

**LEGAL INSTITUTIONAL FRAMEWORK TO COUNTER CRONY CAPITALISM
IN VIETNAM'S INVESTMENT-LED GROWTH TRANSITION**

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Abstract

This paper examines how Vietnam's current legal framework enables crony capitalism and proposes institutional reforms to strengthen the rule of law. The primary objective is to identify legal vulnerabilities that allow politically connected entities to circumvent market discipline and recommend targeted institutional reforms. The research design employs doctrinal legal analysis combined with comparative institutional assessment, examining Vietnam's Competition Law, Anti-Corruption Law, Investment Law, and judicial framework against international best practices. The methodology includes systematic analysis of legal provisions, implementation gaps, and enforcement mechanisms, supplemented by comparative analysis with Singapore and South Korea's anti-cronyism frameworks. Main outcomes reveal four critical vulnerabilities: excessive administrative discretion, institutional fragmentation in anti-corruption enforcement, weak judicial independence, and limited transparency in administrative decision-making. Results demonstrate that these legal gaps create systematic opportunities for political connections to override market mechanisms while maintaining formal legal compliance. The conclusions recommend establishing unified anti-corruption institutions, enhancing competition policy independence, strengthening judicial autonomy, and implementing comprehensive transparency mechanisms. These reforms are essential for Vietnam's transition to sustainable investment-led growth and maintaining international competitiveness.

Keywords: Anti-corruption, Crony capitalism; Institutional reform; Investment-led Growth; Rule of law.

1. Introduction

Vietnam's strategic transition from export-driven to investment-led growth requires robust legal institutions capable of preventing crony capitalism while supporting legitimate private enterprise development. Crony capitalism emerges when business success depends primarily on political connections rather than market competition, creating systematic distortions that undermine economic efficiency and social welfare (Kang, 2002; Aligica & Tarko, 2014). This

phenomenon poses particular risks for transitional economies like Vietnam, where evolving regulatory frameworks may create opportunities for politically connected actors to capture institutional processes (Ngo & Tarko, 2018).

The legal dimension of this challenge remains critical for Vietnam's sustainable development trajectory. While the Communist Party of Vietnam has acknowledged corruption as a fundamental threat through General Secretary Nguyen Phu Trong's anti-corruption campaigns, the underlying legal institutional weaknesses that enable crony practices require systematic examination and reform (Transparency International, 2024; Giang, 2023; Nguyen & Nguyen, 2025).

Vietnam's economic transformation since the 1986 Doi Moi reforms has achieved remarkable growth rates, transforming the country from one of the world's poorest nations to a middle-income economy (World Bank, 2024). However, this transition has created new challenges as the state's role evolved from direct economic management to regulatory oversight, potentially creating opportunities for regulatory capture by politically connected entities (Maruichi & Abe, 2021).

Vietnam's institutional reform agenda has gained significant momentum through two landmark Party resolutions that directly address the legal and administrative challenges examined in this analysis. Resolution 66, promulgated in April 2024 under General Secretary Tô Lâm's leadership, represents a comprehensive commitment to renewing lawmaking and law enforcement to meet national development requirements in the new era. The resolution establishes ambitious targets for creating a democratic, fair, coherent, unified, transparent, feasible, rigorous, and efficient legal system by 2030, with a vision toward 2045 of developing a high-quality, modern legal system aligned with international standards.

Resolution 68, issued in May 2025, marks an even more significant shift by positioning the private sector as a core driver of Vietnam's socialist-oriented market economy rather than merely a supporting actor. This resolution sets measurable targets including 2 million active businesses by 2030, over 60% private sector contribution to GDP by 2045, and administrative reforms requiring at least 30% reduction in time, cost, and procedures for doing business by 2025. Critically, Resolution 68 addresses the longstanding concern about criminalization of commercial infractions by stipulating that economic and civil violations should first be addressed through civil, economic, and administrative measures, with criminal prosecution reserved for cases where non-criminal handling is insufficient.

