

## Political Power Delegation and Accountability in Vietnam

Dr Nguyen Ngoc Anh<sup>1\*</sup>

<sup>1</sup> Institute of Party's Building Affairs, Ho Chi Minh National Academy of Politics

\*anhngocxdd@gmail.com

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### ABSTRACT

The political system in Vietnam follows the Soviet style and remains also unchanged despite the country's impressive socio-economic development achievements over the last 35 years. As a result, the political system lags behind the socio-economic reform process and hinders the country's growth potentials. In addition, there has been serious abuse of power and corruption cases, which show critical gaps in power check and balance within the system.

The ruling Communist Party of Vietnam (CPV) is well aware of the situation and determines to reform the country's political system. The political power check and balance is a core task of this reform process. This aims not only to combat the abuse of power, corruption and wrongdoings but also maintain the CPV's legitimacy and its leadership in the country in the long-term.

Key challenges include: (i) no separation of power across legislative, executive and judiciary branches; (ii) overlapped and unclear role, functions and tasks of organizations in the political system; (iii) missing mechanisms for external, cross and bottom up check and balance on political system, particularly the Party; (iv) limited access and participation by the people, civil society and media in the political power control process.

It is therefore important to address the above-mentioned gaps in political power delegation and accountability by: *First*, strengthening the external control of the political system's performance by the people, civil society and media. *Second*, review and redesign the internal checks and balances mechanisms across Party, state and mass organizations.

### Keywords

Political power; delegation; accountability; Vietnam

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### Introduction

The theories on political power check and balance vary and evolve over time due to changes in context, concepts, and attitudes. These include the theory on pure separation of powers to checks and balances and the Marxist constitutionalism that rejected the separation of powers and undertook the concept of the uniformity of state authority.

"Power tends to corrupt, and absolute power corrupts absolutely"<sup>1</sup>. Therefore, it is important to check and balance the political power across different branches, agencies and public officials. In the context of Vietnam, where the Communist Party of Vietnam (CPV) has been a sole ruling force over the past 75 years and there is no clear separation of legislative, administrative and judicial power, there is even higher risk of power abuse by the political agencies and officials.

Furthermore, the political system in Vietnam follows the Soviet style and remains also unchanged despite the country's impressive socio-

economic development achievements over the last 35 years. As a result, the political system lags behind the socio-economic reform process and hinders the country's growth potentials. In addition, there has been serious abuse of power and corruption cases, which show critical gaps in power check and balance within the system.

The ruling Communist Party of Vietnam (CPV) is well aware of the situation and determines to reform the country's political system. The political power check and balance is a core task of this reform process. This aims not only to combat the abuse of power, corruption and wrongdoings but also maintain the CPV's legitimacy and its leadership in the country in the long-term.

### Literature Review

Adam Fjortde and Lada Homutova<sup>2</sup> highlighted gaps between the current anachronistic use of Soviet-style power in Vietnam and what could be done if the regime deployed new powers based on

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<sup>1</sup> Letter to Archbishop Mandell Creighton, Lord Action, 5 April 1887

<sup>2</sup> *Political Authority in Vietnam: Is the Vietnamese Communist Party a Paper Leviathan?* Journal of Current Southeast Asian Affairs, December 1, 2017

authority. The authors conclude that, given the identified lack of authority, the CPV is no real *Leviathan*. Although more research is needed, this conclusion implies that proactive political tactics in Vietnam may move towards a search for acquiring authority in a ‘two-way street’ relationship within the Vietnamese political community. Enhanced state capacity and Party authority could follow.

Edmund Malesky et al.<sup>3</sup> found that Vietnamese elite institutions require construction of broader coalitions of policymakers, place more constraints on executive decision making, and have more competitive selection processes. As a result, there are stronger political motivations for Vietnamese leaders to provide equalizing transfers that limit inequality growth.

Le Van Cam<sup>4</sup> concluded that the system of checks and balances is necessary for the creation of the, rule of law state and that its development is never successful without the creation of an effective and practical state-power check regime through the public system to ensure the balance of the three powers (legislative, executive, and judicial).

