percent of unresolved or pending requests, indicates a worrying figure for the performance of the local justice system.

The fourth sub-indicator was based on respondents' answers about their LURC applications awaiting approval. Low numbers of respondents awaiting LURC approval correspond to high scores in the respective provinces.

The main reason for including this sub-indicator in this analysis was that as many as 45% of respondents said they were awaiting results. 'Awaiting approval' was the most cited reason for the absence of a LURC. The reasons are shown in Figure 17.

Figure 17: Reasons for not having LURCs.



The average results across 21 provinces for sub-indicator 1.2.4 suggest issuance of LURCs should be continued in all provinces. Remarkably, the results are very low for some provinces, specifically Tuyen Quang

(0.13), which means 8 out of 10 families without LURCs are awaiting results for their applications. Bac Giang and Phu Tho scored 0.24 and 0.35 respectively.

Overall, Lang Son tops the results list for indicator 1.2 of availability of basic legal services at 0.86, far above the bottom-ranked Phu Tho, at 0.34.

1.3. Affordability

An important dimension that helps ensure accessibility to justice is the affordability of services and costs incurred in a dispute/complaint resolution process. In principle, public services must be affordable, making them accessible for everyone, including the poor and those on a low-income. Recent news about people not showing up to get LURCs due to their un-affordability of related charges and tariffs ¹¹⁸ demonstrates the importance of affordability. Affordability, which represents the third indicator of the accessibility dimension, was measured by the 3 following sub-indicators:

- Application fee for LURC (1.3.1);
- Cost to settle labor disputes (1.3.2);
- Cost-effective remedies (1.3.3).

There are compulsory fees for LURC applications, including registration fee (0.5% x price regulated by Provincial People's Committee (imposed on land or a house) and LURC issuance fee (applicable only for residential land in urban areas, not exceeding 100,000 VND for land attached to a house and not exceeding 25,000 VND for land not attached to house or other property). In addition, land use tariffs are applicable for cases without documentary evidence of ownership or right to use, as specified in the Land Law. ¹¹⁹

The results of 1.3.1 reflect respondents' assessment of affordability of LURC application fees. The average score for this

sub-indicator is fairly high (0.91). Notably, Da Nang and Long An have the lowest scores, respectively at 0.76 and 0.75. The results show considerable discrepancies across provinces regarding actual costs for obtaining LURCs, with delta provinces and cities imposing higher cost than mountainous, less-endowed provinces. The fast pace of economic growth in some provinces may be conducive to exorbitant land prices, registration fees and other related costs.

Sub-indicator 1.3.2 shows the results for labor disputes where respondents chose to lose a dispute rather than face potential costs of pursuing a dispute. With a mean score of 0.89, there is a significant gap between the top performing provinces Cao Bang, Phu Tho and Long An (all scoring 0.99) and Dak Lak at 0.74. Meanwhile, Ha Noi scored 0.91, Ho Chi Minh City ranked below average (0.83) and Da Nang has the second lowest score (0.79).

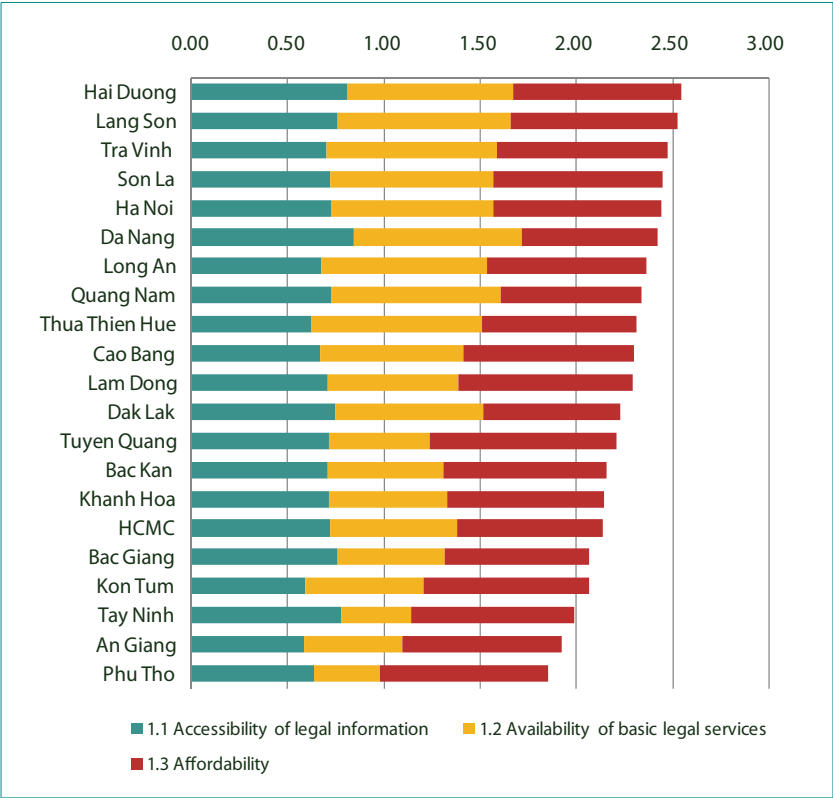
Sub-indicator 1.3.3 measures respondents' views about cost-effectiveness of the expenses paid to settle land, business disputes and environmental complaints against the actual outcomes. Bac Giang and Dak Lak rank the lowest, at 0.35 and 0.47 respectively, and considerably below the top-scoring Tuyen Quang province (0.94).

Synthesizing the three indicators, Figure 18 shows that Hai Duong, Lang Son and Tra Vinh were ranked the top three provinces for overall accessibility according to Dimension 1. Ha Noi and Da Nang are placed in the 'high' group (comprising one third of the participating provinces), while Ho Chi Minh City lags behind in the 'low' group. The lowest scoring provinces are Phu Tho, An Giang and Tay Ninh, with scores ranging between 0.62 and 0.66 against the average score of 0.75.

¹¹⁸ Labor newspaper 2013

¹¹⁹ NA 2003; Gov 2009; Gov 2011; MOF 2010; MOF 2011.

Figure 18: Dimension 1 - Accessibility



DIMENSION 2: EQUITY

Equity, equality and democracy are overarching values and key goals of a civilized society. The principles of equity and equality have extensive and multi-dimensional connotations. The second dimension of Justice Index measures equity based on the following three indicators: equality before the law; proactive role of state institutions to ensure equity; and responsiveness to citizens’ complaints in practice.

2.1. Equality before the law

Equality before the law is assessed by two measures: (i) procedural equality and (ii)

substantive equality, using the following three sub-indicators:

- Equal protection in labor disputes (2.1.1);
- Substantive equality among social groups (2.1.2);
- Free of discrimination (2.1.3).

Sub-indicator 2.1.1 is based on respondents’ views on their positions as employees relative to employers in disputes. These views, based on actual experience or a hypothetical scenario, are synthesized from data on labor disputes.

As analyzed in Chapter 3 labor disputes were the most common disputes in the survey statistics of 2011. No matter how common, most respondents said they did not seek remedies to protect their interests.

This phenomenon of ‘taking no action and giving up interests’ may be explained by looking at the different reasons respondents gave in Figure 19.

Figure 19: Labor remedy options – based on actual experience

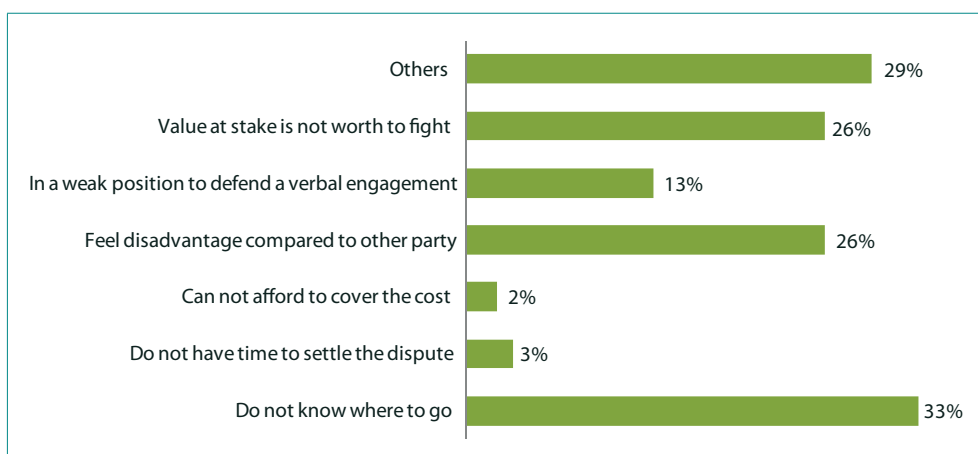


Figure 20: Labor remedy options – based on a hypothetical case

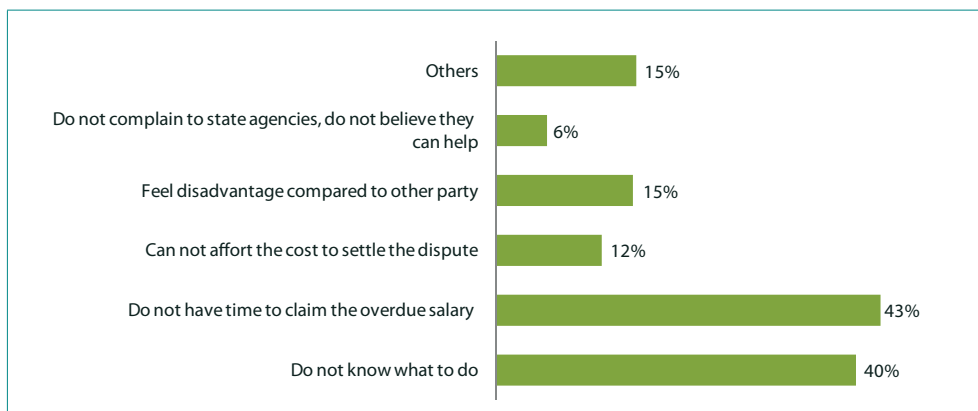


Figure 20 shows what option employees would choose based on a hypothetical scenario wherein employers owed them 6 months’ pay. 26% of respondents who previously experienced a labor dispute said they would accept the loss because they were disadvantaged compared to employers (see figure 19), while in the hypothetical case of 6 months’ unpaid work,

15% said they would accept a loss because they felt disadvantaged (see figure 20).

The results indicate a perception or actual experience of being disadvantaged, despite current labor regulations that enable employees to seek help from various agencies and organizations. These include grassroots labor conciliation

panels, provincial labor arbitrary councils or arbitrators located in the Offices of Labor, Invalids and Social Affairs located at district level, and ultimately, the court.

Aggregate scores in sub-indicator 2.1.1 show Tay Ninh (0.44) and Lam Dong (0.50) are in the 'low' group; An Giang and Hai Duong top the list with an identical score of 0.94. The average score of this sub-indicator is 0.78 (see details in Table 15).

Sub-indicator 2.1.2 (substantive equality among social groups) synthesizes data measuring inequality experienced by socially disadvantaged groups including: women, poor, low educated and low social status groups as aggregated in the Justice Index survey. 52 data items were considered as sufficiently evidence-based in terms of substance and statistical significance are selected and used for the analysis by social group.¹²⁰ The analysis by social group shows the following results: 0.30 for women; 0.51 for low educated people; 0.29 for poor; and 0.70 for low social status. Accordingly, the average for the sub-indicator substantive equality is 0.45. These results put substantive equality among the few sub-indicators which scored under the mean 0.5. Noticeably, Ha Noi (0.27) and An Giang (0.26) take the bottom two places while Son La (0.62) and Tay Ninh (0.61) come in first and second.

Sub-indicator 2.1.3 aggregates perceptions of discrimination of state officers towards local social groups based on differences in gender, ethnicity, religion, language, sexual orientation, physical conditions (people with disabilities or living with HIV), financial capability and migration status. According to the aggregate data on discrimination in Chapter 3, the group most discriminated against are homosexuals (0.68) and people living with HIV/AIDS (0.69). The average

score of this sub-indicator is 0.84 (see details in Table 15). No significant differences are found between provincial scores, specifically Bac Giang topping the list with 0.96 and Kon Tum scoring the lowest with 0.74.

The aggregated results for the indicator of equity (2.1) indicate that the provinces Quang Nam and Son La (both at 0.79) lead the list, while Lam Dong (0.56) ranks last. Alarming, both Ha Noi (0.63) and Ho Chi Minh City (0.66) have scores below the average 0.69.

2.2. Role of state institutions in ensuring equity

This indicator measures public perception of the influence of state institutions in dispute resolution and their role in protecting citizens' interests compared with other remedies (formal and informal) available to citizens. It is always a challenge to enhance the confidence of citizens in the role of public institutions and encourage them to use formal remedies to protect their own interests and establish equity in a sentimental society that values and respects personal relationships more highly than the law and rule-of-law principles, as does Viet Nam. Citizens' perception of state institutions in helping and resolving civic disputes is a critical indication about the legitimacy of the public institutions. This inquiry also suggests actions to be taken to improve the local situation. Following this simple philosophy, sub-indicators for this indicator include:

- Proactive role of state institutions in resolving labor disputes (2.2.1);
- Proactive role of state institutions in resolving land disputes (2.2.2);

¹²⁰ Please refer to Box 3 'Analysis by social group and measure' and Justice Index methodology at the beginning of Chapter 4

Table 15: Dimension 2 - Equity

Province	2.1.1	2.1.2	2.1.3	2.1	2.2.1	2.2.2	2.2.3	2.2	2.3.1	2.3.2	2.3.3	2.3.4	2.3.5	2.3	2_All
An Giang	0.94	0.26	0.81	0.67	0.76	0.92	0.96	0.88	0.34	0.96	0.58	0.81	0.95	0.73	0.76
Bac Giang	0.78	0.37	0.96	0.70	0.45	0.89	0.95	0.77	0.42	0.59	0.47	0.72	0.87	0.61	0.69
Bac Kan	0.96	0.42	0.89	0.76	0.67	0.87	0.90	0.81	0.49	0.99	0.54	0.86	0.95	0.76	0.78
Cao Bang	0.89	0.54	0.79	0.74	0.68	0.91	0.95	0.85	0.49	0.99	0.65	0.57	0.88	0.71	0.77
Da Nang	0.66	0.58	0.87	0.70	0.47	0.90	0.96	0.77	0.21	0.95	0.21	0.75	0.80	0.58	0.69
Dak Lak	0.85	0.47	0.87	0.73	0.81	0.90	0.96	0.89	0.00	0.00	0.00	0.84	0.95	0.36	0.66
Ha Noi	0.86	0.27	0.76	0.63	0.64	0.83	0.83	0.77	0.36	0.72	0.38	0.82	0.95	0.65	0.68
Hai Duong	0.94	0.46	0.77	0.72	0.62	0.81	0.88	0.77	0.19	0.25	0.19	0.78	0.92	0.47	0.65
Khanh Hoa	0.59	0.33	0.82	0.58	0.64	0.66	0.75	0.68	0.40	0.81	0.37	0.82	0.95	0.67	0.64
Kon Tum	0.89	0.53	0.74	0.72	0.71	0.83	0.81	0.78	0.39	0.74	0.46	0.91	0.97	0.69	0.73
Lam Dong	0.50	0.37	0.82	0.56	0.66	0.64	0.80	0.70	0.48	0.88	0.64	0.00	0.70	0.54	0.60
Lang Son	0.68	0.37	0.80	0.62	0.74	0.88	0.90	0.84	0.24	0.96	0.40	0.96	1.00	0.71	0.72
Long An	0.92	0.45	0.84	0.74	0.53	0.87	0.94	0.78	0.51	0.98	0.98	0.86	0.96	0.86	0.79
Phu Tho	0.64	0.37	0.90	0.64	0.58	0.86	0.91	0.78	0.75	0.98	0.80	0.75	0.92	0.84	0.75
Quang Nam	0.88	0.57	0.92	0.79	0.72	0.94	0.95	0.87	0.57	0.92	0.60	0.89	0.97	0.79	0.82
Son La	0.86	0.62	0.89	0.79	0.76	0.99	0.98	0.91	0.59	0.94	0.63	0.77	0.96	0.78	0.82
Ho Chi Minh City	0.60	0.46	0.84	0.66	0.55	0.76	0.86	0.72	0.70	0.80	0.74	0.89	0.97	0.82	0.73
Tay Ninh	0.44	0.61	0.89	0.59	0.74	0.78	0.87	0.79	0.90	0.78	0.94	0.73	0.92	0.85	0.75
Thua Thien Hue	0.83	0.53	0.76	0.73	0.47	0.89	0.93	0.77	0.59	0.89	0.81	0.46	0.82	0.71	0.74
Tra Vinh	0.82	0.48	0.90	0.73	0.75	0.93	0.92	0.86	0.40	0.99	0.37	0.35	0.76	0.57	0.72
Tuyen Quang	0.93	0.40	0.89	0.74	0.53	0.93	0.97	0.81	0.55	0.23	0.62	0.85	0.95	0.64	0.73
Average	0.78	0.45	0.84	0.69	0.64	0.86	0.90	0.80	0.46	0.78	0.54	0.73	0.91	0.68	0.73

- Proactive role of state institutions in resolving environmental complaints (2.2.3).