These resolutions directly relate to the institutional vulnerabilities identified in this analysis, particularly regarding administrative discretion, transparency, and the protection of legitimate private enterprise from arbitrary enforcement. However, international observers have noted that Vietnam's approach of providing stronger legal shields for businesses than even China's similar reforms raises questions about whether these changes represent genuine institutional reform or

mechanisms that may inadvertently protect politically connected actors while appearing modern and pro-business. This contemporary context makes the analysis of Vietnam's anti-crony capitalism legal framework particularly timely and relevant for understanding the trajectory of institutional development.

The research significance extends beyond academic inquiry to practical policy implications. As Vietnam seeks to attract higher-quality foreign direct investment and develop indigenous innovation capacity, the perceived fairness and predictability of its legal system becomes increasingly important. International investors increasingly consider governance quality and rule of law strength when making investment decisions, making institutional reform essential for Vietnam's continued economic development.

This legal brief addresses a critical gap in existing scholarship by examining Vietnam's legal architecture through an interdisciplinary lens, identifying specific vulnerabilities in current legal frameworks, and proposing targeted institutional reforms based on comparative international experience. The central research question examines how Vietnam's current legal framework either enables or constrains crony capitalism, and what specific legal and institutional reforms could strengthen the rule of law to support legitimate private enterprise while preventing political capture.

2. Research Methods

This research employs a qualitative legal methodology combining doctrinal legal analysis with comparative institutional assessment. The approach examines both formal legal provisions ("law on the books") and their practical implementation ("law in action"), recognizing that formal legal rules must be understood within their broader institutional and political contexts.

The methodology incorporates three primary analytical components. First, systematic doctrinal analysis examines Vietnam's key legal frameworks relevant to market regulation and anti-corruption, including the Competition Law 2018, Anti-Corruption Law 2018, Investment Law 2020, Enterprise Law 2020, and related implementing regulations. This analysis employs established legal interpretation techniques to identify gaps, ambiguities, and enforcement mechanisms that may enable preferential treatment for politically connected actors.

Second, comparative institutional analysis evaluates Vietnam's legal framework against successful anti-cronyism models in Singapore and South Korea. Singapore's unified Corrupt Practices Investigation Bureau (CPIB) model provides insights into effective institutional design for anti-corruption enforcement, while South Korea's post-1997 financial crisis reforms demonstrate how countries can transform crony relationships while maintaining economic growth. The comparative methodology focuses on institutional design features that have proven effective

in preventing regulatory capture while acknowledging the unique aspects of Vietnam's political system that affect institutional transferability.

Third, qualitative document analysis examines multiple sources to understand how legal institutions function in practice. Primary sources include Vietnamese legislation, regulations, and administrative guidance documents, supplemented by government policy papers, National Assembly proceedings, and available judicial decisions. Secondary sources encompass peer-reviewed academic literature, international organization reports from the World Bank, International Monetary Fund, and Organisation for Economic Co-operation and Development, and policy analysis from reputable Vietnamese and international institutions (International Monetary Fund, 2024; World Bank, 2024; World Justice Project, 2024).

The analytical framework operates at multiple levels, examining macro-level institutional architecture, meso-level sectoral regulations, and micro-level implementation practices. Special attention is paid to identifying implementation gaps where formally adequate laws fail to constrain crony practices due to institutional weaknesses or informal political arrangements that override formal legal requirements.

Data collection prioritizes sources published within the last five years to capture recent institutional developments, with English translations utilized where available and Vietnamese originals consulted for critical legal provisions. The research acknowledges methodological limitations including reliance on publicly available documents and the sensitive nature of corruption-related information in Vietnam's political context.

3. Results and Discussion

Legal Framework Vulnerabilities in Competition Law

The analysis reveals significant structural weaknesses in Vietnam's Competition Law framework that create systematic opportunities for politically connected firms to circumvent market discipline (Gillespie, 2015). While the Competition Law 2018 includes comprehensive provisions against anti-competitive practices, implementation challenges fundamentally undermine its effectiveness in practice (Van Uytsel & Paku, 2023).