Hai Hong Nguyen<sup>5</sup> found that the ongoing implementation of grassroots democracy is resulting in impacts on the party-state apparatus, state peasantry relations, and cadre-peasant relations in the countryside. These findings support the argument that grassroots democracy has created a mutually empowering mechanism for both the party-state and the peasantry. The CPV thus uses grassroots democracy as a mechanism to reduce tensions between the state and the peasantry, between party members and the peasants, and help facilitate stability in rural areas. This ultimately reinforces the CPV’s legitimacy and grip on power. On the other hand, grassroots democracy gives power to the peasantry to raise their voices, hold the local authorities

accountable, as well as to express their demands. While peasant demands are not always met by the authorities, that is something that rarely happened before the emergence of grassroots democracy. It also shows that the change in state-peasantry relations – that is, the way the local authorities and party members communicate with the peasants, and respond to the peasant’s demands - goes hand-in-hand with the local governance reforms. Finally, successful implementation of grassroots democracy does not necessarily weaken the party-state’s ability to govern society, but has the capacity to reduce structural-social tensions. Therefore in the future, a democratic transformation of some form is possible in Vietnam.

Carmen Malena, with Reiner Forster Janmejy Singh<sup>6</sup> suggested that social accountability mechanisms can contribute to improved governance, increased development effectiveness through better service delivery, and empowerment. While the range of social accountability mechanisms is wide and diverse, key common building blocks include obtaining, analyzing and disseminating information, mobilizing public support, and advocating and negotiating change. Critical factors of success include: access to and effective use of information, civil society and state capacities and synergy between the two. Ultimately, the effectiveness and sustainability of social accountability mechanisms is improved when they are “institutionalized” and when the state’s own “internal” mechanisms of accountability are rendered more transparent and open to civic engagement. Social accountability mechanisms to be effective on the long run need to be institutionalized and linked to existing governance structures and service delivery systems.

Phan Thi Lan Huong<sup>7</sup> indicated that reforming toward a strong and accountable local government system is the primary condition for Vietnam to achieve the successful decentralization as well as to meet the requirement of the integration and

<sup>3</sup> Malesky, Edmund, et al. “*Institutions and Inequality in Single-Party Regimes: A Comparative Analysis of Vietnam and China*.” *Comparative Politics*, vol. 43, no. 4, 2011, pp. 401–419. *JSTOR*, [www.jstor.org/stable/23040636](http://www.jstor.org/stable/23040636). Accessed 8 Apr. 2021

<sup>4</sup> *Checks and Balances Regime: A Precondition for the successful Development of a Rule of Law State in Vietnam*, Zbornik Pravnog fakulteta u Zagrebu, Vol. 60 No. 3-4, 2010

<sup>5</sup> *BEYOND THE LAW: Understanding the Political Dynamics of Grassroots Democracy in Vietnam*, Doctoral thesis, the University of Queensland, 2014, School of Political Science and International Studies

<sup>6</sup> *The role of civil society in holding government accountable: a perspective from the World Bank on the concept and emerging practice of “social accountability”*, Social Development Paper No. 76. World Bank, 2014

<sup>7</sup> *Reforming local government in Vietnam: Lesson learned from Japan*, Doctoral Dissertation, Nagoya University-Graduate School of Law, 2012

globalization era. Therefore, Vietnam should restructure the local government system by two-tier model, redefining the central-local relationship, and enhancing accountability of local public entities as the main solutions for promoting effectiveness of decentralization.

Phan Thi Lan Huong<sup>8</sup> raised the question on how to improve the quality of legal system in order to become more transparent, coherent, understandable, and enforceable for Vietnam when an effective channel for reviewing constitutionality and legality of legal normative documents has not yet established.

This paper follows the argument on check and balances of Randall G. Holcombe<sup>9</sup> stating that: "Checks and balances work to enforce constitutional rules through a separation of power, so that no single elite group can act without the cooperation of others. Separation of powers is not enough. Institutions must be designed so that elites have conflicting interests that give them the incentive to protect their own power by checking abuse of power by other elites. Institutions must be designed so that any abuse of power by one set of elites can be countered by the power of another set, and those different sets of elites must have the incentive to counter, to protect their own power". The hypothesis is that check and balance mechanisms in Vietnam remain very much internal process within the political system rather than an open, transparent and participatory process for public and people. It is therefore should be better mechanisms to hold the Party, state agencies and officials accountable for their policies and decisions, greater public debate as well as enhanced monitoring and participation of the people and civil society in the policy formulation, implementation and evaluation process.

