

Local self-government in Vietnam: The reality and the issue have to keep innovation research

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Abstract

Local self-governance is associated with the management activities of the government in the direction of autonomy and self-determination on the organizational apparatus and tasks of social development management of the locality. Many countries worldwide have built local self-governance models with their characteristics suitable to the characteristics of their political, cultural and social regimes. Although not building and applying a specific model of local self-governance, many other countries have also had strong decentralization regulations for localities according to their areas of expertise, thereby creating diversity in the administration and management of the local government of each country. Within the scope of this research, the author focuses on analyzing the practice of local self-governance in Vietnam combined with comparative studies with the self-governance models of some countries in the world. The author carried out this study by the qualitative method through the collection and analysis of secondary documents. Research results have shown in practice the advantages and limitations of local self-governance in Vietnam. From the research results, the author suggested some issues that need to be further researched and innovated to build an effective government apparatus.

Keywords: Self-management; Local self-governance; Local government, Vietnam.

1. Introduction

The local government in Vietnam consists of three levels: provincial, district and commune levels. Each level is regulated, including the People's Council and the People's Committee, and as of 2021, Vietnam has 63 provincial-level government agencies, 705 district-level government agencies, and 10.604 commune-level government agencies (GSO 2021). Local government bodies are established according to the democratic electoral system; State management activities of local government agencies are carried out in combination with sectoral and territorial management (VNA 2013).

According to the provisions of Vietnamese law, local governments perform social management tasks according to decentralization, authorization and decentralization (VNA 2015), in which decentralization is determined at the highest level according to several criteria specific content when assigned. The reality of state management activities shows that the separation between decentralization, authorization, and decentralization is relative and, in many cases, creates confusion affecting the effectiveness of local governance. Inconsistency among localities when jointly implementing tasks assigned by the central government; Inconsistencies between some central

management agencies' regulations confuse the locality in solving the decentralized tasks (Mai. H 2016).

The above fact has been posing management problems for national leaders in macro-management. Therefore, it is necessary to promote research on local self-governance in both theoretical and practical aspects to provide scientific information to contribute to national policy-making and formulation appropriate and objective manner. With that in mind, the author hopes that the results of this study will be helpful to the author himself and managers and many researchers when it comes to the topic of local self-government.

2. Some theoretical problems of local self-governance

Self-management is "self-managing and managing the work without anyone controlling it" (CFD 2011), which means that each subject decides by himself all issues related to the whole development process declaration of a job. For local governance activities stemming from the characteristics of self-governing activities within the scope of the law, local self-governance becomes a mandatory condition for carrying out local governance activities (Trung. NS 2019). Accordingly, in local governance activities, local governments must have the right to self-determine local issues within the permitted scope and based on decentralization from the central government according to the law (in the future collectively referred to as local self-government). Without this condition, the locality is just like an "outsourcing" part of the tasks assigned by the central government without any conditions attached; that is, it cannot show independent roles and responsibilities in the performance of its duties tasks and performance results.

In legal science, when discussing local self-governance, many researchers affirm the independence and autonomy of the government for solving local problems in an independent relationship with the local government's superior authority. Nguyen Dang Dung emphasizes the role of the government in local governance as the fourth branch of power, which depends only on the law and is subject to arbitration by the courts, not directly under the superior government or central government agency (Dung. ND 2016). Gordon L. Clark explains local self-government's nature, including the right to take independent initiatives to solve local problems and immunity from central government intervention focus on solving local government affairs when dealing with local problems. When local government does not have these two powers, it is not local self-government (Gordon. LC 1984). Frederik Fleurke and Rolf Willemse, when referring to local self-government with an approach from the perspective of organizing local government according to the principle of self-governance, also emphasized that it is the free space that the local community together with their local government can make their own decisions and organize their implementation of decisions when dealing with local problems. They asserted that local self-government is an integral element of local governance with this approach (Frederik. F et al 2006).

The general trend of countries in the contemporary world in how local government is organized is according to the principle of self-governance, where decentralization (the highest level of decentralization) is emphasized. In Europe, the 1985 European Charter for Local Self-Governance is

widely applied to countries joining the European Union (Council of Europe 1985). The World Charter on Local Self-Governance is currently drafted by experts from the United Nations Center for Human Settlements with many similar contents with the European Charter (Cuong. NV 2021).

