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PERSPECTIVE REPORT

PROMOTING DECENTRALIZATION IN VIETNAM

Lesson learned from Japan

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PERSPECTIVE REPORT

1. Name of the course: LOCAL GOVERNANCE

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Promoting Decentralization in Vietnam - Lesson learned from Japan.

Abstract: Vietnam has carried out decentralization in a consistent manner with the socio-political as the single-party policy and the principle of democratic centralism. Therefore, this perspective report explores the impact of decentralization in the transition period of Vietnam based on the historical review and policy analysis methodology. Despite embarking on public administrative reform and decentralization since introduced the Doimoi (renovation), especially since the period 2000, Vietnam could not achieve the successful decentralization due to the lack of comprehensive legal regulations and the weak performance of local government system...Hence, the question remains as to what needs to be done to promote the effectiveness of decentralization in Vietnam?

Japan's experience in promoting decentralization is the great example not only for the developed countries but also for the developing countries such as Vietnam to refer to. Japan has gained the significant successes in the process of transforming from centralization to decentralization through introducing the local autonomy principle, preventing freely central's intervention, reducing the number of municipalities as well as promoting fiscal decentralization.

Briefly, in order to improve and strengthen implementation of decentralization, Vietnam should restructure the local government system by two-tier model, tightening central's intervention and the building capacity of local government as the main solutions for promoting effectiveness of decentralization.

1. Background and what is the issue?

Since 1986, Vietnamese Government committed itself to a policy of renovation (named as “*Doi moi*”). The launch of “*Doi moi*” in Vietnam marked the beginning of transition from a centrally planned to more market-oriented economy and the adoption of the rule of law. After the renovation, Vietnam has achieved the astonishing results in social economic development. In 1995 together with economic reform and integration, and legal reform Vietnam has implemented the first wave of Public Administration reform (PAR) where decentralization is given emphasis as effective means of managing the local affair.

Actually, decentralization is not new, both in theory as well as practice in Vietnam. From beginning foundation of state in 1945, in order to manage the country and the society, and depending on the situation of each particular time, Vietnamese government management combined between centralization and decentralization. However, before 1975, caused by the war circumstance and after that the planed and subsidy economy, that is why the management approach of state concentrated on centralization. After 1986, the country renovation process, the development of the socialist-oriented market economy and international integration provide certain preconditions and requirements for implemented decentralization from central to local level. Decentralization aims to develop the creative, autonomy and self –accountability of local authorities at all levels in their management and implementation of socio-economic development targets.

Vietnam's administrative structure consists of four levels of government. Under the central government level, there are three levels that can be described as local government. They are the province, district and municipal levels. At the provincial level, there are the provinces, and centrally administered cities. At present, Vietnam has 63 provinces and centrally

administered cities (i.e. 58 provinces and 5 centrally administered cities). (MOHA, Statistics, 6.2013).

The provinces are divided into rural district, provincial component cities and towns; the centrally administered cities are divided into urban districts, rural districts, and towns (district level). At the district level, there are 703 districts, including 550 rural districts, 47 urban districts, 60 provinces town and 46 provincial component cities. (MOHA, Statistics, 6.2013).

The rural district is divided into communes, wards and township. The provincial component city and the provincial town are divided into wards and communes. The urban districts are divided into wards. This lowest level is also called the grassroots or municipal level. On this grassroots level, Vietnam has 11.850 administrative units, including 9.052 communes, 1.461 wards and 634 townships (MOHA, Statistics, 6.2013).

In 2001, decentralization also formed an important part of Master Program on Public Administration Reform 2001 - 2010. The policy of decentralization has mainly focused on the delegation of administrative tasks with the emphasis going to administrative and fiscal responsibilities from central to local authorities. In 2004, The Government of Vietnam issued the Resolution No.08.2004/NQ – CP dated 30/6/2004 on accelerating the decentralization between central government and local government in six work areas. After more than ten-year implementing the Resolution No.08.2004/NQ – CP, the achievements have helped increase the autonomy and enhance initiatives of local governments. Resources have been mobilized to increase the effectiveness and efficiency of state management, promoting local socio-economic development and better meeting the needs of organizations and the public. However, there are number of weaknesses and problem still remains. Therefore, the objectives of decentralization have not been achieved so far.

The Ministry of Home Affairs (MOHA) played a crucial role in the implementation policy of decentralization. MOHA is given responsibility to formulate and draft law, ordinances, and regulatory documents of the Government to decentralization policy.

