The Director of CDI visited Hanoi in April 2000 to hold discussions with Vietnamese officials, UN staff and the Australian Embassy about areas of need in which CDI might be of some help. In the course of this visit, Roland Rich called on Dr Dang Quang Phuong, Director, Judicial Training School, Supreme People's Court of Vietnam and discussed the possibility of instituting a modest training program for Vietnamese judges. One reason for focusing on this area and not on parliamentary aspects was that there were already active training programs involving the Office of National Assembly conducted by AusAID and UNDP. Another reason was the willingness of the Federal Court of Australia to be involved in exchange programs with the Vietnamese judiciary.

Dr Phoung agreed that a useful subject to concentrate on was the problem faced by both jurisdictions in incorporating international obligations into domestic law, which was then enforced in the courts. The Vietnamese side nominated a very senior and able delegation to undertake the study tour. CDI prepared a busy program for the delegation.

The program began on Monday 5 February with an introduction to the Australian legal system by Roland Rich. It focused on the sources of law in Australia referring to the Constitution and legislation in the Federal and State jurisdictions as well as to case law, a feature of the common law system in Australia which Vietnam, following civil law and socialist law traditions, did not share. There was then a discussion of the doctrine of precedence in Australian courts, the hierarchy of the courts and the role of common law judges. Other sources of law referred to included indigenous law and international law.

The discussion then looked at the position of judges in Australian society and how they acted as guarantors of Australia's commitment to democracy, the rule of law and respect for human rights. There was a comparative discussion concerning the process of appointment of judges, noting the significant difference that the legal profession in Australia had a considerable say in the process. There was also a discussion about the probity of judges in Australia.

Because the delegation was to observe argument in a case before the High Court, the Croker Island Case was summarised and information provided about the background
issues such as the Mabo decision, the Native Title Act, the common law concepts of territory, the international law concept of *res nullius* and the law of the sea insofar as it related to the case.

In the afternoon, Sir Daryl Dawson, a former Justice of the High Court and the serving Chair of the Consultative Group of the Centre for Democratic Institutions, gave a lecture on Australia's Constitution. It focused on the historical background and issues of judicial interpretation. Sir Daryl then looked at a number of cases to illustrate his talk.

On Tuesday 6 February, the delegation observed the arguments in the Croker Island Case and then held a discussion with Christopher Doogan, Chief Executive Officer and Principal Registrar of the High Court of Australia. This discussion centred on the method of operation of the High Court, the resources available to the seven judges and the number of cases the court dealt with.

The delegation then attended a lunch hosted by Chief Justice Murray Gleeson and attended by Justices Mary Gaudran, William Gummow, Michael Kirby, Kenneth Hayne and Ian Callinan. In the afternoon, the delegation toured the Australian National Gallery with particular attention to the Federation exhibit. Robyn Maxwell, Curator of Asian Art, kindly acted as host and guide.

Over the next two days the program focused on particular examples of how Australia acts on its international obligations. Many of these obligations in the field of intellectual property, human rights and environment protection were common to both countries and it was thus of value to examine how they were enforced in domestic jurisdictions. Accordingly the program included calls on the Attorney-General's Department, the Department of Foreign Affairs and Trade, Intellectual Property Australia and Environment Australia.

The briefings covered a wide range of issues including copyright protection, registration of patents and trademarks, the WTO and its agreement on trade related aspects of intellectual property. The briefings also covered the protection of endangered species and looked at the specific issues of seizures from people arriving in Australia from Vietnam. They also covered the emerging legal regime for access to genetic material under the Biodiversity Convention. There was also considerable discussion of human rights treaties and how they are implemented in the Australian Federal and State jurisdictions.

Other issues covered in the briefings concerned Australia's treaty making process and the consultation mechanisms created through the recent establishment of the Parliamentary Joint Standing Committee on treaties which filled what some perceived to be a democratic deficit in Australia's conclusion of treaties. There was also discussion of case law relating to treaty implementation including the important High Court case of *Teoh*.

The delegation flew to Sydney on Sunday and commenced Day 6 of the program at the Federal Court on Monday 12 February. Justice Wilcox welcomed the delegation.
Justice Moore gave the delegation an introduction to the Australian justice system, with particular emphasis on the evolution of the Federal Court and its relation to the other courts. He discussed in detail which areas the Federal Court had jurisdiction over and how the issue of overlap with other courts is handled. Of great interest to the delegation was the appeal process between the different courts.

Alan Dawson and Margaret Quinn, Senior Deputy Registrar and District Registrar, explained the roles of registrars and how their roles had evolved over time. Mr Dawson was also able to explain the financial structure of the court and give details of the cost of running the court.