In many countries worldwide, such as Britain, France, Germany, the United States, and Japan, the self-governing nature of local governments and the decentralization of powers to local governments are characteristic and straightforward features. Accordingly, local government levels are independent entities, not dependent on or subject to the direction and intervention of superior authorities. In the UK, the central government is not the superior governing body for the locality, not controlling the locality. Local government levels are independent, without interdependence (An. LTH et al 2015). In France, local governments in France are self-governing, independent, financially self-sufficient communities with legal status, and especially without a hierarchy or supervision among levels of government local. In Germany, the most characteristic of the German government organization model is decentralization; each level of local government in Germany is proactive in performing its assigned tasks, while one level does it and the other does not (Ngoc. DB 2013). In the United States, all levels of government are highly independent and are free to choose organizational models; Localities are free to handle their affairs without the need for central patronage. The submission to the central government and the central supervision over the locality is mainly through the law and the judicial activities of the courts (Cuong. NV 2021). In Japan, the local government is composed of provincial and county levels, independent entities, and does not have a hierarchical relationship in the administrative system (Phuong. NT 2011).

From the above theory and practice, two fundamental problems of local self-governance can be seen, which are:

- Organizational method: Local self-governing governments are organized independently in terms of functions, tasks and powers, elected by local people in a democratic form. Because there is independence and democracy in terms of organization, it is possible to have the initiative, autonomy and promote the people's mastery in the implementation of local tasks based on decentralization according to the law and only obey the law, not subject to the influence and intervention of superior government agencies.

- In the principle of operation: The local self-governing government must be able to decide (self-manage and run) the local issues without the control of the superior government agency (the principle of self-governance). It is the principle that ensures that each government agency, based on its characteristics and available advantages, can be autonomous and responsible in making policy measures and mobilizing all resources to serve the needs of the public service for local development.

3. The practice of local self-governance in vietnam

The 2013 Constitution, the 2015 Law on Organization of Local Governments. Stipulates how to organize the government by democratic election delineating the central government's authority and locality. And so on between the locality and the locality. However, the provisions of the Constitution

and the Law on Organization of Local Governments do not clearly show the self-governing spirit of local governments. At the same time, this is an essential requirement and a general trend in management activities government in many countries worldwide. In other words, Vietnam currently does not have local self-government in the true sense of the word - a necessary condition for local governance, which is explained by the following contents:

a) Organization of local self-governance

The 2013 Constitution, the 2015 Law on Organization of Local Government, clearly stipulates that the people participate in organizing the local government apparatus by way of election to establish the People's Council - the body representing the will of the local government. Their aspirations in the locality. Voting is carried out according to universal, equal, direct and secret suffrage principles, but how voting rights are exercised shows us the degree of democracy in the organization of local government in Vietnam Male.

- Firstly, citizens aged full 18 years or older have the right to vote. Complete 21 years old have the right to run for deputies to the People's Councils at all levels, except for those deprived of the right to vote under a judgment or decision the court's decision has taken legal effect. The person sentenced to death is waiting for the execution of the sentence; persons serving prison sentences but are not entitled to a suspended sentence; persons who have lost their civil act capacity. This regulation is similar to the regulations of many countries worldwide on the standards of voters and candidates. They are set out to ensure the legality and convenience of state management activities in organizing the organization vote.

- Second, the organization of the local government apparatus is carried out through direct elections to establish the People's Council. In contrast, the local government consists of both the People's Council and the People's Committee, in which The People's Committee is elected by the People's Council at the same level, is the executive body of the People's Council, exercises executive power to manage and administer the socio-economic activities of the locality. Thus, the election to establish an agency to perform the tasks of state administrative management in the locality responsible for administering local socio-economic activities is not directly elected by the people but through the indirect election mechanism (through the People's Council deputies). This mechanism has reduced the opportunity for people to directly select the heads of agencies in the local state administrative apparatus, which are outstanding.