2. Why is the issue so critical?

With the country renovation process, the development of the socialist-oriented market economy and international integration provide certain preconditions and requirements for implemented decentralization from central to local level. The content of decentralization policy could be finding in the content of, especially in part of organizational and public financial reform. In the parallel with the reorganization of the central and local government in PAR 2001 - 2010, a move to decentralization has take place within the state management apparatus. “State Management decentralization” as a division of tasks, authorities and duties among government levels in executing state management functions or socio-economic activities¹. This move was initially justified by the imperatives of a market economy. In this context, central government cannot manage all socio-economic activities directly; its role should be limited to guiding and creating a legal framework, policy and favorable conditions for development. “State Management decentralization – Phan cap Quan ly Nha nuoc” was also driven by the need to rectify the limitation of the existing institutional arrangement.

¹ Phuc, Thang Van “Strengthening Decentralization at Central and Local –Levels-an Important Task of The Current Public Administration Reform in Vietnam”, State Management Magazine, 2002.

Vietnam does not have unified legal document addressing the decentralization scheme. Stipulations on the central and local governments' decentralized function and tasks are generally found in a wide range of legal document, the most important ones being the Budget Law (2002); The Land Law (2003); the Law on the Organization of People's Council and People's Committee of 2003. In 2004, The Government of Vietnam issued the Resolution No.08.2004/NQ dated 30/6/2004 on accelerating the decentralization between central government and local government, focusing on areas of planning and investment development; budgeting; land administration, natural resources and State assets; State Owned–Enterprise management; management of public service delivery (education, health care, sport, and culture); and organization and management of civil servant, public employees.

The decentralization of power and duties in such areas from central level to provincial level, has so far, create positive changes in the operation of the local government as well as of the central government. The empowerment of the local government has enabled some of the local government to be more proactive in managing and utilizing their own resources for the operation of the local governments. The implementation of the decentralization has also positive impact on the reform of the administrative procedures in terms of reducing red tape in many areas, especially in the areas of the land admission, investment, and establishment of the businesses (PAR Master Program 2001-2010 Final Report, 2011).

Generally, decentralization between central government and local governments has been implemented strongly and comprehensively. However, the conditions for decentralization, such as budget, human resources, facilities, instruments have not been sufficiently and synchronously invested, which limits the advantages of decentralization. In addition, the supervision and monitoring the decentralized activities of the central ministries towards the local authorities are limited, and in some cases, the line ministries neglect or cannot identify the misuses of power of the local authorities in implementing their decentralized activities. Consequently, there are problems of wide spread investment, which limits the effectiveness of management and decentralization (Examples in Box 1 and Box 2).

Box 1. Illustration of negative effect of decentralization without strict control

The problem of local governments have been trying to build 20 international sea ports, 18 economic zones in the coastal areas, 30 economic zones in the border gates, 260 industrial zones, 650 industrial units; newly establish 307 universities and colleges for 10 years from 2001-2010. According to the economic experts, the local governments have much strong ownership in development plans, allocation of land, construction of infrastructure in the provinces, of course upon the agreement of the central government. And from 2006, most of the public investment projects have been decentralized to the ministries and provinces; consequently, the decision of public investment is separated from the allocation of capital/budget. The popular problem is that the provincial authorities make decisions on investment projects, but the capital resources must come from the central budget.²

²Phuong, Nguyen Minh, 'Status of decentralization and issues Local self-government in Vietnam', ONA, Oxfam, Unicef, The Workshop on Local government in Vietnam: Issues and practice, Ninh Thuan, 04.06.2913.

Box 2. Example in the area of mineral exploitation

In the area of mineral exploitation, the number of permit licenses has increased sharply within a short period of time, (for three years from 2008-2011, the local authorities granted around 3,500 permit licenses, 7 times more than the ones granted by the central government for 12 years). Such number indicates the negative results of decentralization of power to the local authorities without strict control and supervision from the central government.³

Further, in many provinces, the key problems are technical and methodological; the decentralization work process lack coherence; either administrative units continue to duplicate work and certain services remain centralized, or decentralization of management, budgeting, and decision making are not related, leading to fragmentation in the state management apparatus. In addition, local officials' capacity to carry out the delegated work is limited, leading to delays or inadequate quality. Finally, the system of accountability, either through locally elected bodies or direct popular supervision, is slow in being reformed to ensure that the decentralized local public administration is genuinely responsive to the local community.