Justices Wilcox, Moore, Tamberlin, Sackville and Mathews then hosted lunch for the delegation, enjoying frank and informative exchanges of experiences and anecdotes. Following lunch the delegation observed a short session of a Federal Court appeal.

In the final session for the day Justice Tamberlin presented a paper on the application of international law in the development of common law and in statutory interpretation in Australia. Issues covered in this session included: the ability of Australian courts to interpret ambiguity in international treaty obligations, the breadth and number of treaty obligations Australia is party to, obligations of treaty signatory governments, the Vienna Convention on the Law of Treaties obligations and its implications in Australia, and general trends in international law. Also discussed was the planned visit to the Supreme People’s Court of Vietnam by Justices Tamberlin and Moore. This visit is planned for May 2001 and forms a key component of the ongoing CDI sponsored exchange program between the Supreme People’s Court of Vietnam and Australia.

On Tuesday 13 February, the delegation visited the Judicial Commission of NSW. Executive Director Ernie Schmatt spoke to the group about the role of the Commission, its history, and its success to date. Mr Schmatt spoke in great detail about the three main functions of the commission; facilitating consistency in sentencing, judicial education and administering the judicial complaints mechanism. The second session involved a demonstration of the Judicial Commission’s Sentencing Information System (SIS). This browser-based data system, developed in-house, made information on legislation, cases, past sentences and sentencing statistics, all available at the fingertips of all NSW judicial officers. The delegation were very impressed with the SIS and have been working towards a similar ends. They were also particularly interested in the complaints mechanism, in line with increased awareness of the benefits of government and judiciary responsiveness to the public in Vietnam.

Wednesday 14 February saw the delegation visit the Human Rights and Equal Opportunity Commission (HREOC). Prof Alice Tay and Diana Temby warmly welcomed the delegation. The program for the morning involved four half hour sessions. The sessions covered; the role of HREOC in Australia, the Human Rights obligations of Australia following from treaty obligations and the practical implementation of them through the Commission, the work of the Aboriginal and Torres Strait Islander Social
Justice Unit, and the workings of the Complaint Handling Unit. The delegation found all sessions interesting but again were especially interested in the mechanisms for handling complaints.

Thursday 15 February was the last working day for the delegation. Pierre Huetter facilitated a feedback and evaluation session. The delegation on the whole were very happy with the program. They particularly enjoyed the visits to the High Court and the Federal Court. The Judicial Commission visit was also very appealing because a system similar to the SIS is being developed by the Supreme People’s Court in Vietnam. This functioning version provides vision and direction for their work in this area.

The delegation wished to see a strengthening of cooperation between the Vietnamese and Australian judiciaries and looked forward to the visit of Justices Moore and Tamberlin in May.
Vietnam Judicial Training Project
Canberra and Sydney, 5-16 February 2001

PROGRAM

Monday 5 February
9.30 - 12.15 pm Terrace Room, University House
   Introduction to the Australian legal system, Roland Rich
12.30 Lunch, Boffins Restaurant, University House
2.30 – 4.30 pm Terrace Room, University House
   Australian Constitutional law, Sir Daryl Dawson

Tuesday 6 February
11.00 – 12.30 pm Observe the Croker Island case in the High Court, followed by a general
discussion with Mr Christopher Doogan, Principal Registrar
12.45 – 2.00 pm Lunch hosted by Chief Justice Murray Gleeson and attended by Justices
   Mary Gaudran, William Gummow, Michael Kirby, Kenneth Hayne and
   Ian Callinan
2.00 pm Visit National Gallery of Australia
   Host Robyn Maxwell, Curator of Asian Art

Wednesday 7 February
9.30 – 12.00 pm Briefing at Attorney-General’s Department. Introduced by Mark Zanker,
   Assistant Secretary, International Trade and Environment Law Branch
   Josh Brien, Legal Officer, International Trade and Environment Law
   Branch, Environment Protection legislation
   Robyn Frost, Principal Legal Officer, Public International Law Branch, Human
   Rights legislation
   Stephen Fox, Principal Legal Officer, Intellectual Property Branch, Copyright
   legislation
   Others present: Victoria Coakley, Legal Officer, International Trade and
   Environment Law Branch; Mark Jennings, Senior Adviser, Office of
   International Law.
2.30 – 4.00 pm Briefing at Department of Foreign Affairs (DFAT)
   Present: Richard Rowe, Legal Adviser; Eric Van Der Wal, Director,
   Human Rights & Indigenous Issues Section; Robyn Stern, Director,
   International Law Section; Peter Scott, Executive Officer, International
   Law Section; Nicoli Maning-Campbell, Executive Officer, International
   Law Section; Gerald Oakes, Desk Officer, Human Rights & Indigenous
   Issues Section; Helen Smith, Executive Officer, Thailand Vietnam & Laos
   Section.

