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Communist Court Systems in Vietnam Reflect Military

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SAIGON, South Vietnam — Since neither North Vietnam nor the Vietcong have allowed newsmen or other outsiders to subject their societies to the close examination that the South Vietnamese Government has permitted, only a sketchy picture of the Communist judicial systems emerges from captured documents and statements of prisoners and defectors.

Both the North Vietnamese and the Vietcong systems appear to have been strongly influenced by the military.

"The North Vietnamese courts got off to a military start under the Vietminh, and for many of their senior law people the major early experience was in the military," said an American official who follows events in the North.

He said that political crimes were tried separately and in secret, although, on paper at least, the defendant is entitled to call and cross-examine witnesses.

Documents show that North Vietnamese courts may sentence political offenders not only to prison but also to what is called "control," a condition in which they are placed under police surveillance and are required to work, but are barred from such jobs as photography, engraving, repairing arms or electrical equipment, teaching school, practicing medicine and running bookstores.

North Vietnamese law contains provisions against arrest and search without warrant except in "emergency" cases. But one document, reporting police abuse of the restrictions, noted that illegal house and mail searches occurred and that minor crimes were sometimes classified as emergency cases so that the restrictions could be sidestepped.

The Vietcong, in a 1967 document discussing their military court system, described among its functions "insuring political homogeneity" and "strongly repressing political offenders and antirevolutionary elements."

All the procedures—arrest, trial, sentencing and even assassination—are cloaked in legalisms. Documents show an elaborate hierarchy and division of responsibility that limit the authority of low-level officials to arrest and imprison.

Putting Best Face on It

In the book "Vietcong," Douglas Pike quotes a document from 1962 instructing Communist officials to combat Government infiltrators and reactionaries, adding, "But we should be ever cautious in making arrests . . . and people should have no misgivings or dissatisfaction with our method of arrest, investigation and final judgment."

Nevertheless, a Vietcong defector, Bui Cong Tuong, a mem-

ber of a province party committee, described a 1962 or 1963 session of a "people's court":

"I had to write down different motives for each of these 25 death sentences. The death sentences had already been decided by the province party committee. The condemnations had to be read to the people, and I had to write them in such a manner that they would be approved by the people."

The people shouted for the death sentence, he recalled, the court pronounced it and it was carried out immediately.

Similarly, assassinations by Vietcong "security" or "pacification" units often follow procedures that sound legal.

Last January Huynh Thanh Toan, the 25-year-old Vietcong chief of Hoai Chau village on South Vietnam's central coast, told a visitor how, in 1969 and 1970, when he served in a pacification company, he was required to take the following steps before killing one of the "cruel and wicked elements":

¶Try to persuade him to mend his ways, to stop committing crimes against the people; press his relatives to use their influence on him.

¶If he persists send him a letter enumerating his errors and warning him of grave consequences.

¶If he persists wound him—in the legs, for example.

¶Return to step one and try persuasion again.

¶If this fails kill him.

'Indictment' Left on Body

Other forms of assassination have been used to disrupt the Government's control of an area. In almost all cases the body is found with an "indictment" pinned to the shirt, usually convicting the condemned man of something like "treacherous activities against the country and the people."

Courts are also empowered to sentence offenders to "thought-reform camps" where they undergo self-criticism and re-education.

Vietcong suspicions are apparently turned on vast groups of people, just as the Government's are. In a directive from the Central Committee of the Quang Nam Provincial People's Revolutionary party dated Feb. 7, 1972, those who were to be placed under investigation included:

All former "French-affiliated" people; "hard-core elements" in Roman Catholicism, Buddhism, Cao Daism and Protestantism; Christian and Buddhist youth groups; "persons who travel freely between the enemy's and our own controlled areas for unknown reasons"; persons whose relatives work for "enemy agencies"; wives of foreign nationals or "half-breed" Vietnamese; Chinese nationals and their wives and children.