Data used to develop the above sub-indicators has been aggregated based on public perception of the influence of state agencies, whether they provide ‘the most important remedy’ in settling labor and land disputes as well as complaints about environmental pollution and compensation for pollution-related damages. The average scores for the three sub-indicators are 0.64, followed by 0.86 and 0.90 for labor, land and environmental disputes respectively.

The average score for the indicator 2.2 on ‘role of state institutions in ensuring equity’ is 0.80. Son La province tops the list with 0.91 while Khanh Hoa and Lam Dong score the lowest (0.68 and 0.70 respectively).

2.3. Responsiveness to administrative complaints

Responding to citizens’ complaints in a timely manner is also an indicator which measures the equitable treatment to complainants who disagree with administrative decisions or acts by state officials and agencies. The following five sub-indicators assess the timeliness with which state agencies respond to citizens’ administrative complaints:

- Time taken to handle administrative complaints about land (2.3.1);
- Time taken to handle complaints about business conditions and regulations (2.3.2);
- Time taken to handle requests about land procedures (2.3.3);
- Time taken to handle complaints about environmental issues (2.3.4);

- Number of unsolved and pending complaints about environmental pollution (2.3.5).

The Justice Index survey interviewed complainants about the duration and results of the complaint handling process. Based on this data, the research team was able to extract the exact time period citizens spent on pursuing administrative complaints with state agencies. The complaints included taxation agency regarding payable taxes; Departments of Labor, Invalids and Social Affairs’ policies for people with merits; or requirements for thorough resolution of environmental pollution caused by factories and manufacturers in local residential areas.

As discussed in Section 3.5 in Chapter 3, the time taken by state agencies to handle administrative complaints often exceeds the time limit provided by law. The time given to resolve administrative complaints is between 16 to 27 months on average depending on the issue raised by the complaint.

The average scores of the sub-indicators relating to processing periods of administrative complaints are 0.46 for land complaints (sub-indicator 2.3.1); 0.78 point for complaints about business conditions and regulations (2.3.2); 0.54 for requests regarding land procedures (2.3.3); and 0.73 for complaints on environment (2.3.4) respectively (see details in Table 15). Obviously, the resolution of land-related complaints is often prolonged and more time-consuming than other complaints, as illustrated by the scores of sub-indicators 2.3.1 and 2.3.3.

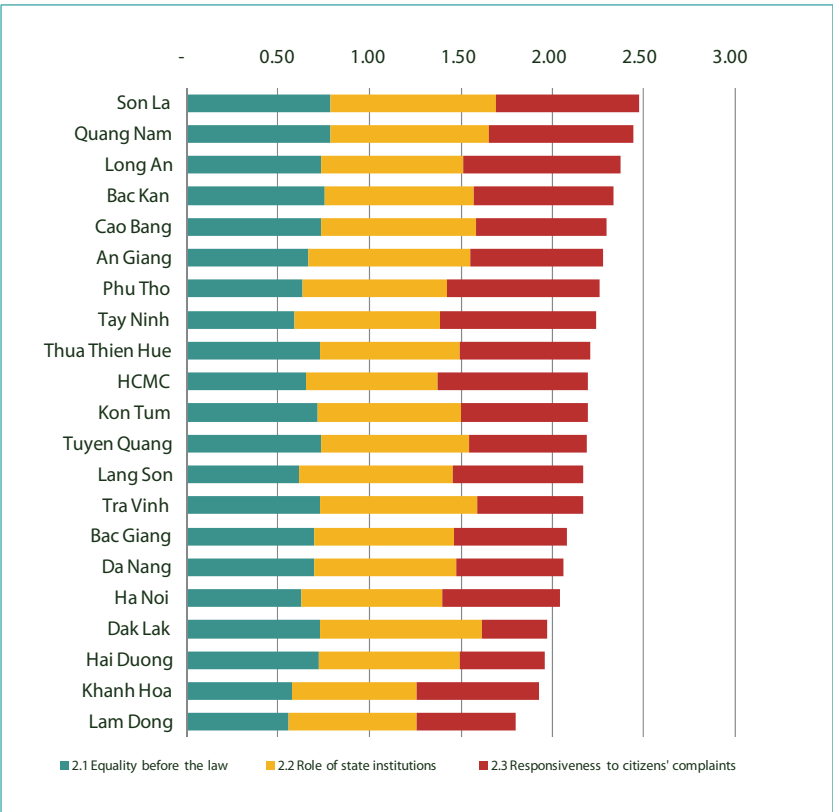
The average score for the indicator on responsiveness to citizens’ complaints (2.3) is 0.68. A significant difference between provinces is noticeable across this indicator. For example, Long An tops the ranking with

a score of 0.86, leaving Dak Lak far behind scoring only 0.36. It is noteworthy that while HCMC (0.82) ranks among the top cities, Ha Noi (0.65) and Da Nang (0.58) score below the average and even among the bottom third cities.

The average score of the dimension ‘Equity’

is 0.73. Son La, Long An and Quang Nam are the top three performers while Lam Dong, Khanh Hoa, Hai Duong find themselves at the bottom, scoring from 0.60 to 0.66. Similarly, Ha Noi (0.68) and Da Nang (0.69) are placed among the bottom third (see details in Figure 21).

Figure 21: Dimension 2 - Equity



DIMENSION 3: INTEGRITY

The 3rd dimension measures integrity of state institutions based on three indicators: anti-corruption, professional conducts and oversight of judicial activities.

3.1. Anti-corruption in judicial activities

The pervasiveness and severity of corruption in Viet Nam has been identified

and analyzed in various studies. The report from sociological surveys on preventing and countering corruption in Viet Nam commissioned by the Government Inspectorate and the World Bank published in 2011 reveals information about corruption across a selection of 22 sectors including the procuracy, the court, and

the enforcement of civil judgments.¹²¹ According to the report, corruption in the justice system is quite prevalent. The surveys also indicate that almost 40% of citizens, businesses, cadres and civil servants confirmed the pervasiveness of corruption in the court and procuracy system. The 2012 Provincial Competitiveness Index (PCI) report published by the Viet Nam Chamber of Commerce and Industry (VCCI) shows that over 17% of the businesses did not seek dispute resolution by the court, but chose other remedies instead, because of the widespread practice of 'buying justice' and corruption in the court system.¹²²

In the Justice Index, the anti-corruption indicator is built on citizens' first-hand experience of corruption during the resolution of civil disputes and administrative complaints. This indicator is measured by two sub-indicators, namely:

- Corruption in civil dispute resolution (3.1.1);
- Corruption in administrative complaint resolution (3.1.2).

Data for the sub-indicator 'corruption in civil dispute resolution' (3.1.1) was obtained from the synthesis of citizens' experience of corruption in labor, business, land, and other civil dispute resolution. In addition, a fifth category of data was based on citizens' assessment of a hypothetical case wherein the local government 'supports' an investor in an urban construction project who offers unreasonable compensation rates (Box 5).

Based on the analysis of dispute types and remedies presented in Chapter 3, the sub-indicator 'corruption in civil dispute resolution' (3.1.1) indicates the corruption presented at different levels within the executive system. Given very few citizens

accessed the court for civil dispute resolution, according to survey findings only 3.3% of all civil disputes went to court (see Section 3.3 of the report), there is insufficient evidence from the Justice Index survey to indicate corrupted practices of the court in resolving civil dispute. A scale ranging from 1 to 0 is used, in which the closer a provincial score for sub-indicator 3.1.1 is to the value 1, the fewer instances of corruption are reported by citizens and the closer to 0 it is, the more widespread corruption is in that province.

Similarly, data for the sub-indicator 'corruption in administrative complaint resolution' results from the synthesis of three types of data: citizens' experience during the resolution of complaints against administrative decisions; acts of state officers; and acts of state management agencies on business, environmental and social welfare complaints. Most such complaints were handled by local administrative agencies.

The scores of these two sub-indicators demonstrate the differences in corruption levels between civil dispute resolution and administrative dispute resolution. Specifically, the average score for corruption in civil dispute resolution is 0.94 while in administrative complaint resolution it is 0.87.

Results for the indicator 'anti-corruption in judicial activities' (3.1) show that Tra Vinh province ranks first with a score of 0.98. Dak Lak and Lam Dong come last with 0.77 and 0.82 respectively. While the average score of this indicator is 0.90, Ha Noi (0.84) and HCMC (0.87) both stand below this point. Da Nang, Hai Duong and Thua Thien Hue all score at 0.91, only slightly above average.

According to a regional assessment, the average score of the Southern provinces in the Mekong Delta and the Southeast

¹²¹ WB and GI 2012b.

¹²² VCCI – USAID 2013.

is 0.92, which is above national average. Comparatively, the provinces in central region and Central Highlands score a below average 0.86.

3.2. Professional conducts

This indicator represents citizens' perception of professional conduct and responsiveness of state officers and agencies in resolving disputes. It comprises the following five sub-indicators:

- Professional conduct of state officers in civil dispute resolution (3.2.1);
- Professional conduct of state officers in resolving administrative complaints (3.2.2);
- Responsiveness of state officers in civil dispute resolution (3.2.3);
- Responsiveness of state officers in resolving administrative complaints (3.2.4);
- Professional conduct of traffic police in handling violations (3.2.5).

The Law on Cadres and Civil Servants contains regulations on principles for professional conduct and ethics that must be complied with by those working in the state apparatus.¹²³ In addition, cadres, civil servants and state officers as Communist Party members must also abide by the Communist Party's compulsory rules on ethics as well as the ethical standards of their specific professions such as public security officers, judges and procurators.

The first two sub-indicators regarding professional conduct of state officers in handling citizens' requests (3.2.1 and 3.2.2) rate better than the two sub-indicators regarding responsiveness of state officers

in handling and resolving civil disputes and administrative complaints (3.2.3 and 3.2.4). Specifically, the average scores of the two first sub-indicators are 0.76 and 0.77 respectively; meanwhile, those of the two latter sub-indicators demonstrate to be lower, at 0.71 and 0.71 (see details in Table 16).

Long An and Da Nang receive the highest scores for professional conduct and responsiveness of local officers in civil dispute resolution, both with 1 point for sub-indicators 3.2.1 and 3.2.4. Citizens in Tra Vinh Province are highly dissatisfied with the professional conduct of local officers in civil dispute resolution, which is demonstrated by a bottom score of 0.33, far lower than the average national score of 0.76 for sub-indicator 3.2.1. Meanwhile, Dak Lak people are greatly displeased with the responsiveness of local officers in civil dispute resolution, resulting in a bottom score of 0.29, which is much lower than the average national score of 0.71 for sub-indicator 3.2.3.

Kon Tum, a province in the Central Highlands, comes first for professional conduct and responsiveness of local officers in administrative dispute resolution with 1 point for both indicators 3.2.2 and 3.2.4. By contrast, the two Northern mountainous provinces, Cao Bang and Tuyen Quang, rated low.

A comparison of sub-indicator scores of each province/city reveals remarkable information. For example, both Ha Noi and HCMC receive above national average ratings for professional conduct in civil dispute resolution, but are downgraded for professional conduct in administrative dispute resolution. HCMC's score of 0.85 is higher than the national average (0.76) for professional conduct in civil dispute resolution, but much lower than the

¹²³ 2008 National Assembly. 2010 National Assembly; 2007 Ministry of Home Affairs

Table 16: Dimension 3 - Integrity

Province	3.1.1	3.1.2	3.1	3.2.1	3.2.2	3.2.3	3.2.4	3.2.5	3.2	3.3.1	3.3.2	3.3	3_ALL
An Giang	0.96	0.93	0.94	0.80	0.82	0.40	1.00	0.56	0.71	0.85	0.79	0.82	0.83
Bac Giang	0.95	0.82	0.88	0.57	0.75	0.57	0.75	0.56	0.64	0.82	0.76	0.79	0.77
Bac Kan	0.85	0.93	0.88	0.86	0.86	0.86	0.71	0.72	0.80	0.92	0.85	0.88	0.85
Cao Bang	1.00	0.92	0.96	0.82	0.50	0.82	0.50	0.74	0.68	0.74	0.67	0.71	0.78
Da Nang	1.00	0.84	0.91	1.00	0.71	1.00	0.86	0.64	0.84	0.82	0.73	0.78	0.84
Dak Lak	0.79	0.76	0.77	0.86	0.86	0.29	0.57	0.48	0.61	0.81	0.69	0.75	0.71
Ha Noi	0.91	0.78	0.84	0.78	0.75	0.63	0.70	0.61	0.69	0.86	0.73	0.79	0.78
Hai Duong	0.97	0.85	0.91	0.71	0.89	0.71	0.89	0.44	0.73	0.82	0.74	0.78	0.80
Khanh Hoa	0.79	0.88	0.83	0.71	0.67	0.86	0.67	0.73	0.73	0.72	0.72	0.72	0.76
Kon Tum	0.95	0.93	0.94	0.74	1.00	0.79	1.00	0.69	0.84	0.70	0.54	0.62	0.80
Lam Dong	0.89	0.74	0.82	0.76	0.86	0.71	0.71	0.82	0.77	0.81	0.67	0.74	0.78
Lang Son	0.94	1.00	0.97	0.90	0.86	0.80	0.71	0.79	0.81	0.81	0.84	0.82	0.87
Long An	1.00	0.75	0.88	1.00	0.88	1.00	0.75	0.83	0.89	0.84	0.71	0.78	0.85
Phu Tho	0.93	0.81	0.87	0.50	0.80	0.50	0.40	0.56	0.55	0.84	0.73	0.78	0.74
Quang Nam	1.00	0.87	0.92	0.56	0.89	0.67	1.00	0.89	0.80	0.84	0.81	0.83	0.85
Son La	1.00	0.87	0.93	1.00	0.71	0.88	0.71	0.67	0.79	0.85	0.75	0.80	0.84
Ho Chi Minh city	0.91	0.83	0.87	0.85	0.58	0.70	0.58	0.61	0.67	0.75	0.71	0.73	0.75
Tay Ninh	0.97	0.96	0.94	0.57	0.67	0.43	0.67	0.89	0.64	0.76	0.60	0.68	0.76
Thua Thien Hue	0.89	0.94	0.91	0.92	0.71	0.92	0.43	0.63	0.72	0.88	0.79	0.83	0.82
Tra Vinh	1.00	0.95	0.98	0.33	0.83	0.67	0.83	0.85	0.70	0.88	0.80	0.84	0.84
Tuyen Quang	0.97	0.82	0.89	0.75	0.50	0.63	0.50	0.67	0.61	0.85	0.86	0.85	0.79
Average	0.94	0.87	0.9	0.76	0.77	0.71	0.71	0.68	0.73	0.82	0.74	0.78	0.8

average (0.77) for administrative dispute resolution (0.58).

