

LOCAL SELF-GOVERNANCE IN VIETNAM

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Abstract - Local self-governance is associated with the management measures taken by the government toward autonomy and self-determination on the organizational apparatus and social development management tasks in the locality. Many nations around the world have developed local self-governance models that are unique to them and appropriate to the features of their political, cultural, and social regimes. Many other nations have strong decentralization regulations for their localities according to their areas of expertise, even though they haven't applied a specific model of local self-governance. This has led to diversity in the ways that various nations manage and administer their local governments. The author of this paper focuses on examining local self-governance in Vietnam and doing a comparison with the self-governance model used in several other nations. The author used a qualitative method to conduct this study by gathering and analyzing secondary data. Research findings have demonstrated the benefits and drawbacks of local self-governance in Vietnam. Based on the research results, the author offers recommendations for future innovation research to develop an effective government apparatus.

Keywords: Self-governance; local self-governance; local government; Vietnam.

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INTRODUCTION

Vietnam's local government is divided into three provincial, district, and commune levels. Each consists of the People's Committee and the People's Council. Currently, Vietnam has 63 provincial-level, 705 district-level, and 10,599 commune-level government agencies [6], which are established according to the democratic electoral system; their state management functions are performed in combination with sectoral and territorial management [13].

Vietnamese legislation stipulates that local governments perform social management duties by authorization and decentralization (VNA, 2015), in which the latter is determined at the highest level by several specific tasks when assigned. The reality of state management activities demonstrates that the distinction between decentralization and authorization is indeterminate. In some cases, it frequently leads to confusion, which has an impact on local governance. For example, inconsistency among localities when jointly implementing tasks assigned by the central government; the discrepancy between regulations issued by some central management agencies causes the localities to strain to resolve the decentralized tasks [9].



The aforementioned fact has presented national leaders with macro management challenges. Therefore, it is essential to promote theoretical and applied research on local self-governance to produce scientific data that may properly and impartially contribute to the formulation and making of national policy. In light of this, the author expects that these research findings will be helpful not only to him but also to many managers and researchers who are interested in the subject of local self-governance.

1. A few theoretical implications with local self-governance

According to EPH (2020), self-governance is "self-governing and controlling work without being controlled by anyone" [5] which means that each subject decides on their own how to carry out their tasks. Deriving from the features of self-governing operations within the legal framework, local self-governance becomes a mandatory requirement [3]. As a result, according to the legislation, local governments must have the authority to decide on their local issues within the allowed parameters and based on decentralization from the central government (hereinafter collectively referred to as local self-governance). Otherwise, the locality is just like an "outsourcing" part that performed the tasks assigned by the central governance, that is, it cannot demonstrate its independent roles and responsibilities in the performance of the assigned duties and tasks.

When considering local self-governance in legal science, numerous researchers affirm the local government's independence and autonomy in resolving its local issues in a separate connection with the superior authorities. N.D.Dung highlighted the role of the government in local governance as a fourth branch of power that solely depends on the law and is subject to judicial arbitration but is not under the control of the superior authorities [4]. According to K.Q.Hoan (2022), the characteristics of local self-governance include the right to address local issues independently and immunity from intervention by the central government while dealing with those matters. Local self-governance is not present when the local government lacks these two powers [7]. When discussing local self-governance from the perspective of organizing local government, Ly Thi Hue et al. also emphasized that it is a free space in which the local community and their local government can make their own decisions and self-organize when dealing with their local issues [8]. With this approach, L.T.Hue et al. have further confirmed the importance of local self-governing government as a component of local governance.

The principle of self-governance, which emphasizes decentralization (the maximum level), is the general trend of many countries in the contemporary world in the way local government is constituted. In Europe, nations joining the European Union must abide by the 1985 European Charter for Local self-governance [11]. The World Charter on Local self-governance is now being drafted by experts from the Center for Human Settlements of the United Nations, in which many of its provisions are identical to those of the European Charter [2].

The local governments' self-governing nature and their decentralization of powers are distinct characteristics in many nations, including the UK, France, Germany, the United States, and Japan. Local government levels are thus autonomous bodies that are not reliant on or vulnerable to the direction and interference of their superior authorities. In the UK, local government levels are independent and do not depend on one another; the central government is not the superior governing body for the locality and does not exert authority over the locality [1]. There is no hierarchy or oversight among local government levels in France; local governments are self-governing, independent, financially autonomous entities with legal identities. Decentralization is the dominant feature of the German government organization model; each level of local government takes initiative to carry out the tasks assigned; if one level performs an assignment, the other level will not do it [11]. Local authorities are empowered to run their affairs without central patronage in the United States, where government levels are highly independent and free to choose their organizational models. Central compliance and central supervision of the locality are primarily exercised through the law and judicial activities [2]. Prefecture and county levels make up local administration in Japan. These levels are independent and do not follow a hierarchical administrative structure [12].

