

## **INTRODUCTION**

Decentralisation has emerged as a key issue of public sector reform for the last three decades. Vietnam has pursued decentralisation as a part of the broader process of the national ‘innovation’ (*Doi moi*) in 1986 and expanded in the late 1990s. Decentralisation has become the concerned topic of both practitioners and scholars in Vietnam. Despite the fact that many decentralisation policies have been performed, Vietnam could not achieve the stated goals of decentralisation. Furthermore, there is no comprehensive research on decentralisation from the legal perspective. This chapter firstly justifies the research rationale. Next, it provides the research questions as well as the methodological approach to achieve the declared contribution.

### **1.1. Rationale**

#### ***1.1.1. Theoretical Motivations***

Along with many countries worldwide that have been experimenting with decentralisation as a significant component of public sector reform, there is an array of studies which examines the origins, motivations, implications, process and outcomes of these decentralisation policies from different perspectives. Some endeavours analyse the distinctive features of decentralisation policy across a range of different contexts in order to predict some potential dangers and recommend some measures for improvement. However, there is a fact that the systematic practical knowledge about decentralisation remains limited, and it is fair to say that it often does not meet expectations. Similar efforts can be also seen in the literature of decentralisation in Vietnam.

In Vietnam, most studies on decentralisation primarily intended to serve the public administrative reform, especially reforming state apparatus. These researches emphasised that decentralisation which is the key measure in the public administrative reform, contributes to improving the efficiency of state management

and the quality of public service delivery. However, these academics perceived decentralisation as the allocation of powers and responsibilities between the central and provincial governments. It is likely that scholars ignored the relationships between levels of local government, as well as highlighted the transfer so much duties and functions than adequate resources to local authorities.

A striking feature of most research on decentralisation in Vietnam is that there is no consensus on the concept of decentralisation as well as forms and types of decentralisation. Furthermore, there has been a lack of synchronisation between the different dimensions of decentralisation as most of studies focus substantially on fiscal decentralisation, and part of administrative decentralisation. In terms of administrative decentralisation, studies seem to relatively underscore the public service delivery by government system rather than investigate the jurisdiction of authorities in some key domains of state management.

Generally speaking, it is a fact that there have been no comprehensive studies on administrative decentralisation from the legal perspective. This thesis will address the gap in the literature by offering a legal approach and theoretical framework on administrative decentralisation in the context of Vietnam.

### ***1.1.2. Empirical Motivations***

The August 1945 Revolution under the leadership of the Communist Party of Vietnam (CPV) laid a firm foundation of establishing the Democratic Republic of Vietnam on September 2<sup>nd</sup>, 1945. Since then, Vietnam aimed to the Socialist State under the Marxist-Leninist doctrine that highlighted the centralized character of state power with the leading role of Communist Party. The centralism model has dominated across all fields of society during nearly half a century and led to long term social and economic problems. This model provided little information for economic actors and poor incentives (no market prices, ownership or profit incentives, or hard budget constraints). Economic stagnation and acute shortages of food and consumer goods worsened the living conditions of an already suffering population.

In response to the disappointing economic performance and inefficiency, a series of “*pha rao*” (fence-breaking) policies experimented by enterprising local officials. These measures - introduced furtively and incrementally on a pilot basis outside the official system - injected elements of market mechanisms into some production and trading activities. Focusing initially on agriculture, fence-breaking policies extended to state-owned enterprises and industry. The fence-breaking period proved to be an important phase of reform. Spontaneous responses to localised reforms helped change mindsets of both the general population and some in the leadership. This helped lay the foundations for the subsequent, more comprehensive the *Doi moi*.

The Sixth Party Congress formally endorsed the *Doi moi* policy in 1986, after several years of policy experimentation aimed at improving economic incentives. Innovations in development thinking gradually introduced under the *Doi moi* enabled four key transitions: from centrally planned and subsidised resource allocation to more market-based allocation; from a predominantly state-owned economy to a multi-actor economy with an increasingly dynamic private sector; from a closed economy to an increasingly open and internationally integrated economy; and from centralised to decentralised governance structures.