### **Status of political power delegation and accountability in Vietnam**

The political system of Vietnam follows the Soviet style, which includes sub-systems of the

Party, the state and the mass organizations. These sub-systems operate under principle "the Party's leadership, the state's management and the people's ownership". It remains almost unchanged over the past 75 years.

The *Party* exercises its leadership through the following channels: (i) development and promulgation of resolutions and strategies for the country's socio-economic development, national defence, social safety and public security; (ii) monitoring, examination, assessment and inspection of the implementation process by the state sub-system; (iii) selection, appointment and management of the human resources in the political system via its Party's committees at all levels; and (iv) carrying out inspection and taking disciplinary actions against violations and wrongdoings.

The *State*, which includes the National Assembly, the State President, Supreme People's Court, Supreme Procuracy, Government and local authorities, carries out the implementation of the Party's resolutions and strategies. There is no separation of power across legislative, executive and judiciary branches. The Constitution 2013 (Article 1) stated that: "...The state power is united, divided and controlled among the state agencies in carrying out the legislative, administrative and judiciary rights". In short, the state institutionalizes and implements the Party's orientation and resolutions within their mandates as follows: (i) the National Assembly reviews, amends and passes constitution, laws and resolutions; makes the country's important decisions and carries out the supreme supervision on state's activities; (ii) the State President acts on the country's behalf on domestic and foreign diplomacy; (iii) The Government carries out the administrative functions; (iv) the People's Supreme Court oversees the implementation of constitution and laws as well as carries out the judiciary rights; (v) the People's Supreme Procuracy carries out procuracy and judiciary operations; (vi) local authorities oversee the implementation of the Party, government policies at local level.

The *people*, through their elected bodies (National Assembly and People's Councils) and representative bodies (Fatherland Front), carry out their ownership in supervision and monitoring the political system. The Article 6 of Constitution 2013 confirms: "People carry out the state power

<sup>8</sup> *The Role of Vietnamese Government in Legislation – in Comparison with Japan*, Nagoya University Center for Asian Legal Exchange, Discussion Paper No.11, September, 2014

<sup>9</sup> *Checks and Balances: Enforcing Constitutional Constraints*, Economies, 2018, 6, 57

by direct participation or through representative bodies such as National Assembly, People's Councils and other state agencies".

The power delegation and accountability mechanisms in Vietnam are designed with a focus on *internal control* within the political system and a top-down fashion. There is limited bottom up or horizontal checks and balances. There is even much less *external control* by the people, civil society and media on the political system.

At central level, the Party's Congress is the highest decision-making body, which approves the country's five-year socio-economic development plan, elects new Central Committee for the five-year political tenure. The Central Committee, in turn, elects its Politbureau and Secretariat. The Central Committee (200 members) meets every six months for about a week to review the socio-economic development progress, discuss and make decisions on important issues. The Politbureau (18 members) and the Secretariat (14 members) run the Party affairs on daily basis, make decisions at the delegated authority and recommend issues for discussions by and decisions of the Central Committee. The Party's committees in the state agencies, ministries or ministry-level agencies, Fatherland Front and mass organizations (Vietnam Trade Union, Farmers Union, Youth Union, Women Union and Veterans Association) control the operation of these agencies.

At local level, the organization structure and decision-making process is repeatedly similar. The local Party Congresses approve the local socio-economic development plan and elect the Party's committees at their levels (city/provincial, district, commune and grassroots levels) as well as in businesses and other entities. The Party's Committees elect the Standing Party Committees to run the daily Party's business at local levels.