Two fundamental issues with local self-governance can be noticed from the aforementioned theory and practice, and they are as follows:

- In the organizational approach: Local self-governances are independent bodies in terms of their functions, tasks, and powers and are democratically elected by the local populace. Because there is independence and democracy in the organization, it is feasible to exercise initiative and autonomy and promote the people's mastery in implementing local tasks based on decentralization under the law. It solely complies with the law, not affected by or subject to the interference of higher-up government entities.

In the operation principle: the local self-governance must be able to resolve (self-manage and administer) local concerns without the supervision of the superior government agencies (self-governance). This principle ensures that each local government agency, based on its features and advantages, can be autonomous and responsible in making policy measures and mobilizing all resources for its development.

2. Practice of local self-governance in Vietnam

The Constitution of Vietnam [13] and the Law on Organization of Local Governments [14] stipulate how to organize government agencies through democratic elections; clearly define the authority between the central and local governments, and between the local government and other ones. However, despite this being a fundamental requirement and a widespread trend in state management activities in many countries around the world, the provisions of the Constitution and the Law on Organization of Local Governments do not demonstrate the self-governing spirit of local governments. To put it another way, local self-governance, a prerequisite for local governance, is not now present in Vietnam. This is explained as follows:

Organization of local self-governance

The Constitution of Vietnam [13] and the Law on Organization of Local Governments [14] stipulate that the people participate in the organization of the local government apparatus through elections to establish the People's Council that represents their wishes and aspirations in the locality. Voting is exercised under the principles of universal, equal, direct, and secret suffrage, but how it is implemented reveals to us the degree of democracy in the organization of Vietnam's local government.

- First, citizens aged full 18 years or older have the right to vote and those aged full 21 years old have the right to stand for deputies to the People's Councils at all levels, except for those deprived of the right to vote legally effective court judgments or decisions; those who have been given a death sentence and is awaiting its execution; those who are serving a jail term without a suspended sentence; or those who are no longer capable of performing civil acts. This law is comparable to those that many other nations have enacted on the requirements for voters and candidates to guarantee the legitimacy and ease of state management activities related to the conduct of elections.

- Second, the establishment of the People's Council is accomplished through direct elections, and the local government is made up of the People's Committee and the People's Council. As the executive body of the People's Council, the People's Committee chosen by the People's Council at the same level manages and oversees the community's socio-economic operations. Therefore, the election to create a body to perform state administrative tasks in the locality, responsible for governing local economic and social activities, is conducted indirectly (through the representatives of the People's Council). This process has diminished the chance for people to directly choose outstanding heads of agency from the local state administrative apparatus.

- Third, the entire political system is involved in the introduction and selection of candidates for the People's Council, with the Fatherland Front serving as a consultative body. 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 nominate personnel to stand for election to the People's Council. The Standing Board of the Vietnam Fatherland Front Committee of the same level shall hold consultations (1st, 2nd, 3rd times) to select and nominate

candidates for the People's Council under the expected structure, composition, and number of delegates set forth by the Standing Committee of the People's Council¹; it takes part in overseeing the election of local People's Council deputies.

- Fourth, before holding the election of deputies to the People's Council, a constituency conference is formally organized to advance the people's right to mastery. The commune-level electorate conference is required, held in the village or residential group, and organized and presided over by the Standing Board of the Vietnam Fatherland Front Committee at that level. Under the Conference's resolution, voters evaluate candidates (self-nominated and nominated candidates) to the standards of the People's Council deputies, comment on them, and express their confidence in them through a show of hands or a secret ballot. The majority of nations have likewise adopted this rule to promote the people's mastery and ensure a successful official election.

- Fifth, local administration at each level is not entirely independent. Rather, it is governed and subject to the will of higher authorities, namely: (1) The President of the superior People's Committee approves the results of the election, removal from office, and dismissal of the President and Vice President of the lower People's Committee. He shall mobilize, suspend or dismiss the Presidents and Vice-Presidents of the People's Committees at lower levels; (2) If the lower People's Council seriously jeopardizes the people's interests, the superior People's Council has the authority to dissolve it. This organization of local government is different from that in many developed countries such as the United Kingdom, the United States, Japan, and the French Republic. That means each level of local government is organized independently in the spirit of self-governance, with the apparatus of the lower government only adhering to the law without explicit consent from the higher government [11]. It is what gives the structure of the government apparatus its independent character, resulting in the formation of a self-governing government system to carry out these nations' local governance functions.