Since then, the devolution of some types of authority has been expanded and sub-national governments have been given increased discretion in more fields of society. With the devolution of authority, the role of the central government in making laws or policies and monitoring administrative activities becomes more concerning in order to ensure uniformity and consistency to the whole state apparatus. Local governments have been given intensive autonomy in some crucial spheres.

In the first decade after the *Doi moi*, the planning process and decision making over land-use decisions saw considerable decentralisation to sub-national governments. In the second decade after the *Doi moi*, local governments gained a larger role in the budget process and over public investment decisions, and

devolution of land-use decisions continued. Levels of local government also gained more say over their human resource management decisions. And recent years have seen further decentralisation of public investment decisions, expansions of public-private arrangements in investments, and further decentralisation of human resource management at the local level.

On November 8<sup>th</sup>, 2011, the Government provided Resolution 30/2011 NQ-CP that providing the Public Administrative Reform period 2011-2020. The new one also confirmed to continue the objectives set by the former 2001-2010 by focusing on the six areas of reform such as mechanism, organisations, administrative procedures, civil servants, public finance and modernisation of the public administration system. Along with this Resolution, legal provisions on decentralisation have been gradually enacted in a vast majority of legal statutes. Provisions in these statutes cover the major aspects of decentralisation for official agencies carrying out their tasks and functions in accordance with the laws as the requirement of the State. Consequently, these make significantly changes in legal framework for decentralisation. To be more precisely, the principles for decentralisation are legalised, the general authority and responsibilities of key agencies at central and local levels are clearly defined.

However, these legal provisions on decentralisation still have many weak points such as overlapping and fragmental regulations, unclear definitions, and loophole that caused many problems in the law enforcement process. There are still some unclear criteria and inadequate delegation of tasks and responsibilities that result in the overlapping of functions between central and local governments, and between levels of local government. As World Bank points out that overlapping functions is a common issue in Vietnam because the government operates as the nested hierarchical system, in which the superior government sets a rule for inferior ones. In turn, overlapping functions among three levels of local government tend to cause some problems at local area, such as abuse of power, bureaucracy.

In practice, power within the state apparatus that is fragmented across numerous agencies at every level is likely to create room for individual agencies to resist decisions they see as against their interests. The increasing diffusion of state power has engendered tensions between the attempts of central agencies to coordinate and rationalise policy and the efforts of local governments to assert their autonomy.

Furthermore, the lack of a united and comprehensive legal basis for decentralisation results in an unclear assignment of duties and responsibilities or an overlapping power and competences in formulating and implementing policies between central and local governments, and between levels of local government as well. This chronic phenomenon can be tackled through an efficient legal framework for central-local relations. This research contributes to fulfilling the empirical demand mentioned above.

One striking practical feature is that decentralisation has arguably brought some positive results, it also poses a fundamental challenge: how can the supreme sovereignty of state in general and the uniformity of national policies in particular be assured after decentralisation? Or how to assure that the legal provisions on decentralisation can be exactly implemented by the local government? On the one hand, some authors claim that some provinces which are assigned more authorities are likely to ignore the influences of their policies on their neighbours, especially in some unhealthy competitive cases. As a result, this leads to an increase in localism and an alleviation of the uniformity of national policies. On the other hand, accountability is of immense importance for government itself, however, the accountability of government system in Vietnam has been assessed at a significant low level. This is due to the fact that the term ‘accountability’ is relatively new in both theory and practice in Vietnam, and there has been no provision directly addressing accountability. These actually need to be consciously laid as a firm foundation of the legal system. Contributing to reforming legal provisions on accountability of government system is one of the core reasons of this thesis,

especially as Vietnam advances to reinvent the government toward democracy and good governance.

In sum, despite the fact that many devolution policies have been conducted, decentralisation has not fulfilled its stated objectives. The main reason is that the legal basis on decentralisation has not been synchronised and fallen short of an efficient legal mechanism on accountability. Hence, Vietnam should focus on enhancing the legal frameworks for decentralisation, especially the regulations on allocating of powers, duties and responsibilities between central and local governments, and the next crucial solution remains as to what needs to be done to ensure the efficient application of provisions on decentralisation in practice.