In the context of a single ruling party regime, there are risks associated with power abuse, corruption and ethical violations. Recent serious corruption cases have confirmed that the political power should be strictly controlled. As a result, the power control mechanisms have been paid increasing attention by the Party. The Politbureau's Regulation No. 205-QD/TW dated 23 September 2019 on power control in cadre and personnel affairs stipulates that: "Power control in the cadres and personnel affairs is using

mechanisms, measures to undertake seriously requirements on cadres and personnel affairs; to avoid, prevent, discover and take actions upon violations, particularly the abuse of position, power and authority to not fulfilling the assigned functions, obligations, authority and accountability"<sup>10</sup>. From 2011 to 2019, there are 54 573 Party's members and 1 111 Party's organizations including 92 high-ranking members (two Politbureau members, 21 members and former Central Committee members, 38 army and police officers including 23 generals), have been penalized for violation of the Party's regulations<sup>11</sup>. In particular, there are 5 932 violation cases, including 643 out of total 1 579 of corruption cases tried with heavy sentences<sup>12</sup>.

There are a number of other aspects that need to look into as follows:

*First*, the "democratic centralism" principle implies that the discussion is open for every member until the decisions made by majority in the form of a resolution. Then all members should be obliged to implement it without further question. This makes the decision-making process really top-down and potential for power abuse. The power actually rests with the Politbureau at central level and Party's committees at local levels.

*Second*, the "collective leadership, individual charge" aims to operationalize the "democratic centralism" principle. It implies that any decision should be discussed collectively within the Party's committees. This, however, could be largely misused to either collectively reach bad decisions or evade the accountability for mistakes or wrong doings.

*Third*, the "obedience" by the minority to the majority, subordinates to higher authorities, individuals to organization, all Party's organizations to the Congress and the Central Committee...prevents creative thinking and debates within the Party.

*Fourth*, the inspection and monitoring should be carried out independently, both within and outside

<sup>10</sup> <https://www.nhandan.com.vn/chinhtri/item/41668702-bo-chinh-tri-quy-dinh-ve-kiem-soat-quyen-luc-trong-cong-tac-can-bo-va-chong-chay-chuc-chay-quyen.html>

<sup>11</sup> <https://haiquanonline.com.vn/hon-55000-dang-vien-bi-thi-hanh-ky-luat-trong-nam-2019-119157.html>

<sup>12</sup> <https://vietnamnet.vn/vn/thoi-su/chinh-tri/ky-luat-hon-53-000-can-bo-dang-vien-tu-dau-dai-hoi-12-504239.html>



the Party. The Central Commission on Inspection at central level as well as the lower-level Commissions on Inspection, which directly implement this process, need to be strengthened and given more authority to carry out investigation and take charges of violations or wrong doings effectively.

The limitations in existing power delegation and accountability mechanisms in Vietnam include: (i) ineffective supreme supervision of National Assembly. The National Assembly's dilemma is its mandate to supervise the high-ranking Party and government officials, who are held accountable before the Party rather than the National Assembly deputies. This makes it hard for the National Assembly deputies to carry out their supervisory rights; (ii) vague constitutional enforcement mechanisms. While the item 2, article 19 of Constitution 2013 stated that: "National Assembly and its subordinate agencies, State President, Government, People's Supreme Court, People's Procuracy, other state agencies and people are obliged to enforce the Constitution". However, there is no specific Constitution enforcement mechanism in existing laws. There is also no independent body to oversee the Constitution enforcement in Vietnam; (iii) limited inspection and monitoring of by the executive system. The inspection agencies (Government Inspectorate, provincial and district inspectors...) depend greatly on the state agencies at the same level. This contradicts with the inspection nature. In addition, the Party's inspection agencies overlap and complicate this process; (iv) poor performance of judiciary agencies in power control process due to weak enforcement mechanisms of the decisions made by as well as lack of independence of judiciary agencies with the executive agencies.

There are underlying causes as follows: (i) bureaucratic, heavy, costly and inefficient political system in Vietnam, which follows old Soviet model and is structured for war-time and planning economy; (ii) conflicted mandates, low efficiency and effectiveness of Fatherland Front and mass organizations in representation and protection of people's rights and monitoring the political system.

As discussed above, there is no separation of power across state institutions of the political system in Vietnam. The political power, entrusted by the people to the CPV, is internally divided across state agencies under the Party's leadership. The institutional design follows the old Soviet model with parallel organizational structure of Party and state, which is overlapped, bureaucratic, costly and inefficient. There is little control on the top leaders' power, checks and balances against the central level as well as external control on performance of political system in general and the power-wielders in particular. As a result, it is potential for power abuse or corruption. In addition, while there is increasing decentralization with division of authority, the central government actually controls and interferes extensively on provincial/city's daily administration and decision-making process. This, on the one hand, makes the power controlling ineffective and, on the other hand, makes the local government become more dependent and less proactive and accountable for making timely and good decisions on local affairs. Based on the accountability model developed by Ruth W. Grant & Robert O. Keohane<sup>13</sup>, a table below summarizes the situation in Vietnam.