The fifth sub-indicator measures 'professional conduct of traffic police' (3.2.5). This sub-indicator is based on 3 items that are representative for 'proper' professional conduct of traffic police, namely whether (i) officers provide their names and working units; (ii) make records of the violations; and (iii) provide clear explanations for fines and the amount of the fine.

It should be noted that citizens' reflections of 'negative' acts of traffic police such as outrageous acts or language to violators or taking fines without giving receipts were not taken into account for this sub-indicator. Nevertheless, the final score for sub-indicator 3.2.5 rated the lowest among the five sub-indicators. Column 6 from right to left in Table 16 shows that traffic police in Quang Nam and Tay Ninh are most appreciated by local people for their professional conduct, leading to a score of 0.89 for these two provinces each. By contrast, the province deemed to have the least professional police is Hai Duong with only 0.44.

The overall results for indicator 3.2 on 'professional conducts' (see Column 5 from right to left in Table 16) show no significant differences across provinces. The Northern provinces receive the lowest scores (0.7) compared with the Central (0.76) and Southern provinces (0.72).

3.3. Oversight of judicial activities

Efficient and fair state institutions cannot operate alone without an effective oversight system. The Justice Index assesses the oversight mechanism through the performance of elected bodies, specifically the People's Council at communal and provincial levels. Because the pilot of non-

establishment of People's Councils at district level was conducted in some provinces, survey questions had been raised directly to People's Councils at commune and provincial levels only, People's Council at district level were excluded to ensure data consistency. Two sub-indicators are used for this indicator:

- Oversight of elected bodies at communal level (3.3.1).
- Oversight of elected bodies at provincial level (3.3.2).

The oversight roles and activities of local People's Councils are stipulated in detail in the Law on Organization of the People's Council and the People's Committee. Standing bodies of People's Councils at all levels are responsible for overseeing the enforcement of laws on complaints and denunciations in their localities.¹²⁴

Bac Kan province is most appreciated for its elected bodies' effective oversight over resolution of citizens' complaints and receives 0.88. At the other end, Kon Tum province comes last with 0.62. Overall, oversight performance of communal People's Councils in dispute resolution is assessed to be better than that of provincial bodies with average national scores of 0.82 and 0.74 respectively.

A comparison of aggregate results in all 21 provinces/cities, as shown in Figure 22, reveals the same information. More Specifically, over 65% of the respondents confirmed that communal People's Councils fulfilled their oversight functions compared with 44% for provincial People's Councils. Twice as many respondents did not know whether the provincial People's Councils fulfilled their oversight function compared with the communal People's Councils.

¹²⁴ NA 2003b: Article 69.

Figure 22: Oversight of People’s Councils over handling complaints and denunciations

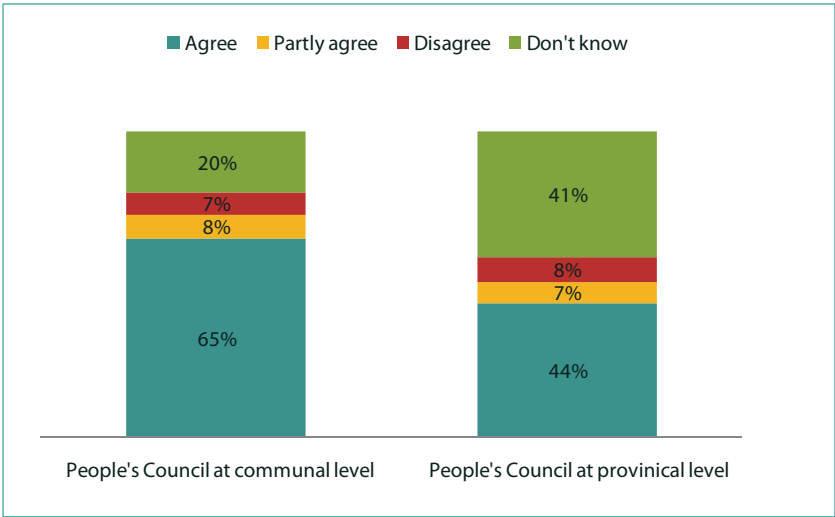
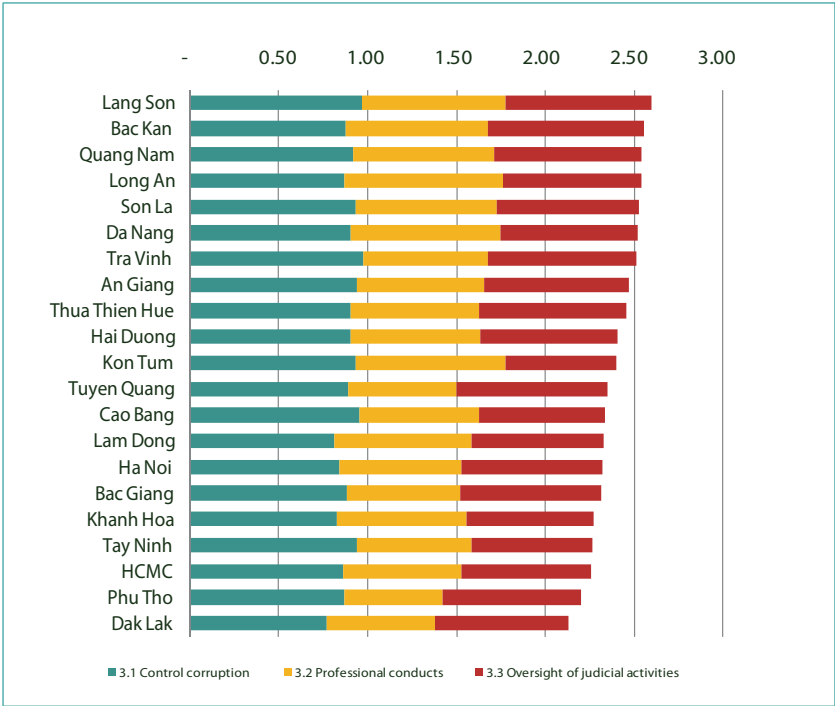


Figure 23 presents the synthesized results of all three indicators of Dimension 3 'Integrity'. Lang Son province tops the ranking, followed by Bac Kan, Quang Nam and Long

An. Da Nang ranks 6th in the leading one-third; meanwhile, HCMC and Ha Noi rank among the bottom third. Dak Lak and Phu Tho both come last in the list.

Figure 23: Dimension 3 – Integrity



DIMENSION 4: RELIABILITY AND EFFICIENCY

Dimension 4 addresses reliability and efficiency, two key qualities of any justice system. In the contemporary Vietnamese context, these qualities are measured by three indicators: procedural certainty, confidence in state institutions and effectiveness in dispute resolution.

4.1. Procedural certainty

One of the most important aspects of a reliable justice system is simple, clear and easily understandable administrative procedures. This quality is assessed by the indicator 'procedural certainty'.

This indicator consists of three sub-indicators including:

- People's opinion of the application procedure for LURC (4.1.1);
- Procedural certainty in civil dispute resolution (4.1.2);
- Procedural certainty in resolving administrative complaints (4.1.3).

To better understand how the application procedure for a LURC is perceived, the Justice Index asked respondents why they don't have a LURC for their land or house. Respondents' were given the following options (multiple choices allowed): (1) 'Don't think it's necessary'; (2) 'Don't know how to apply for a LURC'; (3) 'Can't afford the application cost'; (4) 'The land plot doesn't meet legal requirements'; and (5) 'Application submitted but not yet resolved'. The number of respondents who do not know how to apply will tell us the extent to which the complexity of the LURC procedure prevents people from applying for a LURC. The more respondents don't

know how to apply for a LURC the closer to 0 a province's score will be.

Overall, provinces perform fairly well in this sub-indicator. Bac Giang, Bac Kan and Tuyen Quang obtained the maximum score of 1, meaning that all respondents know how to apply for a LURC. Only eight provinces scored below average, of which Tay Ninh, Dak Lak and Quang Nam provinces are at the bottom. The national average is 0.90. See detailed results for this sub-indicator in Table 17.

The sub-indicator 'procedural certainty in civil dispute resolution' (4.1.2) measures the procedural certainty in civil dispute resolution, namely in disputes between civilians in labor, business, land and other dispute types such as inheritance or divorce, etc. In all of these cases, disputants who said they sought a third party for resolution were asked if they found the process with the third party to be clear and transparent. There is a strong polarization of provinces: while Da Nang and Long An achieved the maximum score of 1, four provinces scored 0.5 and less: Phu Tho, Lang Son, Dak Lak, and Tra Vinh. The national average is 0.72, significantly lower than that of the previous sub-indicator.

The sub-indicator 'procedural certainty in resolution of administrative complaints' (4.1.3) uses the same approach for administrative complaints which include business conditions and regulations, environmental disputes and disputes related to social welfare. Again, people who enlisted a third party in their effort to resolve a dispute were asked if the process with the third party was transparent and clear. The average score of this sub-indicator is 0.82, slightly higher than that of the sub-

indicator relating to civil dispute resolution. The six leading provinces include Cao Bang, Tuyen Quang, Tay Ninh, Kon Tum, Bac Giang and Tra Vinh. Lam Dong and Dak Lak form the bottom end, both with 0.57 point.

The two sub-indicators on procedural certainty don't seem to have a high correlation. For example, among the 6 provinces with the maximum score, Cao Bang performs well in both sub-indicators, while Tra Vinh (in the leading group in sub-indicator 4.1.3) scores only 0.33 in sub-indicator 4.1.2, the lowest among all surveyed provinces.

Table 17 represents the ranking of the 21 provinces for the first indicator 4.1 'procedural certainty' of Dimension 4. There is a stark variation between provinces. Cao Bang, Da Nang, and Tuyen Quang rate above 0.9, while Dak Lak barely reaches 0.6. The national average of this indicator is 0.83, the same score achieved by Thua Thien Hue, Son La and Ha Noi.

4.2. Confidence in state institutions

Confidence in the justice system is highly important because it informs the legitimacy of the system. On the other hand, people's trust and confidence greatly impact on their willingness to cooperate with legal authorities and reduce the use of informal channels or violent forms of dispute resolution.

The indicator 'confidence in state institutions' has four sub-indicators:

- Confidence in Government policy on land use purposes (4.2.1);
- Confidence in Government's policy on local land use plans (4.2.2);
- People's opinion on LURC (4.2.3);

- Confidence in role of state institutions in resolving labor disputes (4.2.4).

The first three sub-indicators capture citizens' assessment of existing land management policies and how they impact on people's lives and their land-related investment opportunities. The first sub-indicator 'confidence in the Government's policy on land use purposes' investigates what percentages of respondents are concerned with the limited possibilities to change the purpose of their land use right. The results show that this is hardly a concern for people. 12 provinces received the maximum score of 1.00. At the lower end, Cao Bang, Kon Tum and Dak Lak scored around 0.80 and 0.84. The national average is a high 0.95.

The second sub-indicator 'confidence in Government's policy on local land use plans' assesses the lack of transparency in land use plans and whether this causes people to lose confidence. Here the numbers are less positive. The national average score is 0.86. Six provinces, namely Bac Giang, Lang Son, Son La, Tuyen Quang, Phu Tho and Cao Bang still score 1.0, but at the bottom end Dak Lak, Long An and Lam Dong only score between 0.58 and 0.62.

The third sub-indicator 'people's opinion on LURC' shows that not possessing the land use right certificate (LURC) is people's greatest concern. The national average is 0.59. While this is not a major concern for respondents in Long An (0.91), Cao Bang (0.90) and Ho Chi Minh City (0.86), the lack of confidence related to this issue is extremely high in Ha Noi (0.5), Bac Giang (0.43), Thua Thien Hue (0.38), Son La (0.33) and Hai Duong (0.29).

The final sub-indicator investigates employees' assessment of support from state agencies in resolving labor disputes. This assessment was based on a

hypothetical case wherein employees don't get paid by their employer for 6 months and the issue may be resolved if they submit complaints to state agencies. The national average score is 0.94. 12 provinces have a score above 0.95, and the worst performing province, Dak Lak, still scores at 0.84.

Table 17 shows the results for indicator 4.2 on 'confidence in state institutions'. Provinces range from close to 0.7 to slightly over 0.9. The difference among provinces is slightly more significant than for the indicator 'procedural certainty' (4.1). Like for the previous indicator, Dak Lak and Quang Nam again find themselves at the bottom and Cao Bang and Tuyen Quang are among the leading provinces. The cities' performances vary starkly. Only HCMC being among the top five, where as Da Nang find itself in the lower third. The national average is 0.83, somewhat higher than that of the previous indicator.

4.3. Legal dispute resolution

One expression of an effective justice system is whether disputes are resolved or not. This aspect is considered in this third indicator of Dimension 4 'Reliability and efficiency'. The indicator comprises two sub-indicators:

- Settlement of civil disputes (4.3.1);
- Settlement of administrative complaints (4.3.2).

The first sub-indicator looks at the rates of resolved civil disputes including labor, land, and other civil issues such as inheritance or divorce. 0 means that no civil dispute in a given province is resolved, and 1 means all civil disputes have been resolved.

According to the survey data, the average score for resolved civil disputes is 0.51 at

the national level. Long An scores best with 0.83, meaning 83% of civil disputes are resolved. The second-best province, Tra Vinh, only has a score of 0.65 followed by Dak Lak with 0.61. Lang Son (0.36), Thua Thien Hue (0.36) and Phu Tho (0.26) have the lowest rates of resolved civil cases.

The national average score for the second sub-indicator on administrative complaints and disputes is only 0.47, which is lower than the score of 0.51 for civil disputes above. The provinces vary widely in their scores. Da Nang scores highest with 0.86, followed by Lang Son and Son La (0.78 and 0.70 respectively). On the other hand, Khanh Hoa (0.30), Tay Ninh (0.20), Tra Vinh (0.17) and Dak Lak (0.06) scored extremely low. Interestingly, there seems to be no correlation between the two sub-indicators. For example, Dak Lak and Tra Vinh, which rank among the top in the civil sub-indicator, are at the bottom in the administrative sub-indicator.

It should be noted that the sub-indicators above are aggregated from various survey items that must be differentiated with data on settlement outcomes per each type of disputes presented in Section 3.4 of Chapter 3. For example, the data used for sub-indicator 4.3.1 is aggregated three items: labor disputes, land disputes between civilians and economic disputes. The data used for 4.3.2 includes complaints against decisions on business conditions and regulations, and environment complaints. The analysis doesn't cover complaints against social policies as the survey data was insufficient for analysis by province.