Overall, decentralization has not served as a forceful driving force for the pro-activeness and accountability required for local economic development.

In short, the decentralization has made a big change in identifying roles each level of the government. However, there are still limitations in identifying what must be kept and merely done at the central government, what should be decentralized to local governments, what is done better by which level of governments, what conditions are necessary and adequate to implement the decentralized tasks...leading limited effectiveness of decentralization.

3. The problems in the light of Japanese experience in decentralization

The Local Autonomy Law (LAL) (1947) provided for the fundamental principle in organization and operation of local governments such as the types, powers, local assemblies, agencies, and especially the relationship between the central and local governments as well as among local governments. According to the LAL, the local government in Japan consists of prefectures and municipalities. The powers and functions of each tier are regulated clearly by the LAL. Significantly, the two-tier of local government under the LAL does not have the hierarchical relationships because of the independent legal status between the prefectural and municipal government⁴. The prefectures are responsible for many matters of broad public interest, and the municipalities as basic local entities carry out basic needs related closely to the daily life of local residents⁵.

Since 1990, Japan has focused on reforming local government system in order to strengthening the autonomous functions as well as minimizing the central's intervention. Japan gained the high degree of decentralization through the significant program such as: 1) the abolishment of agency delegated functions in 1991; 2) the promulgation of Law on Promoting Decentralization in 1995; 3) the amendment of Law on Local Autonomy; 4) the 1999 Omnibus Law of Decentralization; and 5) the Trinity Reform program.

First, the abolishment of the Agency Delegated Functions System (ADFS) was the ways for minimizing the central's intervention. ADFS raised the challenges for local government in performing their functions due to the lack of discretion as well as financial resources. In other words, the local government was the subordinate organ because the central government retained control through the ADFS. Therefore, abolishment of the ADFS was defined as a key factor for promoting decentralization in Japan.

³ Ibid.

⁴ Local Government in Japan, 2010, 11

⁵ Kiyotaka Yokomichi, "The Development of Municipal Mergers in Japan," 1

Second, promulgation of legal system for promoting decentralization in Japan enabled local public entities to perform the delegated functions independently as well as to deal with the shortage of revenue. Administrative reform has changed from time to time in accordance with social-political context; therefore, the objectives of reform are determined differently in each period. For example, the Hosokawa government focused on political reform and administrative reform towards more accountable government in which deregulation and decentralization as the key factor for ensuring the transparency and accountability of government whereas the Hashimoto government defined the “simple and effective government” as the objective of administrative reform.⁶

In order to utilize the impact of decentralization in realizing the administrative reform and political reform as well as in changing the social environment and economy, Japan needs to establish the legal framework on promoting decentralization. Hence, Japan enacted the Law on Promoting Decentralization (LPD) and established the Decentralization Promotion Committee (DPC) in 1995.

In general, the LPD aimed at promoting decentralization through measures such as: clarifying the role sharing between the central and local government, and promoting the independence of local entities as well as realizing the diversified local community. Significantly, new clarification of the intergovernmental functions through the division between the ‘autonomous functions’ and ‘entrusted functions by law’ were recommended as the key factors for promoting decentralization.⁷

In addition, Japan has gained the successful degree of decentralization through the 1999 Omnibus Law of Decentralization. This Law aims at clarifying the distribution of functions between the central and local entities as a fundamental condition to ensure that local government has discretion in performing its functions. In addition, Japan amended the Local Autonomy Law was amended in July, 1999, by the Omnibus Law of Decentralization with the main focuses: 1) a clarification of the division of responsibility between central and local government; 2) the abolition of the agency delegated function arrangement; 3) the result of redistribution of functions; 4) the review of participation.

Significantly, Japan introduced the reform program “Trinity Reform” in November 2004 and the New Decentralization Promotion Law in 2006 (Omnibus Decentralization Law) that enabled local government to deal with the shortage of revenue⁸.

The period since 2000, Japan has carried out decentralization with focuses on the following aspects such as: 1) the transfer of authority to local governments; 2) rationalization the local government’s duties on taxes and the intervention of central government; 3) review of financial issues such as the national subsidy and obligatory share system, local allocation tax, and the distribution of tax revenue between central and local; and 4) promoting a local administrative system for empowering autonomy of citizens.