Local self-governance operations

Local government operations are subject to inspection, examination, and supervision by superior authorities and state agencies. The Law on Organization of Local Government [14] outlines general guidelines for how government entities should function and what powers they have: All levels of local government must ensure that sectoral and territorial management are closely integrated into their state management activities. The enumerated provisions below specifically explain this:

(1) Local governments are accountable to their superior state agencies for the outcomes of exercising their tasks and powers. It means that the People's Council is answerable to the local people and its superior state agencies, the People's Committee is answerable to the local people, the People's Council of the same level, and the higher state administrative agencies.

(2) The operations of their lower governments are reviewed and overseen by the higher governments. They are responsible for reviewing and evaluating the legality and constitutionality of the duties and powers exercised by local authorities at all levels in the context of their tasks and powers.

- For provincial level:

+ Provincial-level local governments are accountable to central state agencies for the outcomes of their tasks and powers; they also inspect and supervise how the local government organizes and runs in the lower administrative subdivisions.

+ The provincial People's Council has the authority to revoke part or all of the illegal documents of the People's Committee or the People's Committee President at the same level, as well as the unlawful documents of the People's Council at the district level.

¹The Vietnam Fatherland Front Standing Board and the Election Commission of the same level, as well as the Standing Committee of the People's Council, will receive the proposed structure, composition, and number of People's Council deputies (at least 35% of candidates must be women; the number of candidates who are ethnic minorities is determined in accordance with the specific circumstances of each locality, etc.) [14].

+ Presidents of provincial-level People's Committees are responsible for overseeing the state administration in their regions and its smooth and consistent operation. They also have the authority to annul or suspend the implementation of any unlawful documents by their respective People's Committees or district-level People's Committees, the district-level People's Council's and their respective People's Councils.

- For district level:

+ The district-level local government is accountable to the provincial-level local government for the outcomes of the execution of its duties; it also monitors and inspects the organization and operations of the local government at the commune level.

+ The district-level People's Council has the authority to nullify all or part of any unlawful documents formulated by the People's Committee or its president at the same level, as well as any unlawful documents issued by the commune-level People's Council.

+ Presidents of district-level People's Committees or Presidents of commune-level People's Committees may suspend the execution of or annul unlawful documents of those bodies, respectively. They may also report them to the commune-level People's Council and ask the district-level Committee to annul them.

- For commune level:

The district-level local government is held accountable by the commune-level local government for the outcomes of the exercise of its duties. The People's Council at the commune level has the authority to annul all unlawful documents issued by the People's Committee or its president at the same level, in whole or in part.

The Law on Organization of Local Government [14] clearly outlines the power of each level of government in unique instances in addition to the general principles governing the organization and functioning of governmental entities. As follows: 1) The district-level local government has jurisdiction over matters involving the range of two or more commune-level administrative units; (2) The local government at the province level has jurisdiction over issues about the range of two or more district-level administrative units; (3) The central state agency has authority over matters about the scope of two or more provincial-level administrative divisions. Except as otherwise allowed by laws, ordinances, and resolutions of the National Assembly Standing Committee, the provisions of this document shall be executed.

When examining local self-governance in Vietnam, it is evident that democratic principles are used to organize local self-governance to keep up with the global trend. Authorization, and decentralization by the law, which applies to the entire system of local government agencies countrywide, are the guiding principles for self-governing government agencies. However, this also results in the circumstance that the government apparatus is ineffective in many locations because how it is set up and run is not appropriate for the economic, cultural, and social qualities of the local community. This may be considered necessary for developing urban and rural government models [10]. Its superior state agencies additionally control the operations by each level of Vietnam's local government through their inspection, examination, and supervision due to the principle of closely combining management by sector with management by territory and that of unity and smoothness in state management ones. As a result, the government is less autonomous and accountable for carrying out activities related to local development management. In contrast to local self-governance in the United Kingdom, the United States, and Japan, where governing is only governed by the law and judicial arbitration, this issue is entirely different. If we want to create a model of local self-governance in Vietnam that follows the global trend of urban and rural government, this issue must be further explored and addressed.

3. Issues need researching and innovating to build local self-governance in Vietnam

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

The goals of diversifying local government's organization and operations

The goal of local government system diversification in terms of organization and operation is to create a system representative of the local population's characteristics. Additionally, it seeks to develop a state management strategy in line with each form of government's characteristics.

The nature and significance of diversifying local government organizations and operations

The institutionalization of each sort of government is covered in the section on diversifying local government organization and operation: Give rural government (provincial, district, commune government) and urban government institutionalized organizational structures and methods of functioning (city, district, town, ward, township).