Results for indicator 4.3 on 'effectiveness of dispute resolution' (as shown in Table 17) indicate that provinces didn't perform as well in this indicator compared with indicators 4.1 and 4.2. Da Nang, the top

Table 17: Dimension 4 - Reliability and efficiency

Province	4.1.1	4.1.2	4.1.3	4.1	4.2.1	4.2.2	4.2.3	4.2.4	4.2	4.3.1	4.3.2	4.3	4_All
An Giang	0.82	0.70	0.82	0.78	1.00	0.86	0.68	0.99	0.88	0.53	0.33	0.43	0.70
Bac Giang	1.00	0.57	1.00	0.86	1.00	1.00	0.43	0.96	0.85	0.45	0.38	0.41	0.71
Bac Kan	1.00	0.93	0.71	0.88	1.00	0.71	0.57	0.97	0.78	0.48	0.38	0.43	0.70
Cao Bang	0.91	0.91	1.00	0.94	0.80	1.00	0.90	0.96	0.91	0.53	0.57	0.55	0.80
Da Nang	0.91	1.00	0.86	0.92	1.00	0.74	0.67	0.90	0.82	0.54	0.86	0.70	0.81
Dak Lak	0.81	0.43	0.57	0.60	0.85	0.62	0.54	0.84	0.69	0.61	0.06	0.33	0.54
Ha Noi	0.95	0.70	0.85	0.83	1.00	0.93	0.50	0.93	0.83	0.57	0.43	0.50	0.72
Hai Duong	0.93	0.71	0.78	0.81	1.00	0.93	0.29	0.93	0.79	0.60	0.68	0.64	0.74
Khanh Hoa	0.96	0.71	0.67	0.78	0.94	0.88	0.59	0.97	0.84	0.62	0.30	0.46	0.69
Kon Tum	0.83	0.68	1.00	0.84	0.84	0.79	0.53	0.97	0.78	0.42	0.44	0.43	0.68
Lam Dong	0.95	0.81	0.57	0.78	0.94	0.58	0.74	0.91	0.78	0.48	0.33	0.40	0.65
Lang Son	0.94	0.50	0.86	0.77	1.00	1.00	0.67	0.96	0.91	0.36	0.78	0.57	0.75
Long An	0.86	1.00	0.75	0.87	1.00	0.59	0.91	0.93	0.86	0.83	0.51	0.67	0.80
Phu Tho	0.95	0.50	0.60	0.68	0.88	1.00	0.50	0.91	0.82	0.26	0.67	0.46	0.66
Quang Nam	0.77	0.56	0.78	0.70	0.89	0.74	0.53	0.93	0.75	0.45	0.38	0.41	0.62
Son La	0.83	0.81	0.86	0.83	1.00	1.00	0.33	0.98	0.83	0.53	0.70	0.62	0.76
Ho Chi Minh City	0.95	0.85	0.75	0.85	0.93	0.85	0.86	0.98	0.90	0.47	0.52	0.50	0.75
Tay Ninh	0.81	0.71	1.00	0.84	1.00	0.93	0.57	0.96	0.85	0.39	0.20	0.29	0.66
Thua Thien Hue	0.86	0.92	0.71	0.83	0.93	0.95	0.38	0.87	0.78	0.36	0.53	0.44	0.68
Tra Vinh	0.91	0.33	1.00	0.75	1.00	0.86	0.71	0.99	0.89	0.65	0.17	0.41	0.68
Tuyen Quang	1.00	0.75	1.00	0.92	1.00	1.00	0.60	0.98	0.89	0.48	0.63	0.55	0.79
Average	0.9	0.72	0.82	0.81	0.95	0.86	0.59	0.94	0.83	0.51	0.47	0.49	0.71

performer overall, scores only 0.70. The top five provinces represent different regions. Tay Ninh and Dak Lak are the weakest provinces with scores around 0.30. The national average for this indicator is just 0.49 which is much lower than the previous two indicators.

Finally, the three indicators of Dimension 4 ‘Reliability and efficiency’ are aggregated in Table 17. Despite positive results in the first two indicators ‘procedural certainty’ and ‘confidence in state institutions’, the overall dimension is diminished by the mediocre results of the third indicator on legal dispute resolution.

Figure 24: Dimension 4 – Reliability and Efficiency

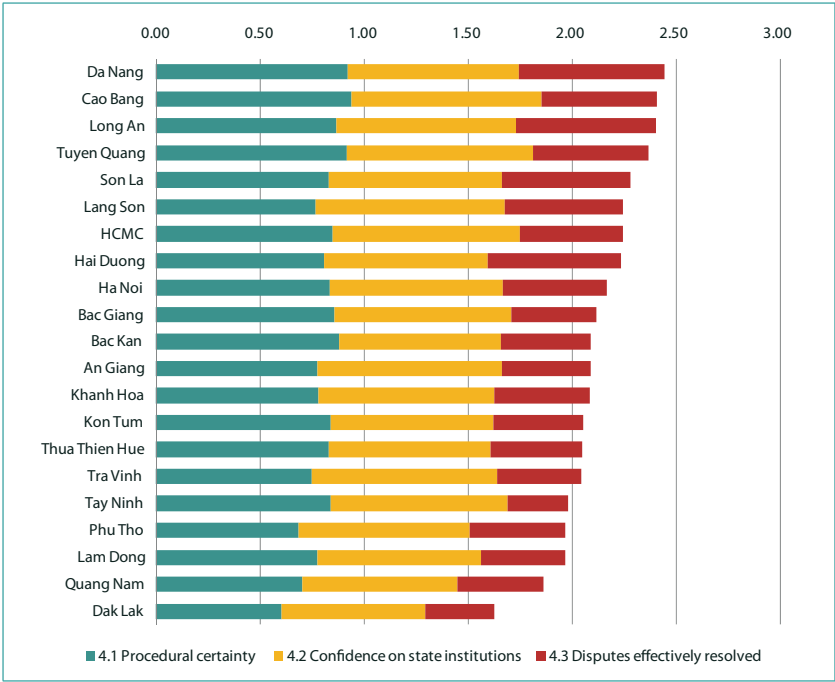


Figure 24 shows the performance of the provinces in the Dimension 4 ‘reliability and efficiency’. Da Nang tops the ranking with 0.81, followed by Cao Bang and Long An (both at 0.80). HCMC and Ha Noi ranked in the first half of the list, which is

mainly home to the Northern provinces. Dak Lak at the very low end of the ranking with just 0.54, way behind the immediate neighboring province in the list - Quang Nam province at 0.62. The national average score is 0.71.

DIMENSION 5: GUARANTEE OF FUNDAMENTAL RIGHTS

‘All people are born free and equal in dignity and rights’

The principles and rights enshrined in Article 1 of the Universal Declaration of Human Rights passed by the General

Assembly of the United Nations on December 10, 1948 have now become the universal values of fundamental human rights worldwide. The Declaration’s contents have been included in constitutions and statutes of countries. Viet Nam’s current

constitution, Constitution 1992, amended and supplemented in 2001, also provides for the fundamental rights of Vietnamese citizens partly in line with this spirit.

Dimension 5 'Guarantee of fundamental rights' addresses how fundamental rights under the Vietnamese Constitution have been guaranteed in practice. The three indicators of this dimension are based on people's awareness of the Constitution and constitutional rights; mechanisms to protect their legitimate rights; and guarantee of rights in practice.

5.1. Awareness of fundamental rights

To assess people's knowledge and awareness of fundamental rights, seven sub-indicators are aggregated from the survey data:

- Know about the Constitution (5.1.1);
- Know about the constitutional drafting and amendment process (5.1.2);
- Aware about the right to referendum (5.1.3);
- Aware about the right to participate in the constitution amendment process (5.1.4);
- Know about the right to inherit (5.1.5);
- Know about the right to free primary education (5.1.6); and
- People's knowledge about free legal aid for the poor (5.1.7).

Among these seven sub-indicators, the first two reflect people's awareness of the Constitution and constitutional amendments. The minimum degree of 'awareness' in the survey questionnaire

is whether a respondent has heard or knows about the Constitution. Similarly in the question about the constitutional amendment process, survey participants were asked if they had ever been aware of the (on-going) Constitution amendment process or not. Still the average results for these sub-indicators are relatively low: 0.57 is the average score for knowledge about the Constitution and 0.43 is the average score for awareness of the Constitution amendment process.

Across the 21 surveyed provinces, people's knowledge of the Constitution and their participation in the Constitution amendment process, as discussed in Section 3.1 of this Report, is relatively limited. This is especially true for the poor, people with low education and without social status. Significant differences are observed among different provinces. Particularly, people major cities such as Ha Noi, Da Nang, and HCMC have a better understanding of the process and more opportunities to participate in it than most other provinces. The number of respondents who don't know about the Constitution is highest in An Giang, Tay Ninh and Tra Vinh provinces (between 62% and 71%) that also mean they are in the lowest tier of sub-indicator 5.1.1.

Attention should be paid when looking at the result of these sub-indicators and the aggregated data on the Constitution and the people's participation (as described in Section 3.1 of the Report) that the average scores of sub-indicators are not equivalent to the roughly calculated data over all samples. For instance, the raw data reveals that the percentage of respondents who weren't aware of the constitutional amendments was 23% while the average

score of the sub-indicator 'Know about the Constitution amending process' is 0, 43. This

difference results from the application of weights for provinces with different sample sizes to make sure all provinces could still use the same scaling from 1 to 0 for their sub-indicators/ indicators/ dimensions.

The next two indicators (5.1.3 and 5.1.4) reflect the people's opinions about the right to referendum in the constitutional amendment process. The average scores of these sub-indicators are low (0.51 and 0.42), but close to the median score of 0.5.

The final three sub-indicators assess people's understanding of the most basic civil rights: the daughter's right to inherit; the right to free primary education and the

right to free legal aid to the poor. These sub-indicators score better on average than the first four sub-indicators. Nevertheless, only 44% of respondents knew they have a right to free primary education. This result reflects the reality that primary education in Viet Nam is not always free, despite regulations to the contrary.

Table 18 shows the detailed scores of the indicator 5.1. The average score for this indicator 'awareness of fundamental rights' is 0.56. Five of the surveyed provinces have scored lower than 0.5, specifically An Giang, Tra Vinh and Khanh Hoa provinces are in the lowest tier.

Table 18: Awareness of fundamental rights

Province	5.1.1	5.1.2	5.1.3	5.1.4	5.1.5	5.1.6	5.1.7	5.1
An Giang	0.38	0.28	0.23	0.32	0.55	0.46	0.88	0.44
Bac Giang	0.60	0.47	0.43	0.57	0.62	0.59	0.89	0.60
Bac Kan	0.66	0.53	0.50	0.63	0.61	0.39	0.93	0.61
Cao Bang	0.63	0.49	0.46	0.56	0.66	0.51	0.82	0.59
Da Nang	0.77	0.62	0.48	0.71	0.80	0.56	0.91	0.69
Dak Lak	0.59	0.47	0.46	0.57	0.60	0.54	0.90	0.59
Ha Noi	0.73	0.61	0.56	0.65	0.74	0.41	0.90	0.66
Hai Duong	0.79	0.61	0.55	0.70	0.62	0.59	0.83	0.67
Khanh Hoa	0.42	0.33	0.29	0.36	0.61	0.40	0.72	0.45
Kon Tum	0.47	0.30	0.40	0.44	0.61	0.29	0.79	0.47
Lam Dong	0.53	0.44	0.42	0.49	0.65	0.42	0.93	0.55
Lang Son	0.69	0.52	0.56	0.64	0.64	0.30	0.81	0.59
Long An	0.45	0.34	0.25	0.35	0.76	0.43	0.91	0.50
Phu Tho	0.68	0.46	0.56	0.64	0.57	0.42	0.76	0.58
Quang Nam	0.55	0.36	0.32	0.43	0.55	0.51	0.83	0.51
Son La	0.60	0.40	0.50	0.54	0.48	0.42	0.80	0.53
Ho Chi Minh City	0.60	0.49	0.47	0.48	0.83	0.44	0.87	0.60
Tay Ninh	0.38	0.25	0.29	0.34	0.74	0.34	0.91	0.46
Thua Thien Hue	0.52	0.40	0.42	0.45	0.64	0.35	0.90	0.52
Tra Vinh	0.29	0.21	0.18	0.24	0.60	0.42	0.90	0.41
Tuyen Quang	0.66	0.55	0.54	0.62	0.68	0.54	0.97	0.65
Average	0.57	0.43	0.42	0.51	0.65	0.44	0.87	0.56

5.2. Mechanisms to protect legitimate rights

The second indicator of Dimension 5 'Guarantee of fundamental rights' assesses the mechanisms to ensure people's rights including elections, labor denunciations and disputes, which are disaggregated into the following sub-indicators:

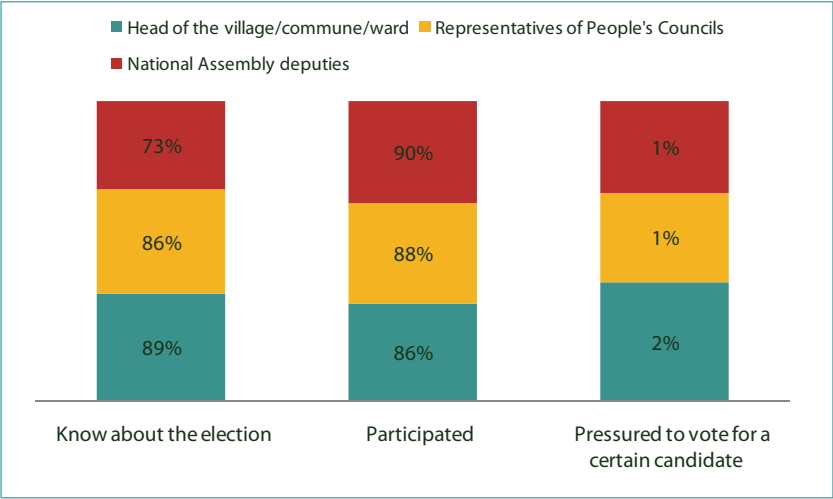
- The right to complain and denunciate in practice (5.2.1);
- Complainant protected from harassment (5.2.2);
- Awareness of election of village/commune/ward head (5.2.3);
- Awareness of election of provincial People's Council (5.2.4);
- Awareness of election of National Assembly (NA) deputies (5.2.5);
- Participation in elections (5.2.6);
- 'People know, people discuss and people supervise' or the right to participate (5.2.7);
- Awareness of labor union mandates (5.2.8).

The first two sub-indicators relate to the right to complain and denunciate in practice. The average score of 0.67 for the sub-indicator 5.2.2 suggests that a considerable percentage of complainants was 'harassed' by local governments when exercising their rights.

The next four sub-indicators (5.2.3 to 5.2.6) relate respondents' practical experience about their right to vote for positions from village/commune/ward head to representatives of People's Councils at all levels and National Assembly deputies.

According to the survey, about 82% of respondents across the 21 provinces knew about the elections for the Village Head, the National Assembly and the People's Council deputy taking place in the 3-year period from 2010 to 2012. Among those people who knew about the elections, 88% had exercised their voting rights. This means 73% of all interviewees voted. Figure 25 shows the percentage of people who know about elections and vote. It appears that people know less about the National Assembly deputy election than the elections for People's Council or Village Head, although the rate of participation in National Assembly elections is higher than in the other elections. Figure 25 further shows that a small percentage of 1.3% respondents felt pressured to vote for a particular candidate.

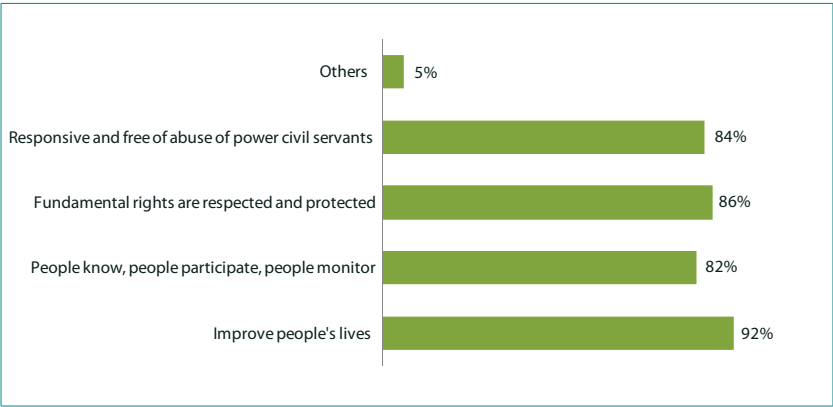
Figure 25: Right to vote



The seventh sub-indicator (5.1.7) shows people’s expectations of a positive impact of the Constitution amendments which may contribute to increase democratic governance, openness and people’s participating in monitoring state institution performance. The average score of this indicator is 0.82. However, a significant difference was observed between Tay Ninh province at the top (0.93) and Long An province at the bottom (0.55).