The Competition Law's prohibition on "abuse of dominant position" lacks specific guidance on how political connections might constitute unfair competitive advantage. Article 25 defines dominant position primarily through market share thresholds, but fails to account for political influence that can create de facto dominance regardless of economic market share. This regulatory blind spot enables politically connected firms to exercise market power through regulatory capture rather than economic efficiency.

Institutional independence concerns further compromise enforcement effectiveness. The Vietnam Competition Commission operates under the Ministry of Industry and Trade, creating potential conflicts when investigating anti-competitive practices by state-owned enterprises or politically sensitive cases. The Commission's budget dependence on the ministry and appointment procedures for key officials by the Prime Minister raise fundamental questions about operational independence that effective competition authorities require (Organisation for Economic Co-operation and Development, 2021).

Vietnam's merger control regime employs purely economic thresholds without considering political connections that might enhance market power beyond traditional economic measures. The notification system lacks transparency requirements that would reveal beneficial ownership structures or political relationships affecting competitive dynamics, enabling politically connected entities to accumulate market power through acquisitions without adequate regulatory scrutiny.

Anti-Corruption Legal Framework Implementation Gaps

Vietnam's Anti-Corruption Law framework exhibits formal comprehensiveness but significant implementation gaps that limit effectiveness against crony practices (Mai, 2020; Le et al., 2020). The legal architecture involves multiple agencies with overlapping jurisdictions, creating coordination challenges and opportunities for jurisdictional arbitrage that benefit connected actors (Nguyen & Nguyen, 2025).

Institutional fragmentation represents a critical weakness in Vietnam's anti-corruption framework. Multiple agencies including the Party's Central Steering Committee on Anti-Corruption, Government Inspectorate, Ministry of Public Security, and Supreme People's Procuracy operate with unclear jurisdictional boundaries and inadequate coordination mechanisms. This decentralized approach contrasts unfavorably with Singapore's unified CPIB model, reducing effectiveness and creating opportunities for politically connected individuals to exploit institutional gaps (Quah, 2020).

The asset declaration system lacks independence and resources for effective monitoring despite formal requirements for officials and family members to declare assets. The absence of public disclosure requirements for senior officials reduces transparency and accountability, while verification procedures remain inadequate for detecting suspicious wealth accumulation or potential conflicts of interest.

Whistleblower protection provisions provide limited protection for corruption reporting, particularly involving senior officials or politically connected individuals. The absence of independent witness protection programs and inadequate anonymity protections discourage reporting of high-level corruption, reducing the system's capacity for self-correction through internal accountability mechanisms.

Investment Law Discretionary Powers and Opacity

Analysis of Vietnam's Investment Law 2020 and Enterprise Law 2020 reveals systematic opportunities for preferential treatment of politically connected investors through discretionary administrative powers and opaque decision-making processes that undermine fair market competition (International Monetary Fund, 2024). This creates conditions conducive to rent-seeking behavior within the investment approval framework (Ngo & Tarko, 2018).

Despite reforms aimed at reducing administrative burden, Vietnam's investment approval process retains significant discretionary elements that enable selective application. Provincial People's Committees possess broad authority to interpret investment criteria and conditions, creating opportunities for politically motivated decisions. The absence of mandatory timelines for approval processes enables administrative delays that can strategically advantage connected applicants while disadvantaging competitors.

Investment incentive distribution lacks transparent allocation criteria, with discretionary authority for projects deemed strategically important creating systematic opportunities for politically motivated benefits. Research documents cases where similar projects receive different incentive packages based on investor connections rather than objective economic criteria, distorting market competition and resource allocation.

Regulatory oversight mechanisms under the shift toward ex-post regulation require effective monitoring and enforcement systems. However, Vietnam's regulatory agencies often lack sufficient independence, resources, and technical capacity for rigorous oversight, creating opportunities for politically connected firms to operate with reduced regulatory scrutiny while competitors face full enforcement attention.

Land Law and Resource Allocation Capture

Vietnam's Land Law framework creates particularly significant opportunities for crony capitalism through vague public benefit provisions and discretionary allocation mechanisms that enable systematic abuse of state authority for private gain (World Bank, 2022). This issue has become increasingly prominent as Vietnam pursues climate-resilient development strategies while maintaining economic growth objectives.