Thursday 8 February
   Briefing at Intellectual Property (IP) Australia, Discovery House, 47
   Bowes St Phillip, with DFAT participation.
9.30 – 9.45 am Opening Introductions, Ian Heath, Director General IP
9.45 – 10.30 am Patents and Trademarks, Ross Wilson, Registrar of Trademarks IP/Leo O’Keefe, Deputy Commissioner Patents and Designs IP
10.30 – 11.00 am Policy, Rick Gould, Deputy Director General Corporate Strategy
11.00 – 12.30 pm WTO Intellectual Property and Enforcement and Copyright: Andrew Witheford, Executive Officer, WTO Intellectual Property & Enforcement Unit, DFAT; Anna George, Acting Director WTO Intellectual Property & Enforcement Unit, DFAT; Fiona Ey, Senior Legal Officer Intellectual Property Branch, Information and Security Law Division (presenters)
12.30 – 1.30 pm Lunch, Kirra Restaurant hosted by Ian Heath
2.00 – 4.30 pm Briefing at Environment Australia, John Gorton Building
Geoff Burton, Director of Access Taskforce Biodiversity Group host
Ms Kerry Robinson, Australian enforcement of CITES, the Convention on International Trade in Endangered Species
Gareth Rees, Australian implementation of the Biodiversity Conservation Convention
Geoff Burton, case study on consultations in preparing legislation under the Biodiversity Convention
Also present: Stephen Bates

Friday 9 February
9.30 - 12.00 pm Terrace Room, University House
Review and discussion of future activities, Roland Rich
Afternoon National Aquarium and Parliament House visits

Monday 12 February
9.30 – 12.00 pm Meet with Federal Court judges. Liaison, Greg Heesom, Executive Officer
Morning welcome, Justice Wilcox
Seminar on Federal Court structure, Justice Moore
Financial structure of the Federal Court and role of registrars, Alan Dawson, Senior Deputy Registrar/Margaret Quinn, District Registrar (presenters)
12.30 – 2.00 pm (followed by) Lunch. Attended by Justice Moore, Justice Tamberlin, Justice Wilcox, Justice Sackville and Justice Mathews
Observe sitting of Federal Court
2.00 – 4.00 pm Seminar on International Law, Justice Tamberlin

Tuesday 13 February
9.30 – 12.30 pm NSW Judicial Commission
Origins and functions of NSW Judicial Commission, Ernie Schmatt, Chief Executive
Demonstration of Sentencing Information System (SIS), Murali Sagi, Director, Information Systems

12.30 – 2.00 pm  (followed by) Lunch. Attended by: Ernie Schmatt, Chief Executive; Murali Sagi, Director, Information Systems; Ruth Windeler, Education Director; Ivan Potas, Director, Research & Publishing

Wednesday 14 February
10.00 – 10.30 am  Human Rights and Equal Opportunity Commission (HREOC). Liaison officer: David Robinson
Welcome and morning tea with Professor Alice Tay, President, along with Diana Temby, Executive Director, and David Robinson, Program Manager, International Programs

10.30 – 12.30 pm  Briefings:
Overview of HREOC, David Robinson, Program Manager, International Programs
Application of human rights obligations in Australia, Meredith Wilkie, Director, Human Rights Policy Unit
Work of Social Justice Unit, Darren Dick, Director, Social Justice Unit
The work of Complaints Handling Unit, Ms Rocky Clifford, Director, Complaints Handling Unit

12.30 pm  (followed by) Lunch, Emperor’s Court Restaurant. Attended by Professor Alice Tay, Diana Temby, David Robinson, Ms Rocky Clifford, and Dr Bill Jonas, Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner

Thursday 15 February
10.00 – 12.00 pm  Evaluation Session

8.00 pm  Performance by The Irish Tenors, Sydney Opera House
Participants of the Vietnam Judicial Training Study Tour
5-15 February 2001

Mr Le Thuc Anh
Deputy Chief Justice
Supreme People’s Court of Vietnam

Mr Nguyen Quang Loc
Judge, Chief of Administration
Dept of Supreme People’s Court of Vietnam

Mr Nguyen Dac Thang
Chief Judge, Labour Division of the
Supreme People’s Court of Vietnam

Mr Nguyen Xuan Von
Deputy Chief Justice
Appellate Div. Of Supreme People’s Court of Vietnam

Mr Pham Tuan Chiem
Judge
Supreme People’s Court of Vietnam

Mr Pham Hung Viet
Judge
Supreme People’s Court of Vietnam

Mr Chu Trung Dung
Legal Expert, Institute for Judicial Science
Supreme People’s Court of Vietnam