Of the nearly 2915 survey participants who have heard of or know about the Constitution (the equivalent of 58% of the survey sample), approximately 82% expected the realization of the motto ‘people know, people discuss, and people monitor’ through the constitutional amendment. 84% hope the amendment would introduce a mechanism that ensures civil servants fulfill their responsibility without abuse of power and 86% wish for better protection of their fundamental rights (see Figure 26).

Figure 26: People’s expectation on the outcomes of the Constitution’s amendment



Finally, the last sub-indicator (5.1.8) reflects people’s perception of labor unions’

effectiveness in protecting workers’ rights. The perceptions vary widely among

provinces. While over 90% of people in the provinces of Bac Giang, Cao Bang, Da Nang, Lang Son, Son La believe that the labor union 'will protect workers' rights in case of disputes', only 57% of people said the same in Khanh Hoa, 63% in Lam Dong and above 70% in An Giang, Hai Duong, Kon Tum, and Tra Vinh provinces.

The aggregate results for the indicator 'mechanisms to protect fundamental rights' (5.2) show no clear polarization between provinces with Tay Ninh at the top with 0.88 Khanh Hoa at the bottom with 0.71 (see details in Table 19).

Table 19: Mechanisms to protect fundamental rights

Province	5.2.1	5.2.2	5.2.3	5.2.4	5.2.5	5.2.6	5.2.7	5.2.8	5.2
An Giang	0.80	0.61	0.92	0.81	0.71	0.74	0.80	0.72	0.76
Bac Giang	0.95	0.69	0.95	0.88	0.82	0.82	0.82	0.90	0.85
Bac Kan	0.95	0.70	0.76	0.81	0.71	0.75	0.89	0.87	0.80
Cao Bang	0.84	0.62	0.86	0.89	0.79	0.80	0.82	0.96	0.82
Da Nang	0.95	0.86	0.97	0.66	0.55	0.87	0.86	0.93	0.83
Dak Lak	0.88	0.71	0.90	0.65	0.47	0.84	0.71	0.89	0.76
Ha Noi	0.89	0.61	0.89	0.86	0.69	0.81	0.85	0.80	0.80
Hai Duong	0.91	0.61	0.95	0.92	0.84	0.85	0.91	0.73	0.84
Khanh Hoa	0.76	0.64	0.87	0.73	0.60	0.78	0.72	0.57	0.71
Kon Tum	0.80	0.60	0.96	0.83	0.74	0.81	0.91	0.71	0.79
Lam Dong	0.90	0.55	0.94	0.84	0.70	0.87	0.65	0.63	0.76
Lang Son	0.97	0.63	0.84	0.85	0.76	0.80	0.80	0.90	0.82
Long An	0.84	0.81	0.94	0.91	0.65	0.86	0.55	0.89	0.81
Phu Tho	0.93	0.68	0.94	0.94	0.89	0.83	0.81	0.85	0.86
Quang Nam	0.85	0.66	0.87	0.80	0.62	0.82	0.90	0.88	0.80
Son La	0.87	0.64	0.83	0.74	0.68	0.77	0.75	0.91	0.78
Ho Chi Minh City	0.93	0.67	0.75	0.86	0.81	0.77	0.80	0.87	0.81
Tay Ninh	0.94	0.77	0.97	0.93	0.82	0.85	0.93	0.84	0.88
Thua Thien Hue	0.83	0.70	0.95	0.92	0.85	0.87	0.87	0.82	0.85
Tra Vinh	0.90	0.61	0.93	0.91	0.81	0.84	0.89	0.73	0.83
Tuyen Quang	0.93	0.77	0.93	0.92	0.83	0.84	0.90	0.82	0.87
Average	0.89	0.67	0.90	0.84	0.73	0.82	0.82	0.82	0.81

5.3. Guarantee of fundamental rights in practice

Based on the fundamental rights provided for in the 1992 Constitution, the Justice Index asked people about their observations and experiences with respect to how constitutional rights, particularly nine fundamental civil and political rights, are guaranteed in practice. These rights are represented by the following nine composite sub-indicators for the indicator 5.3:

- Freedom of expression (5.3.1);
- Freedom of the press (5.3.2);
- Right to assembly (5.3.3);
- Right to associate (5.3.4);
- Right to demonstrate (5.3.5);
- Freedom of belief (5.3.6);
- Freedom of religion (5.3.7);
- Freedom to residence (5.3.8);
- Rights of children (5.3.9).

A comprehensive analysis on ensuring fundamental rights has been presented in Section 3.1 of this Report showing that the realisation of a constitutional right which is yet specified by a law is much lower than other rights. At the same time, it appears that the higher social status group is better protected in their fundamental rights than the poor, the low educated, women and those with low social status.

The results for the nine sub-indicators confirm the findings presented in Section 3.1. For example, the sub-indicator 'right to demonstrate' (5.3.5) has a very low average score of 0.35. Furthermore, 19 of the 21

provinces score less than 0.5 in this sub-indicator.

Table 20 shows how peoples' perception of the protection of fundamental rights varies between different provinces. The right to associate (5.3.4) and the right to freedom of the press (5.3.2) have average scores of 0.72 and 0.74, respectively, which are lower than the remaining 6 other sub-indicators.

The sub-indicator 'rights of children' (5.3.9) is based on respondents' assessment on the practice of child labor involving children under 15. The analysis of results reveals that child labor is more widespread in the provinces of An Giang, Lam Dong and Dak Lak than in the other localities.

Table 20: Guarantee of fundamental rights in practice

Province	5.3.1	5.3.2	5.3.3	5.3.4	5.3.5	5.3.6	5.3.7	5.3.8	5.3.9	5.3
An Giang	0.79	0.67	0.80	0.69	0.31	0.88	0.91	0.84	0.65	0.71
Bac Giang	0.90	0.86	0.91	0.84	0.47	0.92	0.91	0.97	0.92	0.76
Bac Kan	0.86	0.84	0.93	0.88	0.44	0.85	0.85	0.91	0.91	0.75
Cao Bang	0.64	0.64	0.86	0.68	0.32	0.74	0.74	0.82	0.77	0.63
Da Nang	0.79	0.77	0.82	0.61	0.28	0.91	0.94	0.92	0.97	0.68
Dak Lak	0.78	0.71	0.84	0.68	0.35	0.86	0.88	0.85	0.68	0.71
Ha Noi	0.83	0.79	0.89	0.79	0.34	0.91	0.91	0.96	0.87	0.73
Hai Duong	0.80	0.75	0.83	0.78	0.34	0.90	0.92	0.91	0.89	0.71
Khanh Hoa	0.66	0.54	0.77	0.47	0.18	0.81	0.85	0.76	0.72	0.60
Kon Tum	0.76	0.65	0.84	0.56	0.25	0.85	0.85	0.89	0.66	0.67
Lam Dong	0.78	0.65	0.90	0.68	0.26	0.97	0.99	0.88	0.69	0.71
Lang Son	0.88	0.87	0.93	0.87	0.52	0.89	0.92	0.97	0.88	0.77
Long An	0.79	0.70	0.89	0.68	0.22	0.82	0.90	0.95	0.85	0.68
Phu Tho	0.91	0.74	0.97	0.93	0.35	0.87	0.87	0.92	0.88	0.74
Quang Nam	0.79	0.70	0.87	0.67	0.34	0.74	0.74	0.82	0.88	0.66
Son La	0.84	0.78	0.88	0.80	0.61	0.85	0.80	0.91	0.87	0.73
Ho Chi Minh City	0.86	0.81	0.88	0.69	0.31	0.96	0.97	0.95	0.82	0.74
Tay Ninh	0.87	0.80	0.92	0.71	0.42	0.95	0.95	0.91	0.78	0.75
Thua Thien Hue	0.76	0.66	0.72	0.58	0.27	0.86	0.88	0.84	0.82	0.64
Tra Vinh	0.89	0.73	0.78	0.69	0.21	0.96	0.95	0.94	0.74	0.71
Tuyen Quang	0.85	0.81	0.93	0.77	0.29	0.91	0.92	0.90	0.86	0.72
Average	0.81	0.74	0.86	0.72	0.34	0.88	0.89	0.89	0.81	0.71

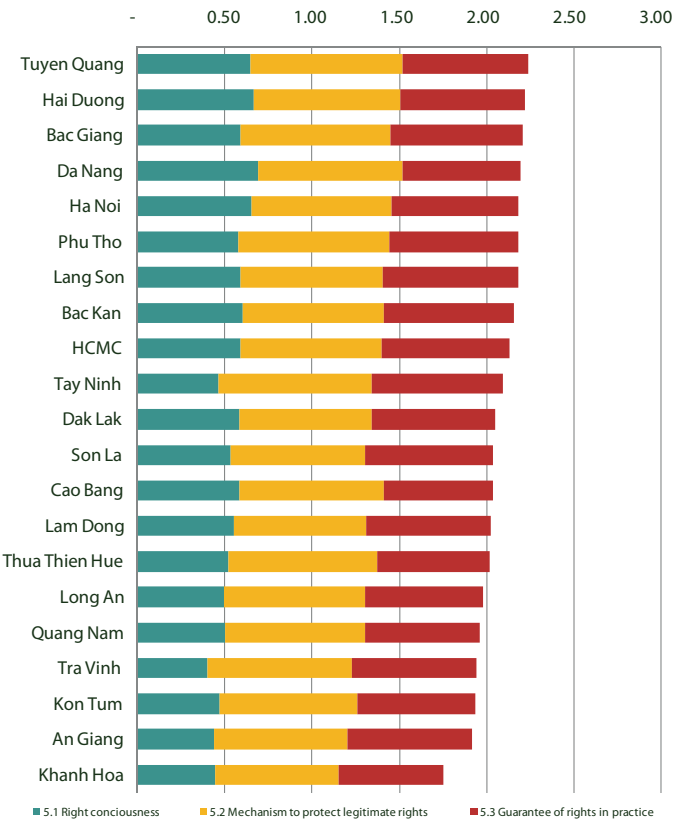
The aggregate results of the indicator 5.3 'guarantee of fundamental rights in practice' place Cao Bang, Thua Thien Hue and Khanh Hoa in the bottom group, while Lang Son, Bac Giang, Bac Kan rate highly.

The disappointing average score of 0.71 highlights the need for more efforts on behalf of the provincial/municipal governments to better realize fundamental rights.

Figure 27 shows that the synthesized core of Dimension 5 ‘Guarantee of fundamental rights’ is 0.69 on average, which is the lowest among the five dimensions of the Justice Index 2012.

The top performers of this dimension are Tuyen Quang, Hai Duong and Bac Giang. Da Nang and Ha Noi are among the top group while HCMC falls into the average tier. Kon Tum, An Giang and Khanh Hoa find themselves at the bottom of the ranking.

Figure 27: Dimension 5 - Guarantee of fundamental rights



SYNTHESIZED RESULTS OF THE 5 DIMENSIONS

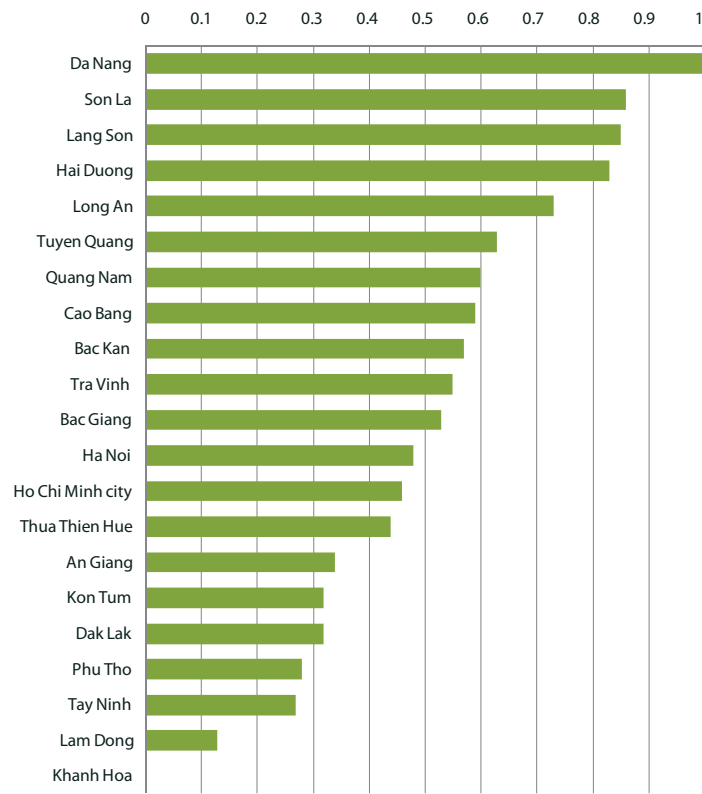
6.1. Aggregate results of the Justice Index 2012

Figure 28 shows the overall picture of the Justice Index in 2012 ranking provinces from the highest to the lowest.

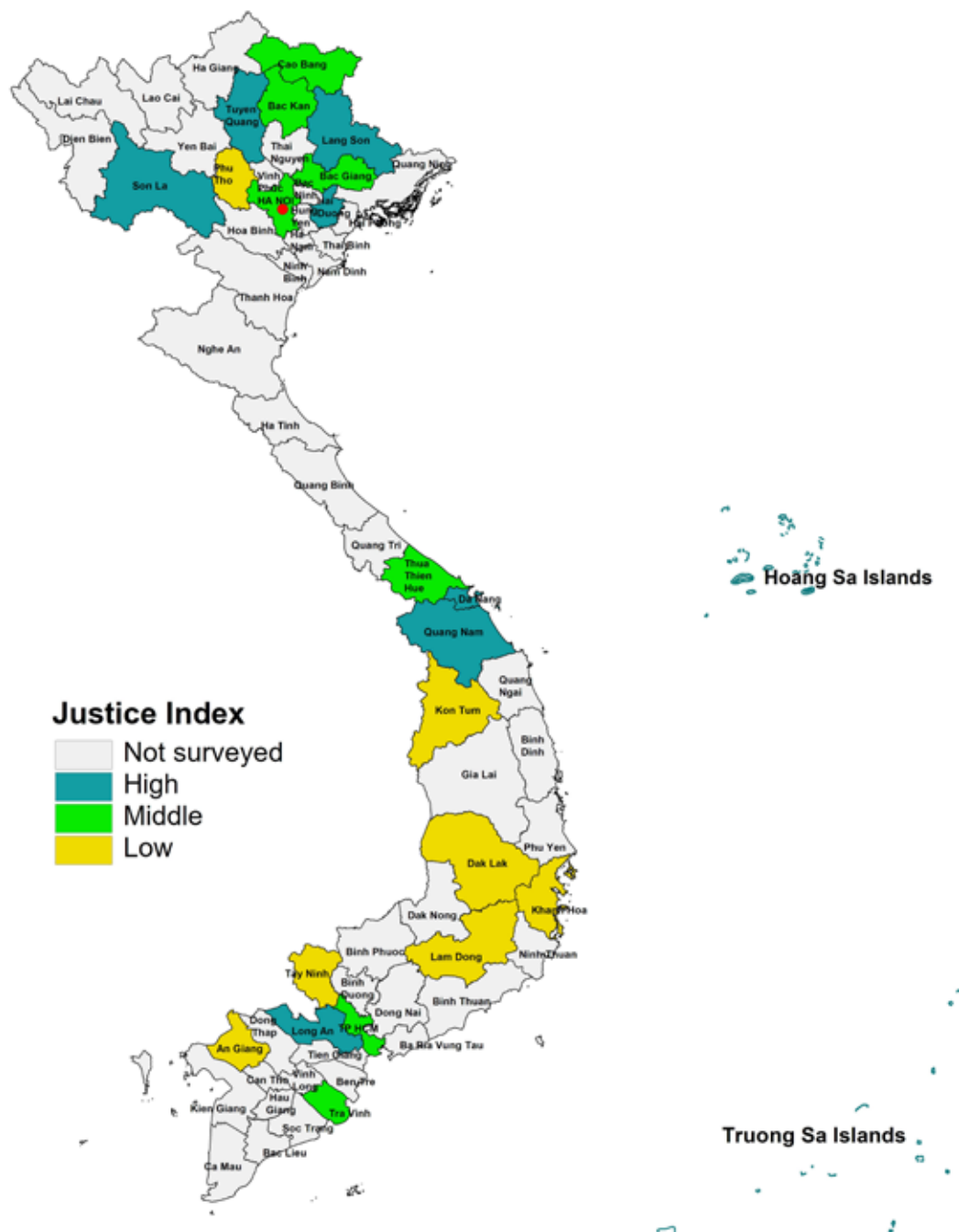
As explained in the previous sections on the five dimensions, a province may attain a very good result, even top the ranking

in some sub-indicator, yet is very likely to score below average in another sub-indicator. The final result will be presented as a combination of 5 dimensions with factor scores. However, what is more important than the overall ranking is that each province can identify areas in need of improvement by analyzing the information provided in each indicator that specifically relates to them.