- Thirdly, the introduction and selection of candidates to the People's Council are carried out with the participation of the whole political system, in which the role of consultation belongs to the Fatherland Front Committee. State agencies, political organizations, socio-political organizations, social organizations, people's armed forces units, non-business units and economic organizations in the locality have the right to introduce personnel to a candidate for the People's Council. The Standing Committee of the Vietnam Fatherland Front Committee of the same level shall hold consultations (1st, 2nd, third time) to select and nominate candidates for the People's Council following the proposed structure and membership the portion and number of delegates shall be determined by the Standing

Committee of the People's Council¹, participate in supervising the election of local People's Council deputies.

- Fourth, the organization of a constituency conference is officially conducted to promote the people's right to mastery before holding the election of deputies to the People's Council. Voters' conferences are regulated at the commune level, held in villages or residential groups, and are convened and chaired by the Standing Board of the Vietnam Fatherland Front Committee of the same level. At the Conference, voters compare with the standards of the People's Council deputies, comment and express their confidence in the candidates (self-nominated, nominated candidates) of the People's Council by show of hands or secret ballot according to the decision the Conference. Most countries also set this regulation to promote the people's mastery and prepare for the official election.

- Fifthly, the organization of local government at each level is not entirely independent but is controlled and dependent by superior authorities, namely:

(1) Chairman of the People's Committee at the same level on approving the results of election, dismissal and removal from office of the President and Vice President of the People's Committee at lower levels; to mobilize, suspend or dismiss the Presidents and Vice-Chairs of the People's Committees at lower levels.

(2) The superior People's Council has the right to dissolve the lower People's Council if the People's Council causes severe damage to the people's interests. This organization is different from how local governments are organized in many developed countries such as the United Kingdom, the United States, Japan, and the French Republic. So, the local government at each level is organized independently according to the spirit of the government self-governing spirit, only obeying the law without the direct approval of the superior government to organize the apparatus of the lower government (Trung. NS 2019). It is the factor that creates the independent nature in the organization of the government apparatus, thereby forming a self-governing government system to perform the local governance tasks of these countries.

b) Activities of local self-governance

The activities of local governments are subject to inspection, examination and supervision by the authorities and superior state agencies. The Law on Organization of Local Government 2015 (Chapters 1, 2, 3) stipulates general principles in government agencies' operation and scope of authority: local governments State management activities of local governments at all levels must ensure a close combination of sectoral sectors with territorial management. The following specific provisions explain it:

(1) Local governments are responsible to superior state agencies for the results of the performance of their tasks and powers: The People's Councils are responsible to local people and superior state

¹ The proposed structure, composition and number of People's Council deputies shall be developed by the Standing Committee of the People's Council (at least 35% of candidates are women; the number of candidates being ethnic minorities is determined suitable to the specific situation of each locality, etc.), are sent to the Standing Board of the Vietnam Fatherland Front Committee and the Election Commission of the same level, the Standing Committee of the People's Council at the immediate superior level, the National Council.

agencies; The People's Committee is answerable to the local people, the People's Council of the same level and the superior state administrative agencies.

(2) The superior government inspects and supervises the activities of the lower government; Superior state agencies, within the ambit of their tasks and powers, are responsible for inspecting and checking the constitutionality and lawfulness in the performance of tasks and powers delegated to local authorities at all levels.

- For provincial level:

+ Provincial-level local governments are responsible to superior state agencies for the performance of their tasks and powers; inspect and supervise the organization and operation of the local government in the administrative units in the locality.

+ The People's Council of the province has the power to annul part or all of the illegal documents of the People's Committee or the President of the People's Committee of the same level; annul part or all of the illegal documents of the district-level People's Council.

+ Presidents of provincial-level People's Committees shall lead and be responsible for the operation of the state administrative system in their localities, ensuring the consistency and smoothness of the administrative system to have the right to suspend the implementation of annual illegal documents of the People's Committee or the President of the district-level People's Committee. Suspend the execution of illegal documents of the district-level People's Council, report it to the provincial-level People's Committee to request the provincial-level People's Council to annul it.

- For district level:

+ The district-level local government is responsible to the provincial-level local government for the performance of its tasks and powers; inspect and supervise the organization and operation of the local government at the commune level.