The Land Law allows state acquisition for "socio-economic development in the national or public interest," but defines these terms so vaguely that they can justify virtually any acquisition decision. Research documents cases where this authority transfers land from farmers to politically connected developers for private commercial projects disguised as public benefit initiatives. The absence of independent review mechanisms for public benefit determinations enables systematic abuse of eminent domain authority.

Land valuation procedures lack transparency and independent oversight, enabling below-market acquisitions that disproportionately benefit connected developers. The compensation framework often fails to reflect market values, particularly for land with development potential that politically connected entities can subsequently realize through rezoning or development approvals.

Judicial System Independence Constraints

The effectiveness of Vietnam's legal framework ultimately depends on independent and capable judicial institutions. The analysis reveals significant structural constraints on judicial independence that limit courts' ability to check executive power and enforce legal rules impartially against politically connected parties (Phuong, 2025). These limitations affect both traditional judicial functions and the development of legal precedents that could strengthen rule of law implementation (Vu & Tran, 2016).

Vietnam's court system operates within the broader state apparatus under Communist Party leadership, creating fundamental structural constraints on judicial independence. The National Assembly appoints judges based on Party recommendations, while court budgets depend on local government allocations, creating potential conflicts when adjudicating cases involving government interests or politically connected parties.

Commercial dispute resolution capacity remains limited despite establishing specialized commercial courts in major cities. Judges often lack specialized training in complex economic law and may defer to government positions in politically sensitive cases involving regulatory enforcement or government contracts (Nguyen, 2018). This affects the consistent application of contract law and international commercial principles in Vietnam's evolving legal framework.

Comparative Analysis and Reform Implications

Singapore's institutional approach demonstrates how effective anti-corruption institutions can operate within centralized political systems through careful institutional design. The CPIB's success rests on operational independence achieved through secure funding, broad investigative powers, and direct reporting relationships that bypass potential political interference (Quah, 2007). Vietnam could adapt this model while maintaining Communist Party oversight through institutional innovations that preserve political authority while enabling effective enforcement, particularly within the broader ASEAN institutional context (Sundram, 2025; Koga, 2018).

South Korea's post-1997 reforms illustrate how countries can transform crony relationships during crisis periods when traditional elite resistance can be overcome. The key reforms included judicial independence enhancement, competition policy strengthening, corporate governance transparency requirements, and independent regulatory agency establishment. Vietnam's current economic challenges may create similar reform opportunities if institutional changes can be

framed as essential for continued economic development (International Monetary Fund, 2023). The ASEAN regional context also provides additional models for institutional development through gradual legal instrument implementation (Fukunaga, 2021).

The research reveals how legal institutional weaknesses reinforce each other in negative feedback loops that undermine rule of law effectiveness. Weak judicial independence reduces formal legal protection credibility, encouraging reliance on informal political networks. This undermines public support for legal institutions and creates cynicism that further enables corrupt practices.

4. Conclusion

This legal brief has examined how Vietnam's evolving legal framework creates systematic opportunities for politically connected actors to circumvent market discipline while maintaining formal legal compliance. The analysis identifies four critical institutional vulnerabilities that enable crony capitalism: excessive administrative discretion, institutional fragmentation in anti-corruption enforcement, weak judicial independence, and limited transparency in administrative decision-making.

The research demonstrates that Vietnam's formal legal provisions often appear adequate but fail in implementation due to institutional design weaknesses and informal political arrangements that override formal legal requirements. These vulnerabilities span multiple legal domains and reinforce each other, creating systematic advantages for politically connected entities while undermining fair market competition.

The implementation of Communist Party Resolutions 66 and 68 makes combating crony capitalism particularly urgent for Vietnam's institutional development. These resolutions establish ambitious targets that can only be achieved through genuine market-based competition rather than politically mediated advantages. Resolution 68's goal of reaching 2 million active businesses by 2030 and over 60% private sector contribution to GDP by 2045 requires creating conditions where business success depends on innovation, efficiency, and market responsiveness rather than political connections.