## **1.2. Research Questions**

The primary aim of this thesis is to contribute to building a comprehensive legal framework for administrative decentralisation in Vietnam in the long run. This primary objective can be achieved through the following research questions:

1, What are the major issues of legal framework for administrative decentralisation in Vietnam?

2, How can the legal framework for administrative decentralisation in Vietnam be promoted?

To answer these questions, I will examine how the legal regulations on central - local relation and accountability have been implemented by local government in general, and levels of Danang Municipal Government in particular. The research will address some sub-questions as follows:

1, To what extent have levels of government implemented legal provisions on administrative decentralisation in practice?

2, Why could Vietnam not successfully perform the administrative decentralisation?

## **1.3. Methodology**

Methodology is considered as a way of thinking about and studying social reality in order to find the answers for the research questions. While method is a set of procedure and techniques for gathering and analysing data. The choice of methodology and methods to build research hypotheses offers an opportunity to reflect a way of observing and translating life.

In the methodological literature, there are various ways to indicate different theoretical perspectives in social science. According to Moses and Knutsen, the pattern of research can be divided into two main schools: naturalism and constructivism. My philosophical assumptions are on the side of constructivists as I believe that each of academics reckons the world differently, and their perceptions are shaped by social and contextual influences and presuppositions. Reality can be classified into natural reality and social reality. In social science, social reality is the centre. Social reality is perceived as the outcome of negotiation among social actors about the connotations of actions and situations. Undertaking this research, I aim to shed light on the implementation of legal provisions on administrative decentralisation in Vietnam. This process, I assume, is a social reality, and the implementation of legal provisions on administrative decentralisation is different due to the special particularities of each context.

The knowledge that I achieve is an understanding about the legal provisions on administrative decentralisation performed by local government in Vietnam. A description of the result is achieved by interpreting the stories shared by participants and recorded documents. Different participants at different levels of local government in Danang city can provide different assessments. The final understanding is the result of my own assessment relied on carefully analysing obtainable data. Accordingly, what it can offer are some confirmations or better-established arguments regarding results in the legal perspective.

To answer the research questions, this study examines the legal regulations on administrative decentralisation that was conducted by the local government of Danang city in Vietnam. It is actually a case study that is a widely used in social

science in order to explore in-depth of an analysis unit in its real context. Being among the typical methods of qualitative research which is oriented towards analysing cases in the particular locality, and starting from people's expressions and activities in their local contexts, the primary strengths of a case study are that it can provide deep and detailed knowledge and enable researchers to understand the background context and process of the case. Hence, case study can be used for generating and testing hypotheses, building and testing theory and other research activities; and enables researchers to summarise and develop general propositions and theories.

In social science research, the case study is an appropriate research method provided that the study has the main research questions in the form of 'how' or 'why' questions. Accordingly, case study is a suitable method for descriptive and explanatory research. This study is both descriptive and explanatory since it answers the questions of how the legal provisions on administrative decentralisation are implemented by the local government (descriptive nature) and why the legal basis on administrative decentralisation has not brought the stated objectives (explanatory nature). Hence, using a case study is a proper choice to address the research questions identified in Chapter Four and Five.

The study will perform a series of in-depth interviews with urban government experts, as well as current leaders of key departments, administrators at the city, department, district and ward levels. The rationale for conducting in-depth interviews is to collect experiences and knowledge of the issues under investigation from the participants. A definite sampling procedure is preferred for selecting this category of interviewees because it is a non-probabilistic procedure which allows the researcher to select respondents without needing an estimating formula to achieve representativeness.

These interviews will be conducted in Danang city. At the city level the author will conduct in-depth interviews with most important departments related to apparatus and personnel management, urban planning, social economic



development and the provision of services and licenses for residents. At the district and ward level, two districts - one central district and one urbanized suburban district - are sampled. This is in line with the suggestions that such a technique in the least is based on the need to isolate some specific units, for the important information they can share with the researcher to help answer the research questions, which otherwise cannot be obtained. Therefore, choosing from this critical mass of respondents could help the study to gather deep and diverse information unique to the local government system setting, only available to the selected respondents, and without having to sample a large quantity of individuals.