	Mechanism	Accountability holder	Power-wielder	Associated costs	Challenge
Internal control	Vertical	Party Congress	Central Committee, Politbureau, Secretariat members	Loss of office, career opportunities, legal charges	Lack of an independent body that has authority to act on behalf of the Party Congress on disciplinary actions
	Horizontal	Party's committees at all levels	Government agencies, local authorities and other organizations at the	Recommendations for investigation or disciplinary actions	Overlapped roles, functions and tasks; limited accountability for decisions made

## Challenges

<sup>13</sup> *Accountability and Abuses of Power in World Politics*, American Political Science Review, Vol. 99, No. 1 February 2005

External control			same level		
	Peer	Peer members	Leaders of organizations, rising stars	Risks of suspension or removal from current/planned positions	Personal and false assessments due to competition or conflicts
	Disciplinary	Inspection agency, courts, procuracy	Violated leaders or government officials	Dismissal, demotion or criminal charges	Conflicts of interest of the Party's committees that coordinate the investigation
	Legitimacy	People, society	Party, political system	Reduced or eroded trust	Limited information and transparency on the political power control mechanisms and processes
	Diagonal	Civil society, media	Political system, Party members, government officials	Wrong doings, violations, scandals discovered, reported	Limited participation and weak role in political power control process
	Reputational	Public, community, family	Party members, government officials	Affected, lost personal and family image and prestige	Limited training on code of conducts and ethic standards for public officials
	Election	Vietnamese people, civil society, media	CPV and the political system	Reduced public and people's support	Missing mechanisms on assessing the achievements of elected people

Key challenges include: (i) no separation of power across legislative, executive and judiciary branches; (ii) overlapped and unclear role, functions and tasks of organizations in the political system; (iii) missing mechanisms for external, cross and bottom up check and balance on political system, particularly the Party; (iv) limited access and participation by the people, civil society and media in the political power control process.

## Conclusion

In a single-party system of Vietnam, it is important to address the above-mentioned gaps in political power delegation and accountability by: *First, strengthening the external control of the political system's performance by the people, civil society and media.* In this regards, it is essential to strengthen people's election bodies (the National Assembly and People's Councils) and people's representation bodies (Fatherland Front and mass organizations).

The National Assembly needs to improve its supervision of the following aspects: (i) compliance with Constitutions, laws, resolutions; performance of State President, National Assembly's Standing Committee, Government, Ministers...; (ii) debates and confidence polls and votes with positions elected by National Assembly; and (iii) resolving people's complaints and accusations; review reports and dispatching field supervision missions.

It is important to enhance the quality of National Assembly deputies by: (i) reviewing and revising the legal framework related to power control with more clarity, efficiency and effectiveness; selecting high quality deputies, increase number of full time deputies, training and developing their knowledge, experience and skills; (ii) mobilizing expertise in the research institutions, academia and scientists; and (iii) hiring capable support team and network of experts and professionals.

The People's Councils should strengthen and pay higher attention to: (i) compliance with Constitution, laws and resolutions at local levels; (ii) performance of and debate with People's Committees, People's Courts, People's Procuracy at their level; (iii) local people's complaints and accusations. It is also critical to address the link between the People's Councils with the central

level as well as improve their role/voice at the National Assembly.

*Second, review and redesign the internal checks and balances mechanisms across Party, state and mass organizations.* In this regard, it is important to: (i) clarify role, functions and tasks among the Party institutions, state agencies and local authorities; (ii) authority delegation versus effective monitoring and inspection mechanisms across various levels; (iii) raise awareness and educate Party members, government officials on public servants' code of conducts; (iv) develop mechanisms to prevent violations and ensure no tolerance of corruption throughout political system; (v) establish hotlines for reporting violations, wrong doings and corruption; and (vi) empower and strengthen anti-corruption and compliance agencies.

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