+ The district-level People's Council has the right to annul part or all of the illegal documents of the People's Committee or the President of the People's Committee of the same level; annul part or all of the illegal documents of the commune-level People's Council.

+ Presidents of district-level People's Committees have the right to suspend the execution of annual illegal documents of the People's Committees or Presidents of commune-level People's Committees; suspend the execution of illegal documents of the People's Council of the commune, report to the People's Committee of the district to request the People's Council of the district to annul it.

- For the commune level: The local government at the commune level is responsible to the local government at the district level for the performance of their tasks and powers. The commune-level People's Council has the right to annul part or all of the illegal documents of the People's Committee or the President of the People's Committee of the same level.

In addition to the general principles in the organization and operation of government agencies, the Law on Organization of Local Government 2015 also clearly defines the authority of each level of government in exceptional cases, specifically: (1) The district-level local government shall settle issues related to the scope of two or more commune-level administrative units; (2) Issues related to the scope of two or more district-level administrative units shall fall under the jurisdiction of the provincial-level local government; (3) Issues related to the scope of two or more provincial-level administrative units fall under the jurisdiction of the central state agency.

These contents shall be implemented unless otherwise provided for by-laws and resolutions of the National Assembly, ordinances and resolutions of the National Assembly Standing Committee.

Assessing the issue of local self-governance in Vietnam today, it can be seen that the organization of local self-governance is implemented in a democratic form, in line with the general trend of the world. The activities of self-governing government agencies are carried out with the principle of decentralization, authorization and decentralization according to the law, applicable to the whole system of local government agencies nationwide. However, this also leads to the situation that in many localities, the government apparatus is inefficient because the way it is organized and operates is not suitable with the local community's economic, cultural, and social characteristics residents has made objective demands on the formation of urban and rural government models (Ngoc. TQ 2015). In addition, with the principle of closely combining management by sector with management by territory and the principle of uniformity and transparency in state management activities, the operation of each level of local government in Vietnam. It is controlled by both the government and superior state agencies in inspection, examination and supervision. It has the effect of reducing the autonomy and self-responsibility of the government in performing local development management tasks. This issue is entirely different from the local self-governance of the United Kingdom, the United States, Japan - the operation of the government is subject only to the law and the arbitration of the courts. It is also an issue that needs further research and adjustment if we want to build a local self-governing government model in Vietnam under the general trend of the world: urban government, rural government.

4. Issues that need further research and innovation

The above practice of local self-governance in Vietnam, the author suggests continuing research on innovation, which is to diversify the organization and operation of local governments according to the urban government model town and rural government.

a) The objective of diversifying the way local government is organized and operated.

The diversification of the organization and operation of the local government aims to build a diverse local government system suitable to the characteristics of the local population; develop a state management method compatible with the characteristics of each type of government.

b) Content and meaning of diversifying the organization and operation of local government.

The content of diversifying the organization and operation of local governments is mentioned, which is the institutionalization for each type of government: Institutionalizing the organization and operation

of the agricultural government village (provincial, district, commune government), urban government (city, district, town, ward, township government).

The diversification of the organization and operation of local government is conducted scientifically, which will help each locality choose and apply an appropriate organizational and management method (model) to perform well the tasks of social development management in the locality. Government leaders, therefore, also have many conditions and opportunities to promote local resources through the selected appropriate model. An important issue that is confirmed and acknowledged is that the operational efficiency of agencies and organizations depends on many factors, including organizational structure. Accordingly, when choosing the exemplary apparatus, agencies and organizations will maximize internal resources and exploit external advantages to create high-quality products that are suitable to the needs and practical situation. The same goes for local self-governing governments. The selection of an appropriate organizational method will also help leaders determine the content and management measures appropriate to the characteristics of the population in the area to achieve high efficiency in state management.

c) The basis for explaining the diversification of how local government is organized and operated.