Figure 28: Synthesized results of the 5 weighted dimensions



Map 1: 21 surveyed provinces in Justice Index 2012. Colors denote the index results of every provinces by coding High, Middle and Low performance.



6.2. Comparison of aggregated results by dimensions

Table 21: Comparison of results of five dimensions of Justice Index in using the linear additive and factor analysis methods

		Dim 1_ALL	Dim 2_ALL	Dim 3_ALL	Dim 4_ALL	Dim 5_ALL	Average of 5 dimensions
JUPI 1	Average	0.75	0.73	0.80	0.71	0.69	0.73
	Standard deviation	0.07	0.06	0.04	0.07	0.04	0.03
JUPI 2	Average	0.00	0.10	0.06	-0.02	-0.05	0.51

According to the average results of all five dimensions of the 2012 Justice Index (see Table 21), Dimension 5 'Guarantee of fundamental rights' shows the poorest performance. Dimension 4 'Reliability and efficiency' is the second worst after Dimension 5. These results are the same in both methods, namely factor analysis method (JUPI 2) and linear additive method (JUPI 1) (see Annex 3 on methodology).

According to the linear additive method, the average score of Dimension 2 'Equity' is higher than that of Dimension 4 and Dimension 5 but lower than that of Dimension 1 'Accessibility' and Dimension 3 'Integrity'. In this method, Dimension 3 obtains the highest average score among all dimensions.

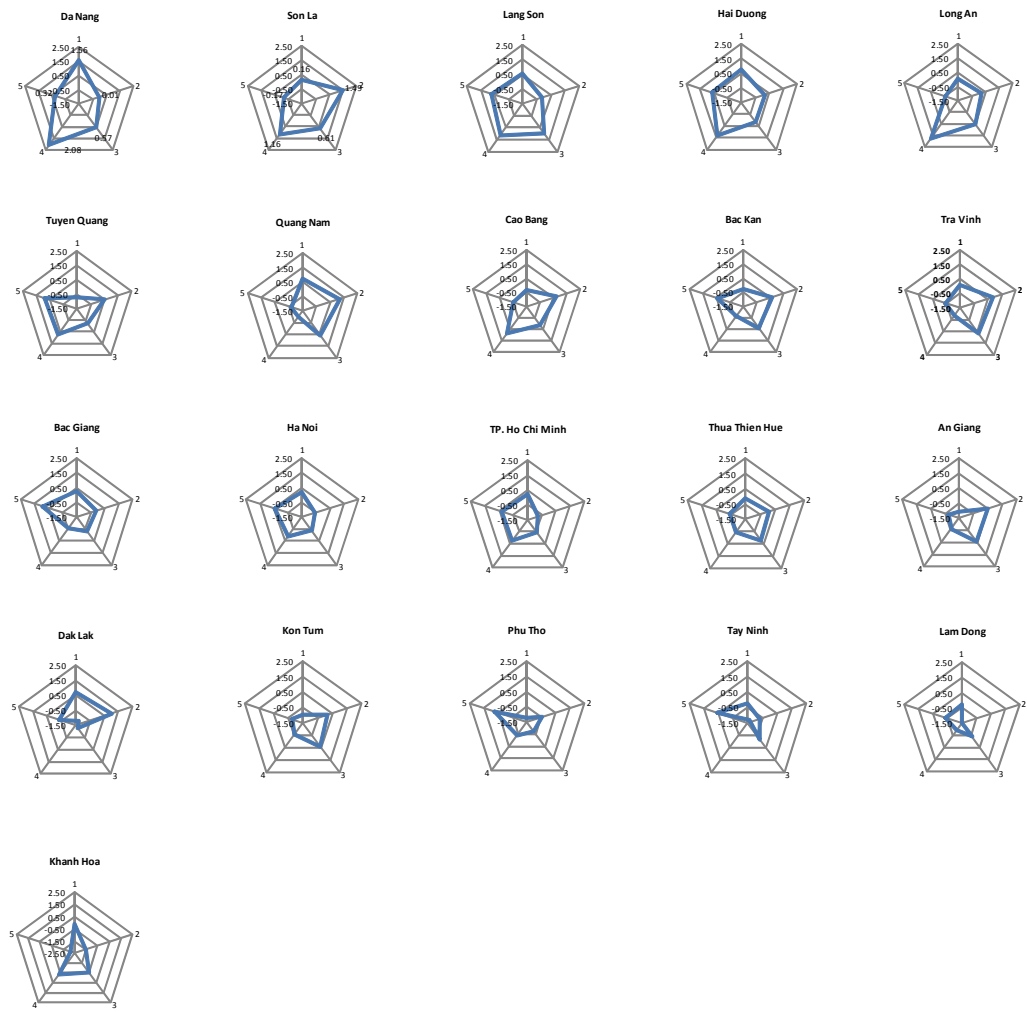
According to the factor analysis method, based on the contribution of each

dimension to the overall result of the Justice Index, the average scores of Dimensions 1 to 3 demonstrate a little change. Specifically: the average score of Dimension 1 'Accessibility' is higher than that of Dimension 4 and Dimension 5 but lower than that of Dimension 2 'Equity' and Dimension 3 'Integrity'. In this method, Dimension 2 achieves the highest average score among all dimensions.

6.3. Justice Index of 21 provinces

Figure 29 provides the overall picture of the Justice Index of each locality in correlation with the 21 surveyed provinces in 2012. Diagrams of scores for each province/city reveal the correlative results of one dimension as compared to the remaining ones.

Figure 29: Aggregate scoring in the five dimensions for each province



6.4. Justice Index in correlation with other local governance indices

1. Justice Index 2012 and Provincial GDP 2011

Figure 30: Justice Index 2012 and Provincial GDP 2011

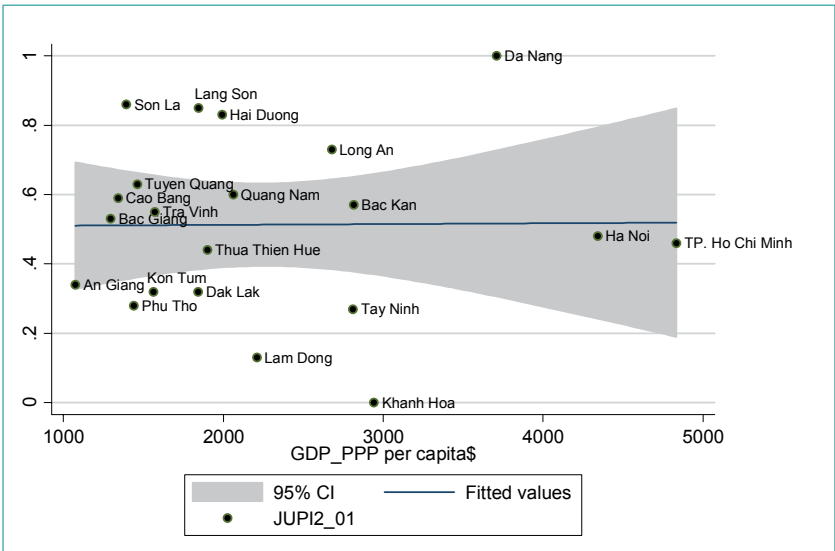


Figure 30 shows no correlation between Justice Index 2012 and Provincial GDP 2011.

2. Justice Index 2012 in correlation with Provincial Governance and Public Administration Performance Index (PAPI) 2012

Figure 31: Correlation between the PAPI 2012 and the Justice Index 2012.

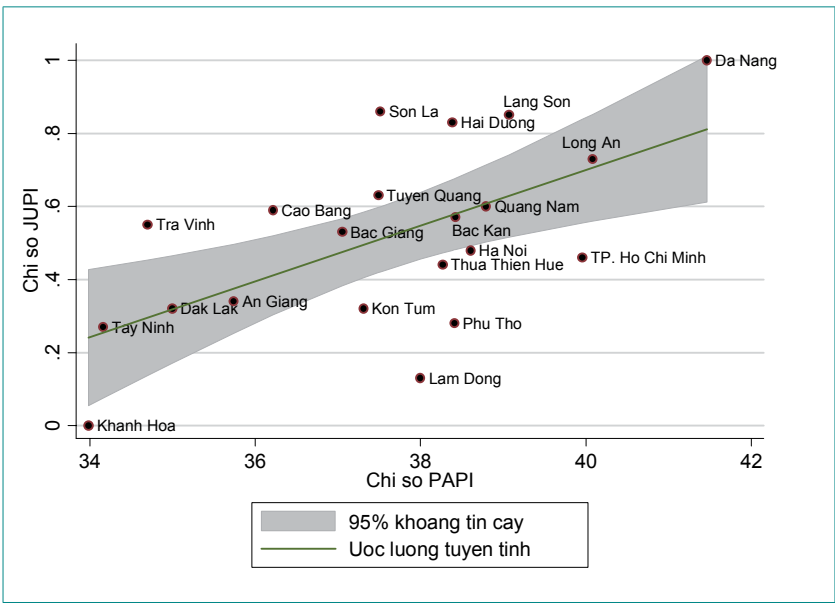


Figure 31 indicates a strong and positive correlation between the Justice Index 2012 and PAPI 2012. The relationship is statistically significant at the .05 level.

Figure 32 and 33 show a correlation between some dimensions of the Justice Index and PAPI, particularly between

Dimension 3 'Integrity' of the Justice Index and Dimension 4 'Corruption control' of PAPI is rather strong; while between Dimension 4 'Reliability and Efficiency' of the Justice Index and Dimension 5 'Public administrative procedure' of PAPI, the correlation is not strong.

Figure 32

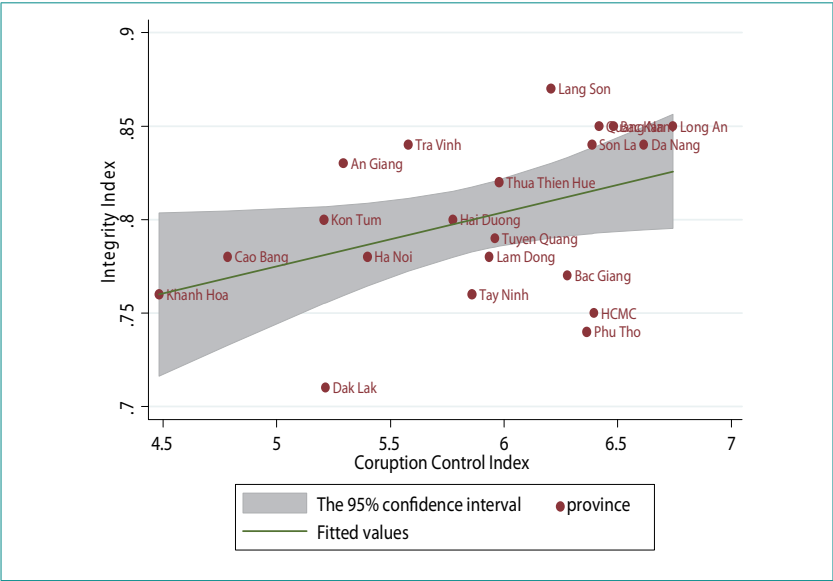


Figure 33

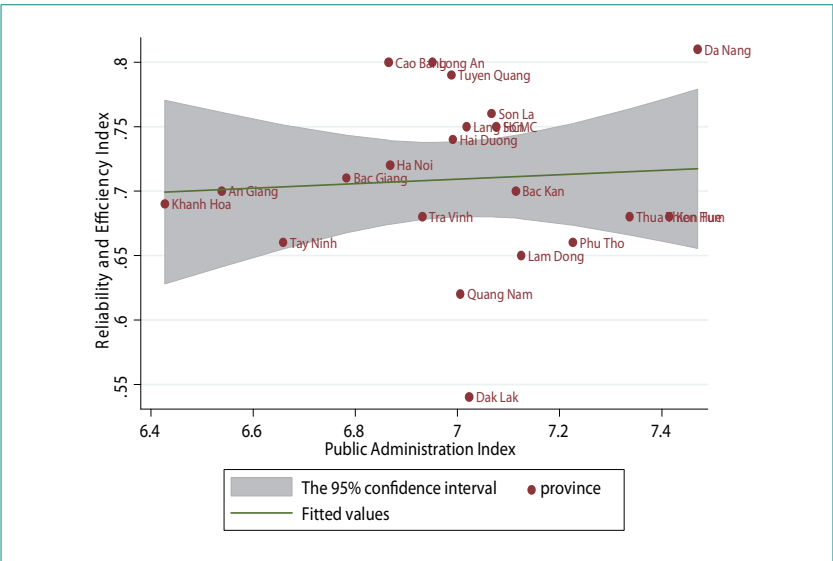


Figure 34 and 35 show a correlation between Dimension 1 ‘Accessibility’ of the Justice Index and Dimension 1 ‘People’s participation at grassroots levels’ of PAPI. The

correlation between Dimension 5 ‘Guarantee of fundamental rights’ of the Justice Index and Dimension 1 ‘People’s participation at grassroots levels’ of PAPI is also noticeable.