Each locality will be assisted in selecting and implementing an appropriate organizational and management approach (model) to successfully carry out the tasks of local social development management as a result of the scientific diversity of local government organization and operation. Therefore, there are many opportunities and circumstances for government leaders to promote local resources in the right manner. The notion that the operational effectiveness of agencies and organizations depends on a variety of elements, including organizational structure, is a significant issue that has been confirmed and acknowledged. To produce high-quality products appropriate for the needs and practical scenario, agencies and organizations will maximize their internal resources while also making use of external benefits while choosing the appropriate apparatus. The same is accurate for local self-governance. Leaders will be able to establish the content and management strategies most suited to the local population's features and achieve high levels of state management efficiency by choosing an appropriate organizational approach.

The rationale for local government's diversification in terms of the organization and operation

- On the theoretical basis

Numerous scientists in the legal and administrative disciplines assert that although many variables affect how well local governments work, the organization of local administrative (territorial) entities comes first. Accordingly, the terms "natural administrative units" and "artificial administrative units" are used to describe two fundamental categories of administrative units [4]: The formed are those that have a long history of stability and a history of natural formation and development based on factors such as population, geography, customs, practices, and cultural traditions needs are considered a natural administrative unit ; A newly formed administrative unit or an administrative unit having population, geography, habits, practices, cultural traditions, and history features that are not stable for a long time or according to central management needs are considered an artificial administrative unit. Based on the aforementioned characteristics, many countries have divided local governments into two types, known as urban and rural governments or by other names but sharing the same ones², and have determined how to organize and operate each of these types of governments.

- On a legal basis:

To diversify the organization and operations of local governments, the Vietnamese Constitution mandates that "local government shall be established in line with the features of the rural, urban, island, and economic and administrative entities as set forth by legislation [13]. Since this is a new issue compared to earlier legal documents on local government, the Constitution serves as a legal basis to distinguish between the urban and rural government in the spirit of varying the form of government

²Using the rationale above, it is possible to determine that urban government and rural government in Vietnam are quite similar in terms of structure and methods of operation. The urban government also shares many features with the government in natural administrative units.

by local characteristics: Rural administrative bodies (provinces, districts, and communes) have a history of natural formation and development based on the population's features, geography, customs, practices, and cultural and historical traditions, all of which have a long history of stability; In comparison to provinces, districts, and communes, urban administration in administrative units (cities, districts, towns, wards, and townships) with characteristics of the population, geography, customs, practices, cultural traditions, and history is less stable over the long term. It is a crucial legal foundation for organizations and localities to design and choose the organization and operation mode of the local government by the movement and development of society in the area.

- On the basis of practice:

The Constitution of Vietnam distinguishes between rural and urban governments [13]. Although these two forms of governance have many diverse, sometimes even distinct, qualities, their organization, and operations are not regulated by the law, but rather in a generic sense³. The benefits of each type of government's attributes have thus not been fully utilized by local governing operations. In the meantime, many nations have prospered as a result of their ability to put together a workable apparatus and the diversity in the organization and operation of local governments that are relevant to their historical, cultural, and ethnic qualities. Local government levels have high independence, are free to choose organizational models (Mayor-Council model, Commission model, City manager model), and operate on self-governance with apparent decentralization. Because the United States was founded with multi-ethnicity on a vast land, local government organizations and methods are diverse. The local government systems in Japan (special zone governments, county cooperative governments, property ownership zones, local development associations, etc.) are pretty different in terms of geography. Tens of thousands of islands make up this nation, and the distribution of resources is uneven in many places. Japan has established a range of local government systems to promote the natural benefits of each region on its land. China divides its localities into four provincial, regional, district, and county levels), and its history has resulted in a widely different organization of administrative entities within these four levels. It is a sizable continent split up into numerous nations and autonomous areas [11].

It is clear from the aforementioned theoretical, legal, and practical underpinnings that Vietnam's local governments must be organized and run differently depending on each type: urban and rural government. This content complies with the 2013 Constitution's spirit and follows the general pattern of nations with a variety of racial, cultural, and geographic characteristics.


CONCLUSION

The author analyzes and contributes to highlighting the benefits and drawbacks of local self-governance in Vietnam nowadays through the structure and operation of governmental institutions based on the theoretical approach to local self-governance. From this point of view, the author argues that to create an efficient system of government, more research and innovation are required and that local governments should be organized and run differently to clearly distinguish between urban and rural areas. The research findings are important for the author's future work on the subject of local self-governance, but they are also a useful resource for national leaders who are modifying laws and policies to continue changing the state administrative system.

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³The People's Council is governed by a conference system and functions on the basis of majority voting. The People's Committee, which is chosen by the People's Council at the same level, serves as the People's Council's executive body. It functions under the People's Committee's collective structure and is under the chairman's authority. Specialized agencies were created at the provincial and district levels by the People's Council at that level based on a proposal from the People's Committee [14].

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