- On the theoretical basis:

Many scientists in the legal and administrative fields assert that the performance of local governments depends on many factors, but first of all, it depends on the organization of local administrative (territorial) units, according to which two basic types of administrative units are mentioned as natural administrative² units and artificial administrative units (Dung. ND 2016): Natural administrative units are administrative units with historical history natural formation and development based on the characteristics of the population, geography, customs, practices, cultural traditions and history with long-standing stability; An artificial administrative unit is a newly formed administrative unit or an administrative unit with characteristics of population, geography, customs, practices, cultural traditions and history that is not stable for a long time or according to central management needs. Based on the above characteristics, many countries have classified the government according to the local administrative unit into two types with the above name or other names but with similar characteristics, such as urban government, local government, and local government rural areas , and determine how to organize and operate each of these types of government.

- On the legal basis:

The 2013 Constitution, It was in the spirit of diversifying the organization and operation of local governments, stipulates: “Local government shall be organized in accordance with the characteristics of the rural, urban, island, and unitary areas, special administrative-economic regulations prescribed by law” (Article 111). This is a new point compared to previous legal documents on local government, and thus, the 2013 Constitution, with the spirit of diversifying the organization of government according to local characteristics, serves as a legal basis for determining local government urban

² From the above reasoning, it is possible to identify rural government with similar characteristics to the government in the natural administrative unit; urban government has many similarities with government in artificial administrative units; can be used to diversify the organization and operation of local government in Vietnam.

government and rural government: Rural government in administrative units in administrative units (provinces, districts, communes) with a history of natural formation and development based on population characteristics, geography, customs, practices, cultural traditions and history have long-standing stability; urban government in administrative units (cities, districts, towns, wards, townships) with characteristics of the population, geography, customs, practices, cultural traditions, and history are less stable long-term determination compared to provinces, districts and communes. This is an important legal basis for agencies and localities to continue to research and adjust in order to build and select the way of organization and operation of the local government in accordance with the movement and development of the local government social development in the area.

- On the basis of practice:

In Vietnam, rural government and urban government are classified in the 2013 Constitution, but the organization and operation of rural government and urban government are not clearly regulated by law³. While these two types of government have many different and even different characteristics, local governance activities have not yet brought into full play the advantages from the characteristics of each main type of permission. Meanwhile, in the world, many countries have thrived due to their successes in organizing a reasonable apparatus and the diversity in the organization and operation of local governments in accordance with the specific characteristics of the local government, their historical, cultural, ethnic. The United States was formed with multi-ethnicity on a large land, so the organization and operation of local government are diverse; local government levels have high independence, are free to choose organizational models (Mayor-Council model, Commission model, City manager model) and operate on the principle of autonomy administration with clear decentralization. Japan has a fairly diverse system of local government (special zone government, cooperative county government, property ownership zone government, local development association government) due to historical factors, geography - the country is made up of tens of thousands of islands, and there are disparities in resources between many areas. Therefore, Japan organizes a variety of local government systems in order to promote the inherent advantages of each area in the territory. China organizes the locality into four levels (province level, regional level, district level, and county level), and the organization of administrative units within the four levels is also very diverse due to history - the vast land was once divided into many countries, many autonomous regions (Trung. NS 2019).

With the above-mentioned theoretical, legal and practical bases, it can be seen that the necessity of diversifying the organization and operation of local governments in Vietnam according to each type: urban and rural government. This content is consistent with the spirit of the 2013 Constitution and in line with the general trend of countries with diverse geographical, cultural and ethnic characteristics.

³ The People's Council is elected by voters, operates under the conference system, and makes decisions by majority. The People's Committee is elected by the People's Council of the same level, is the executive body of the People's Council, operates under the collective system of the People's Committee in combination with the responsibility of the Chairman of the People's Committee. Specialized agencies - for provincial and district levels, shall be established by the People's Council of the same level on the basis of the proposal of the People's Committee (VNA 2015).

Conclusion

On the basis of the theoretical approach to local self-governance, the author analyzes and contributes to pointing out the advantages and limitations of the practice of local self-governance in Vietnam through the organization and operation of the local self-government authorities. From here, the author suggests that it is necessary to continue to research and innovate in order to build an effective government apparatus, which is to diversify the organization and operation of local governments in the direction of demarcation of urban and rural government. The research results are not only meaningful for the author himself in carrying out further studies related to the topic of local self-governance but also have reference value for national leaders in the region the adjustment of policies and laws in order to continue reforming the state administrative apparatus.

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