Figure 34

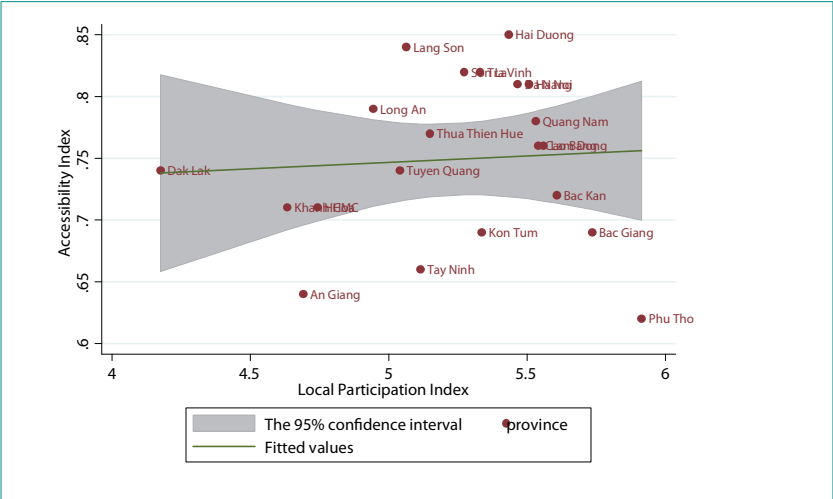
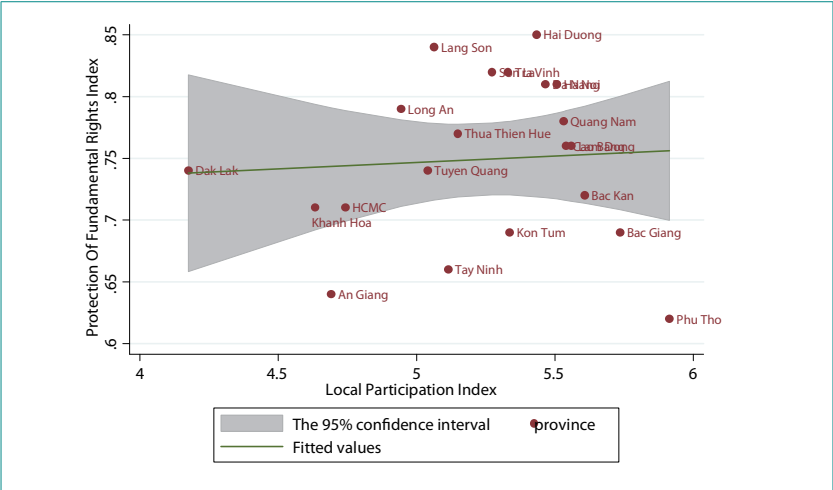


Figure 35



3. Correlation between the Justice Index 2012 vs. the Provincial Competitiveness Index 2012

Figure 36: Correlation between Justice Index 2012 and PCI 2012.

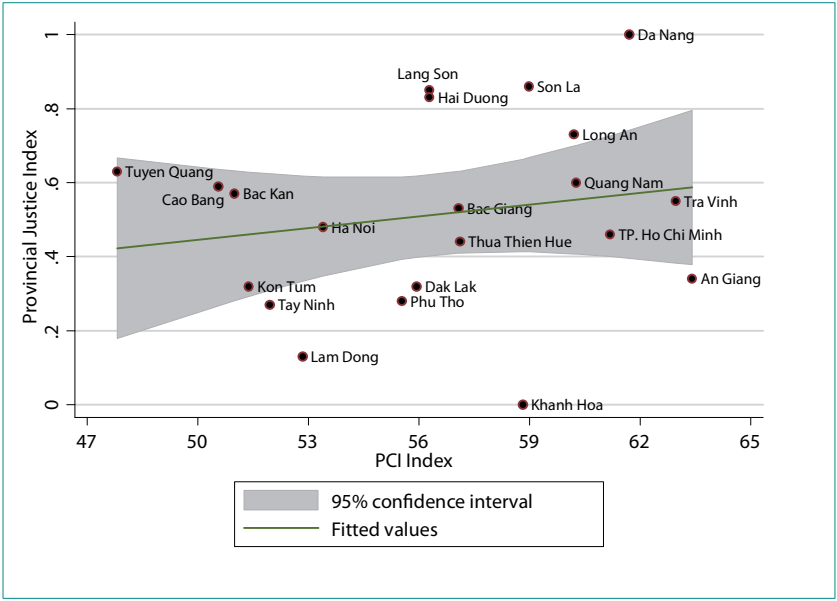


Figure 36 indicates a positive correlation between the Justice Index 2012 and the Provincial Competitiveness Index 2012. The correlation regarding the confidence interval, however, is not statistically high. This correlation is also much lower than the correlation between the Justice Index 2012 vs. PAPI 2012.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS



5.1. Conclusions

The assessment of equity and equality in practice at a national level in Chapter 3 and the analysis of justice assurance indicators at a local level as described in Chapter 4 allows the following conclusions in relation to access to justice, protection of citizens' fundamental rights and performance of state institutions in resolving legal disputes and administrative complaints.

Unequal access to information and legal services prevents equal and full protection of people's fundamental rights in practice.

The right to access information is poorly executed. This includes access to legal information provided by state agencies generally; publication of information on public services such as application procedures for land use right certificates; and basic legal administrative requests such as application for marriage, birth and household registration.

Disadvantaged groups are most subject to inequalities regarding rights, opportunities, and access to public institutions. Specifically, low educated people, the poor and women belong to this disadvantaged group.

Limited realization of some fundamental rights has negative impacts on citizens' confidence in public institutions.

In practice, some of citizens' fundamental

rights are not well-protected when compared with other rights stipulated in the Constitution, namely the right to demonstrate, the right to associate and freedom of the press. Also, some population groups, namely homosexual people and people with HIV/AIDS, still suffer discrimination by state agencies and officers.

The legitimate rights and benefits of employees, particularly those doing menial jobs for indefinite periods, are not well protected. People are not sufficiently aware of the roles of labor unions and state agencies in maintaining effective protection mechanisms for employees' legitimate rights. Although the Law on Labor stipulates protection of children's rights, particularly restricting the use of child workers under 15 years of age, the practice of child labor is still widespread.

The right to live in an unpolluted environment is also poorly protected. More seriously, there is not yet an effective mechanism enabling citizens to request settlement of a dispute over pollution and demand repairs or to claim for damages due to pollution. This is partially a result of the priority given to policies for economic development at any cost and the lack of attention paid to the enforcement of regulations on environmental protection and the punishment of violating acts.

State agencies' inefficiency in satisfying basic legal requirements and handling civil disputes & administrative complaints induces citizens to seek self-settlement

or to choose informal channels of dispute resolution.

Local state institutions are playing a lead role in receiving and handling requests and legal disputes. However, even simple administrative and judicial requests such as marriage registration, birth and household registration, people face obstacles. People's feedback alludes to extended processing times for LURC applications and an unreasonably large number of unsolved cases of land disputes, environmental complaints and social entitlement claims. The feedback also draws attention to state employees' rent-seeking behaviour as well as corruption in settling administrative complaints and providing assistance in civil dispute resolution.

In general, the use of legal services, legal aid and access to courts in civil dispute resolution and administrative complaints handling is limited, even though statistics from state institutions show disputes and complaints increase every year.

Land dispute is the most common type of dispute that continues to be a 'hot' issue in many provinces. From the people's perspective this is a result of existing regulations on ownership and land use and non-transparency of local planning and land use plans. This has led citizens to distrust the security of land tenure and long-term land investments when they want to do business.

People expect an efficient, reliable, professional and accessible justice system with a high level of integrity.

The Justice Index research and other studies show that people consistently expect an efficient, reliable, professional and accessible judicial system with high levels of integrity that helps protect citizens' rights and brings about justice. Implicit is an expectation of good performance of popularly elected

institutions in overseeing the operations of administrative and justice institutions, such as the handling of people's complaints and denunciations. The survey findings indicate that people filing complaints and petitions in many provinces are often pressured by local administrations and justice institutions. Also, there is hope, as the survey finds, that the revision of the 1992 Constitution will bring change to a democratized national governance, which includes respect and protection of fundamental rights, fulfillment of responsibility and non-abuse of power on the part of state cadres, and a chance for 'people know, people participate, people monitor'.

Judicial reform and enhanced law enforcement are currently the most pressing needs for human development in Viet Nam.

On-the-ground analysis and research findings do not indicate a relationship between economic growth and protection of justice for all. Da Nang is an exception among the three cities surveyed, demonstrating high economic growth and also featuring the leading Justice Index 2012 ranking. Hanoi and Ho Chi Minh City are placed in the median tier (ranking at 12/21 and 13/21 respectively from the top down). Overall a comparison between the GDP 2011 and the Justice Index 2012 also shows no correlation.

There is a weak correlation between ensuring justice and facilitating an enabling regulatory environment for investment and business (as demonstrated in PCI 2012) while the correlation between ensuring justice for the people and improved governance and public administration at provincial level (as found in PAPI 2012) is much more visible. The outcome of these correlations strongly suggest that in the development process the establishment and improvement of legal

and judicial systems should be understood as a goal in itself rather than be viewed as a supporting process for economic development or other aspects of political, economic and social development.

In the Vietnamese context social inequality and social stratification are embodied not just as inequality in income and access to basic social services, but also in access to justice and protection of citizens' rights and legitimate interests. The justice reform process should therefore be closely monitored to ensure justice for the ordinary people. On a broader scale this reform process should be contributing to a higher level of human development in Viet Nam (as defined under the Human Development Index (HDI) and other indices).

5.2. Policy recommendations

From the general conclusions previously mentioned, specific policy recommendations arise:

- In order to ensure justice and citizens' fundamental rights, the justice reform process should be furthered on the basis of prioritizing human development goals over economic development goals.
- Prioritize the development of the administrative and justice institutions and ensure they function with efficiency, integrity, equity; are accessible and democratic; and serve the people's needs.
- Constitutional rights should be made into law and the people should be informed of their fundamental rights in accordance with international standards and laws on human rights to which Viet Nam is a signatory.

- Development of a constitutional protection mechanism is necessary to respect and protect fundamental civil and political rights in practice.
- Civil dispute resolution mechanisms should be improved to reduce handling time, increase professionalism and efficiency, and above all, to improve public confidence in public institutions.
- Administrative judicial services and judicial aid services should be further improved to ensure user-friendliness and easy access for the general public, especially the poor and other disadvantaged groups.
- The roles of people-elected institutions in the oversight of judicial activities should be strengthened and specified.
- State institutions and state employees should have a new approach to monitoring and evaluation of results of reform processes, particularly the legal and judicial reforms.
- Mechanisms to resolve complaints and denunciations at provincial levels should be studied for revision to ensure the lawful rights and interests of citizens, reduce the number of petitions wrongly addressed to higher levels, and prolonged petitions.

5.3. Recommendations on the potential uses of Justice Index

The results and findings of the Justice Index 2012 provide national and local public institutions, social organizations and citizens with the following uses:

1. The Justice Index results are fact-based aggregate data that assess the status quo and enable policy analysis for

effective implementation of legal and judicial system development processes underway.

2. The Justice Index findings offers strategy and policy making institutions and institutions responsible for monitoring and overseeing operations of justice institutions a reference by which to identify limitations and problems in ensuring justice for the people at both national and sub-national levels.

3. The Justice Index can also be used to define specific goals to promote the justice reform process in the future both at central and provincial levels.

Future Justice Index findings will reflect change over time, which will provide a reliable and robust benchmark against which state institutions can account or demonstrate their own performance and the reform efforts that they have made.

ANNEX 1:

INDEXING FRAME

Dim.	Indicator		Sub-indicator	Survey question
1	Dimension 1 - Accessibility			
1.1	Accessibility of legal information	1.1.1	Available sources of legal information	a21
		1.1.2	Aware about the importance of LURC and conditions to apply for LURC	a15b1 - 1; a15b-88; a15b-99; a15b4
		1.1.3	Awareness about available remedies for business disputes	b07 - 2 or b17 - 2
		1.1.4	Awareness about available remedies for labor disputes (experience)	l08 - 1 or l09 - 2
		1.1.5	Awareness about available remedies for land disputes	d06 - 1 or d06 - 2
		1.1.6	Awareness about available remedies for civil disputes	c05 - 1 or c06 - 2
1.2	Availability of basic legal services	1.2.1	Marriage registration	a09 - 2a/2b
		1.2.2	Availability of basic judicial services	c01 - 7 & 8 & 9
		1.2.3	Delay in providing basic judicial services	c03 - 0 and 1 (only use cases of c01-7/8/9)
		1.2.4	LURC application procedures	a15b - 5
1.3	Affordability	1.3.1	LURC application fee	a15b - 3
		1.3.2	Cost to settle labor disputes	l17 - 3
		1.3.3	Cost-effective remedies	d093; c083; e103; g063

2	Dimension 2 - Equity			
2.1	Equality before the law	2.1.1	Equal protection in labor dispute	l08 - 5; l17 - 4
		2.1.2	Substantive equality among social groups	aggregate data
		2.1.3	Free of discrimination	h07b; h07c; h07d; h07e; h07f; h07g; h07h; h07i
2.2	Role of state institutions in ensuring equality	2.2.1	Proactive role of state institution in resolving labor disputes	l19
		2.2.2	Proactive role of state institution in resolving land disputes	d17
		2.2.3	Proactive role of state institution in resolving environmental complaints	e16
2.3	Responsive to citizens' administrative complaints	2.3.1	Time taken to handle administrative complaints	d02
		2.3.2	Time taken to review a complaints on business regulation	b04
		2.3.3	Time taken to review a complaints on land	d04
		2.3.4	Time taken to review a complaints on environmental pollution	e08 - 1
		2.4.5	Number of unsolved and pending complaints on environment	e07-1 and e07-0 (filtered by e08)
3	Dimension 3 - Integrity			
3.1	Anti-corruption in judicial activities	3.1.1	Corruption in civil dispute resolution	l11; b19; d09; c08; d15 - option 3
		3.1.2	Corruption in administrative dispute resolution	b09; e10; g06
3.2	Professional conducts	3.2.1	Professional conducts of state officers in civil dispute resolution	l11; b19; d09; c08
		3.2.2	Professional conducts of state officers in resolving administrative complaints	b09; e10; g06

		3.2.3	Responsiveness of state officers in civil dispute resolution	l11; b19; d09; c08
		3.2.4	Responsiveness of state institutions in resolving administrative complaints	b09; e10; g06
		3.2.5	Professional conducts of traffic police	f051; f052; f055
3.3	Oversight of judicial activities	3.3.1	Oversight of elected bodies at communal level	g10a
		3.3.2	Oversight of elected bodies at provincial level	g10b
4	Dimension 4 - Reliability and efficiency			
4.1	Procedural certainty	4.1.1	People's opinion of LURC application procedures	a15b2;
		4.1.2	Procedural certainty in civil dispute resolution	l112; b192; d092; c082;
		4.1.3	Procedural certainty in resolving administrative complaints	b092; e102; g062
4.2	Confidence on state institutions	4.2.1	Confidence in GOV's policy on land use purposes	a16a - 4
		4.2.2	Confidence in GOV's policy on local land use plan	a16a - 5
		4.2.3	People's opinion on LURC	a16a6
		4.2.4	Confidence in role of state institutions in resolving labor disputes	l17 - 5
4.3	Legal dispute resolution	4.3.1	Settlement of civil disputes	l06; d03; c03
		4.3.2	Settlement of administrative complaints	b03; e071, e072
5	Dimension 5 - Guarantee of fundamental rights			
5.1	Awareness of fundamental rights	5.1.1	Know about the Constitution	h010
		5.1.2	Know about the amendment process	h020
		5.1.3	Aware about the right to referendum	h052
		5.1.4	Right to participate in amendment process	h042

		5.1.5	Know about the right to inherit	k040
		5.1.6	Know about the right to free primary education	k101
		5.1.7	Know about the right to free legal aid to the poor	k061
5.2	Mechanism to protect legitimate rights	5.2.1	Right to complain in practice	h06m
		5.2.2	Complainant protected from harrasment	g10d
		5.2.3	Aware about election of village head	a20a
		5.2.4	Aware about election of provincial council	a20b
		5.2.5	Aware about election of National Assembly deputies	a20c
		5.2.6	Participated in the election	a21aa
		5.2.7	Right to participate ('People know, people discuss and people supervise')	h03 - 2
		5.2.8	Aware about labour union's mandate	l21a3
5.3	Guarantee of fundamental rights in practice	5.3.1	Freedom of expression	h06e
		5.3.2	Freedom of press	h06f
		5.3.3	Right to assembly	h06h
		5.3.4	Right to associate	h06i
		5.3.5	Right to demonstrate	h06j
		5.3.6	Freedom of belief	h06k
		5.3.7	Freedom of religion	h06l
		5.3.8	Free to domestic residence	h06p
		5.3.9	Rights of the child	l21b1