Also, the use of purposive sampling as the literature suggests has a unique character of achieving representatives not of the entire population - in this case local governments in Vietnam - but typical of the unit of interest. In doing so, the researcher is able to compare views from all three selected local government levels. Further, using this procedure, as Maxwell has suggested, help the researcher to reach conclusions that goes beyond mere averages, drawing views from a particular set of interviewee population (local government leaders and administrators). It is noteworthy however that, because these participants are specifically chosen because of their special character and that the numbers of respondents are limited; it is possible for an in-depth exploration of the subject. Though the responses could be quantified, it is not possible to draw vigorous statistical inferences from such data. It is in anticipation of such a challenge that the study chooses interviewees from a particular sub-national government in Vietnam.

Semi-structure interview will be used in this study because they are a convincing way to conduct a systematic social inquiry. In particular, because this study is primarily a social science endeavour, it is important to utilize in-depth interviewing because more than 90 percent of all social science investigations in one way or another, utilise interview. Further, because semi-structure interview are a more methodical form of information collection. It is in this regard that this study

will follow what Holstein and Gubrium, call a dynamic meaning making process in an attempt to understand, interpret local government officials' perspectives on how legal framework for decentralisation impacts on social developments within their locality. This process is greatly furthered by directly engaging interviewees in a non-threatening highly informal context of which they are familiar with.

One advantage the study will gain in using in-depth individual interviews is that the informal engagements allow the researcher to gain the needed information in a less stressful context than the formal engagement, and to reach depths which would otherwise have been hidden. In addition, it helps to approximate lived realities, perceptions, and attitudes of the respondents which are otherwise not accessible through any other means. In addition to the process being mostly flexible and co-constructed with interviewees, the study will minimize the potential of asking the wrong questions, through the study design and utilisation of a precise data gathering instrument which not only contain few, but un-structured or open-ended questions. This will further help to obtain the sought after lived experiential information from selected participants.

Although interviews have those advantages in drawing out deep insights of research subjects, there are some potential difficulties, problems and pitfalls of this method. First is the risk of incomplete data and artificial information due to the lack of trust, time or interviewees' intentional distortions.

Another disadvantage of this type of interview is that interviewers might have an effect on their respondents through interacting and prompting interviewees. It is true that the role of interviewers is to listen, prompt, encourage, and direct. By doing that, interviewers co-construct the reality with interviewees and therefore the interviewer's effect on the dialogue is unavoidable but controllable. The interviewer can channel the flow of the narratives but cannot create or adjust the content of the answers.

To sum up, in order to answer the research questions, I decided to choose Danang city to conduct my fieldwork. Data were collected from interviews with participants. Then, collected data were analysed using qualitative techniques.

#### **1.4. Organisation of the Thesis**

In order to achieve objectives and answer the research questions, the dissertation is organised into six chapters:

**Chapter One** presents the rationale of the study, namely the theoretical and practical motivations, and some brief explanation of the research questions and methodology used in the research.

**Chapter Two** introduces the background for doing research through briefly describing the hierarchical government of Vietnam, and the history of legal provisions on central - local relation in Vietnam. Especially, the role of the single-party regime in the structure of government and the process of decentralisation has been reviewed.

**Chapter Three** provides a conceptual framework for the research project. It first presents an overview of the concept of decentralisation, highlighting its different types and forms. By unpacking the concept of decentralisation in this manner, this Chapter contribute to clarify understanding of this term in Vietnam.

Then the thesis continues with the key concepts directly related to the decentralisation. It begins with a theoretical framework on central - local relation. Then, the chapter presents the concept and types of accountability, and some brief interpretation of the linkage between decentralisation and accountability.

**Chapter Four** explores the central - local relation as one of the most crucial points in decentralisation. This Chapter involves three main parts. The first and second sections present two divergent directions of intergovernmental relationship within a decentralised context of Vietnam. The latter part provides the allocation of powers, duties and responsibilities between levels of government in Danang city through a case study of land-use management.

**Chapter Five** continuously represents in detail the second findings of the research on local government accountability. Especially, this Chapter provides the emergence of social accountability and the requirement for citizen scrutiny as a key factor of social accountability in local governance.

**Chapter Six** discusses the findings in relation to the literature and the initial analytical framework; highlights contributions to the literature, points out limitations to the study and suggests ideas for further research.