The effectiveness of Resolution 66's legal system modernization efforts fundamentally depends on preventing politically connected actors from capturing reformed institutions. Without robust anti-crony mechanisms, improved legal frameworks risk becoming sophisticated tools for rent-seeking rather than genuine market governance. The resolution's emphasis on transparency, public participation, and predictable legal standards can only deliver promised benefits if implementation occurs through impartial institutions resistant to political capture.

Resolution 68's approach to reducing the criminalization of business activities presents both opportunities and risks in the anti-crony context. While protecting legitimate businesses from

arbitrary enforcement represents important progress, the preferential treatment of civil over criminal remedies could inadvertently shield politically connected actors from accountability if not coupled with strengthened institutional oversight. The success of this reform depends on ensuring that legal protections serve genuine private enterprise rather than enabling sophisticated forms of corruption that maintain formal legal compliance.

International investor confidence in Vietnam's institutional trajectory increasingly depends on demonstrating that recent reforms produce genuine market-based competition rather than refined forms of political favoritism. The ambitious economic targets established in both resolutions require sustained foreign direct investment and technology transfer, which sophisticated international investors will evaluate based on governance quality and institutional credibility. Failure to address crony capitalism risks undermining the very private sector development that these resolutions seek to promote, creating a fundamental contradiction between stated policy objectives and institutional realities.

Based on the findings, this brief recommends a comprehensive legal and institutional reform agenda organized around five priority areas. First, Vietnam should strengthen its Competition Law framework by eliminating political exemptions, enhancing the Vietnam Competition Commission's independence through secure funding and appointment procedures, and requiring disclosure of beneficial ownership and political connections in merger notifications.

Second, following Singapore's CPIB model, Vietnam should consolidate its fragmented anti-corruption agencies into a single institution with comprehensive jurisdiction, adequate resources, and operational independence. This institution should report directly to the National Assembly and possess broad investigative powers with protection from political retaliation.

Third, Vietnam should enhance judicial independence through constitutional protections for court budgets, merit-based appointment procedures, and specialized training for judges handling complex commercial and administrative law cases. Specialized commercial courts should receive expanded jurisdiction over government contract disputes and regulatory challenges.

Fourth, Vietnam should implement comprehensive transparency requirements including mandatory disclosure of government contract awards, investment incentive distributions, and land allocation decisions. Freedom of information legislation should provide citizens and businesses access to government decision-making processes while protecting legitimate confidentiality concerns. Digital transformation initiatives can enhance these transparency mechanisms while improving administrative efficiency (Chen & Kim, 2024).

Fifth, Vietnam should establish independent regulatory oversight bodies with authority to review administrative decisions for legal consistency and investigate discriminatory treatment

complaints. These bodies should possess adequate technical expertise and legal authority to ensure impartial enforcement of regulatory requirements.

Successful implementation requires careful sequencing that builds institutional capacity while managing political resistance. Initial reforms should focus on reducing administrative discretion through clearer legal standards and enhanced procedural requirements, followed by strengthening oversight institutions and judicial capacity, with fundamental independence reforms pursued when political opportunities emerge.

Vietnam's experience offers important lessons for other transitional economies facing similar institutional development challenges. The research demonstrates that meaningful institutional improvement remains possible within authoritarian political systems through careful institutional design and gradual capacity building that works within rather than against existing political constraints. The broader ASEAN experience with institutional development, including human rights mechanisms and regional governance frameworks, provides additional models for institutional evolution that balance sovereignty concerns with effectiveness requirements (Langlois, 2021; Devlaeminck, 2025).

The ultimate success of anti-cronyism efforts will depend on sustained political commitment to institutional improvement rather than cosmetic changes designed to satisfy international pressure. This requires recognition that effective institutions serve long-term political stability and economic development interests even when constraining short-term rent-seeking opportunities.

Vietnam's challenge in building market-supporting legal institutions while maintaining political stability reflects broader tensions characterizing many transitional economies. Success in achieving this balance could provide a valuable model for other nations seeking institutional improvement within non-democratic political systems, while failure risks undermining Vietnam's continued economic development trajectory and international competitiveness.

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