ANNEX 2: SUMMARY OF THE SAMPLE BY PROVINCE

Table 22: Demographic characteristics of sample by social group

Demographic characteristics by social group	Number of completed interviews	Share of total sample (%)
Poor and near poor	856	16.96
Non-poor	4,170	82.66
Un-identified	19	0.38
Low education	1,583	31.38
Average and high education	3,458	68.54
Un-identified	4	0.08
Women	2,743	54.37
Men	2,302	45.63

Table 23: Demographic characteristics of sample by gender

Province	Number of completed interviews	Share of total sample	% of female respondents	Note
An Giang	386	7.65	52.07	Expected sample size doubled due to province magnitude
Bac Giang	198	3.92	52.53	
Bac Kan	192	3.81	55.21	
Cao Bang	192	3.81	54.17	
Da Nang	207	4.10	50.24	
Dak Lak	189	3.75	59.26	
Ha Noi	567	11.24	56.61	Expected sample size tripled due to province magnitude
Hai Duong	193	3.83	54.4	
Khanh Hoa	196	3.89	60.2	
Kon Tum	192	3.81	59.38	
Lam Dong	193	3.83	48.7	
Lang Son	202	4.00	52.48	

Long An	198	3.92	53.03	
Phu Tho	193	3.83	50.78	
Quang Nam	196	3.89	54.08	
Son La	196	3.89	52.55	
HCMC	579	11.48	54.4	Expected sample size tripled due to province magnitude
Tay Ninh	197	3.90	51.27	
Thua Thien Hue	195	3.87	63.08	
Tra Vinh	192	3.81	53.65	
Tuyen Quang	192	3.81	52.08	

ANNEX 3: JUSTICE INDEX METHODOLOGY

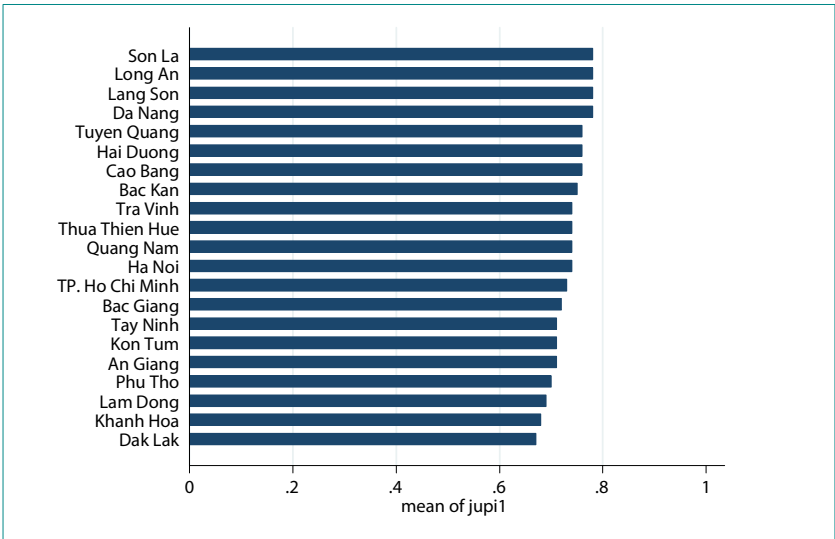
Alternative approaches to computing a Justice Index

1. Simplest measure a linear additive index (JUPI 1)

Linear additive methods are frequently used to produce a wide range of indicators. Once

researchers have identified and measured a number of items that are consistent with their theoretical agenda, they can usually combine their measures into a single score, assuming that the coding rules for each item follow the same direction (0 is always 'bad', 1 is always 'good'). Throughout this study, all variables were coded according to the principle that 'more is better' in order to facilitate the data aggregation process (1 implies 'good').

Figure 37. Justice Index as a simple linear additive index



We can thus easily produce a linear additive Justice Index, rescaled to a 0-1 interval by creating each dimension based on its own set of indicators (see Appendix 1), and then adding all five dimensions by province and dividing the sum by 5.

While simple, this approach has several

important drawbacks. First, it implicitly imposes a very specific (albeit implicit) set of weights to the index, by forcing each of its components to weigh equally in the computation of the overall averaged score. This assumption is typically difficult to justify theoretically. It is rather difficult to assume that things that 'matter' must

always matter to the same extent. Consider for instance dimension 5 ‘Fundamental rights’ versus dimension 1 ‘Accessibility’: one can reasonably agree that each belongs in a justice index, but it is far more controversial to decide that one unit of rights consciousness has to be equal to a unit of accessibility. This approach also has the drawback of emphasizing the importance of total scores rather than the variance across provinces behind such scores. They tend to be more suitable to longitudinal studies where change in a quantity of interest over time is important to the researcher. This is not the case in the present Justice project, the first one ever conducted in Viet Nam. In the absence of data collected over time, this first study can only emphasize cross-sectional variation. More than mean scores, we are more interested in sorting how provinces compare with one another on a given dimension. Put in statistical terms, we care about the variance more

than we care about the mean. Nevertheless, simplicity underpins the appeal of the linear additive approach, which we present. Figure 37 plainly exhibits the drawback of the method: it produces a score with a high mean and a small variance, making it difficult to distinguish between strong and poor performers.

2. Additive index based on factor scores (JUPI 2)

The technique known broadly as factor analysis can help better ‘stretch’ the data across provinces. Simply put, factor analysis can be used to create a set of weights among a range of items based on their contribution to the overall variance of the data. Items that contribute little to the variance are deemphasized, while those that ‘stretch’ the data better contribute more to the overall factor score.

Figure 38: Justice Index scores based on factor analytic scale of each dimension

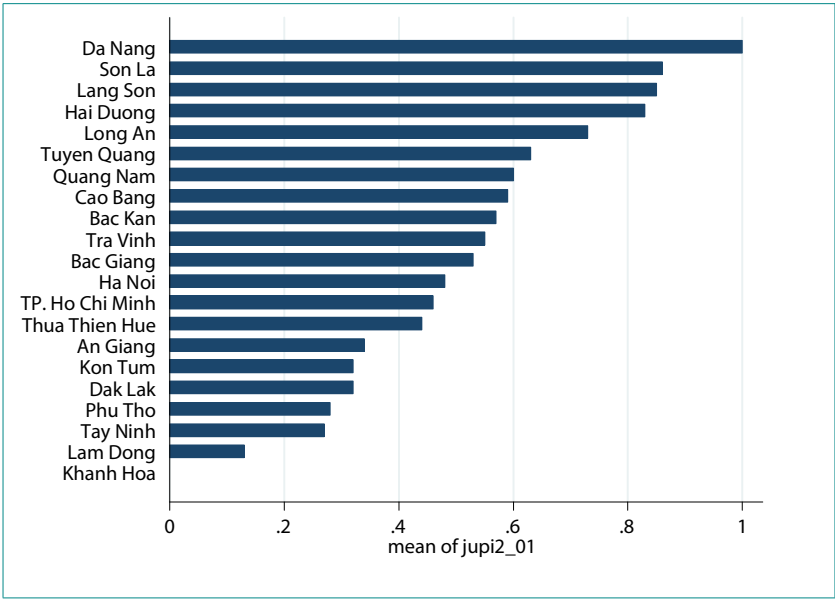


Figure 1 displays five scatter plots showing the relationship between five dimensions (Dim. 1 to Dim. 5) and their corresponding factor mean scores (meanprov_01). Each plot includes a regression line and a shaded confidence interval. The data points are labeled with province names.

- Dim. 1 vs Dim_1_FACTOR1_01:** Shows a positive correlation. Provinces like Hai Duong, Tay Ninh, and Phu Tho are clustered at lower values, while Da Nang and Quang Nam are at higher values.
- Dim. 2 vs Dim_2_FACTOR_meanprov_01:** Shows a positive correlation. Provinces like Lam Dong and Khanh Hoa are at lower values, while Long An and TP. HCM are at higher values.
- Dim. 3 vs Dim_3_FACTOR_meanprov_01:** Shows a strong positive correlation. Most provinces are clustered between 0.5 and 1.0 on both axes.
- Dim. 4 vs Dim_4_FACTOR_meanprov_01:** Shows a positive correlation. Provinces like Dak Lak and Quang Nam are at lower values, while Tay Ninh and TP. HCM are at higher values.
- Dim. 5 vs Dim_5_FACTOR_meanprov_01:** Shows a positive correlation. Provinces like Khanh Hoa and An Giang are at lower values, while Tay Ninh and TP. HCM are at higher values.

Consider the case of Dimension 1: Without factor analysis, we obtained a score (plotted horizontally) that exhibits a narrow range from 0.59 to 0.85. Dimension 1 thus has a relatively high mean (0.71) but a small standard deviation (0.06). As such a high overall score can be interpreted as a good thing, since all variables are coded such that 0 denotes an undesirable outcome and 1 a desirable one. At this stage of the

It is important to keep in mind that a score of zero does not at all imply complete failure (and conversely that 1 does not suggest

Annex 93

complete success) over the dimension of interest. These two values simply bound the interval over which it is possible to better visualize the relative positions of all other provinces in the sample.

Figure 40 and 41 indicate that the correlations between all dimensions are

relatively low, which suggests that the Justice Index properly captures substantively different dimensions of justice. In other words, the index is not hampered by unnecessary duplication across dimensions. Instead, there is strong evidence that each dimension is distinctive and makes a meaningful contribution to the overall index.

Figure 40: Correlations between dimensions in JUPI 1

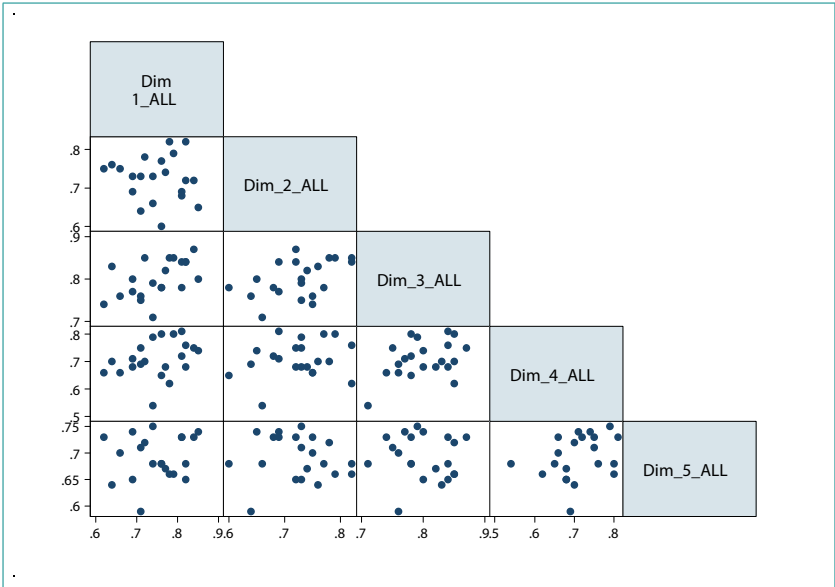
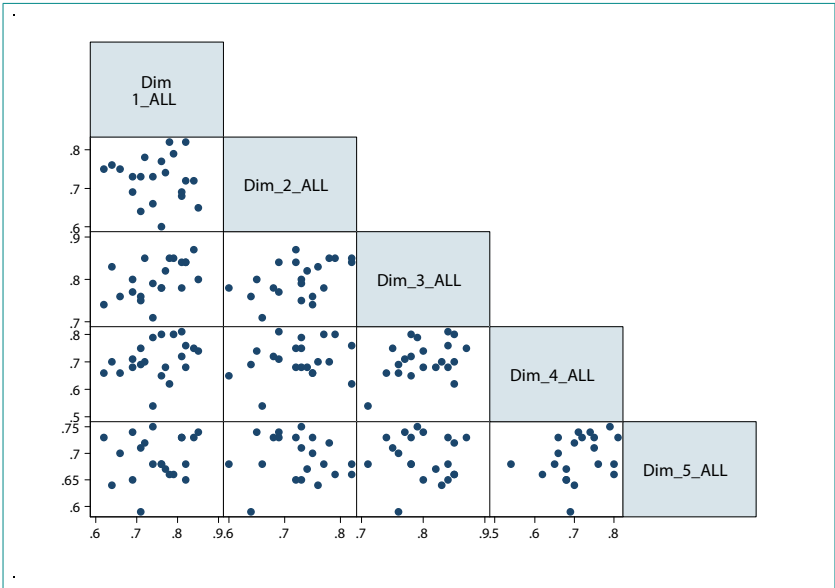


Figure 41: Correlations between dimensions in JUPI 2

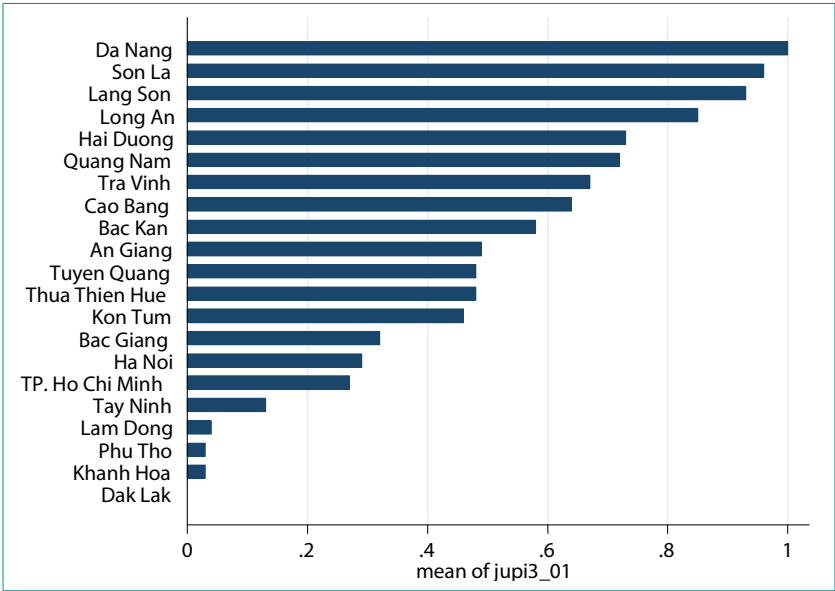


3. Index based on weighted factor scores (JUPI 3)

The final and most effective way to further emphasize the spatial variability of the data consists in assigning weights to each component of the final index based on the same principles of factor analysis discussed above. Doing so relieves us of the strong assumption that all dimensions are equally

important. In fact, generating this index and comparing it to JUPI 2 as presented in the previous section reveals that this assumption is questionable. If all dimensions contributed equally to the total variance, the factor weights would equal 1 for all dimension and both indices would be identical. The empirics suggest otherwise: JUPI 3 not only results in a much sharper contrasts between top and bottom performers, but it also significantly alters the rank-ordering of the provinces (see Figure 42).

Figure 42: Based on weighted factor scores



The selected method of computing Justice Index

Since the overall results are somewhat influenced by the specific aggregation method that is used, readers may wonder which of the three alternatives presented above is the most believable. We take the view that the performance of an entire province should not depend on a single score, but also acknowledge that not all items that were included in the instrument exhibit sufficient variability across provinces

to justify weighing them equally. JUPI 2 thus serves as a reasonable compromise between two extreme views on how to construct an overall index. One should also take comfort when the rank of a given province does not vary dramatically with the specific technique used. This is the case for instance for HCMC which is consistently ranked close to the sample average. The fact that Da Nang is somewhat penalized by JUPI 1 but ranks first both in JUPI 2 and JUPI 3 suggests that these approaches produce consistent results.

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