In brief, the Japanese government had various successes after many years of promoting decentralization, especially, in reducing the number of municipality to around 1.700 units. The central-local relationships were clarified clearly by laws. As a result, the local government has more discretion in implementing the functions because of the abolishment of the AFDS as well as national grants. In addition, Japan also focused on building the capacity of local entities through training local staff and reforming the mechanism. Therefore, examining the experiences of Japan in promoting decentralization enables Vietnam and other developing countries around the world to explore the possible implications.

⁶ Koichi Nakano, “The Politics of Administrative Reform in Japan, 1993-1998: Toward a More Accountable Government?” *Asian Survey* 38, no. 3 (March 1, 1998): 293, 301

⁷ Osamu Koike, *Local Government and National Development: Evolution of Local Autonomy in Postwar Japan*. 72

⁸ Ikawa, *15 Years of Decentralization Reform in Japan*, 11.

4. Prospective solution to combat the issue and future perspective.

In order to promote decentralization policy in Vietnam, the report will propose some of the possible recommendation, which is relatively relevant to the situation of Vietnam as follow:

1. Introducing the two- tiered local governmental system

Building up an effective, transparent, accountable, and professional public administration system is the main objective of the PAR period 2011-2020. Therefore, Vietnam needs to focus on restructuring local government system as one of the key factors for promotion the successful decentralization. Recently, the number of provinces, districts, and commune in Vietnam has been increased due to the new establishment, merges of the local units and the re-division of administrative boundary. On contrary, Japan focused on reduction of the municipalities as the effective ways for dealing with the shortages of local budget. This report proposed for introducing the two-tier model of the local government system in Vietnam because this model ensures the central entities to save the administration cost, to deal with the issues of financial shortages at local area. In sum, Vietnam should adopt the two-tiered model of local government unit as the productive model for overcoming the shortcomings of current local public entities as well as for promoting the effectiveness of decentralization. The legal frameworks of local government system should be revised in order to determine clearly the functions and duties of each tier.

2. Tightening central's intervention

Vietnam has top-down mechanisms to hold accountability of local government; therefore, the role of central government in managing decentralization is very important. Hence, effective decentralization requires central government to have strong capacity in supervising and appraising decentralization as well as ensuring local governments in fulfilling their responsibilities. In order to create more independent local government system and prevent central's intervention, Japan has shown its success in promoting decentralization by abolishing "Agency Delegated Function System" as well as regulating the types of central's involvement by revised the LAL 2004.

Vietnam needs to revise the legal framework for local government comprehensively. This law should focus on determining clearly the functions and duties of each level. The law also needs to define the type of central's involvement as key condition for promoting local's discretion and minimizing central's intervention. If successful, the local governments can carry out their duties and functions independently and responsively. In addition, on the basis of the provisions of the 2013 Constitution, Vietnam building the Law on Local Authority that guidelines distinguish local government in rural areas and urban to ensure the autonomy and self-responsibility of local authorities in deciding and implementing policy and legislation within the scope of decentralization.

3. The building capacity of local governments

If local governments cannot to fulfill their duties and functions, the result of decentralization will be affected; therefore, promoting decentralization requires to building capacity of local governments in performing functions and duties. Countries are under decentralization needs to focus on training and governance mechanism as the two factors of building capacity of local governments. Vietnam also needs to focus on reforming legal regulations as well as the mechanism for reinforcing the financial powers of local government as well as for retaining the high-qualified local staffs.

In Japan, despite local autonomy principle, fiscal intergovernmental relations remain some "centralized" features such as grants or financial control, Japan has carried reforms on the inter - governmental fiscal relations in order to achieve the ultimate purpose of decentralization as well as enable local government to deal with problems such as financial shortage. Vietnam

needs to reinforcing the fiscal power of local government as a key factor for ensure local government can deal with the shortages of revenue as well as for limiting the central's control over the expenditures plan of local government. Basing on study the Japan's experiences in promoting fiscal decentralization, Vietnam will achieve the strong fiscal arrangements, if central government makes a bold transfer of power to levy the unique tax, reduce its intervention, and promote public participation. Consequently, local government will have discretion in balancing their revenue and expenditures as well as be responsible for spending their budget effectively. Local government needs to draft budget plan basing on the local needs in order to use budget effectively. In addition, Vietnam needs to enhance transparency and accountability of local public entities in spending local budget.

The development of local government results from the work performance of their staffs. Hence, local staffs should be provided with better training to be real service providers, efficient decision-makers and accountable for their works. Therefore, building capacity of the personnel system is another condition for reaching the successful decentralization. In order to achieve ultimate value of decentralization, Japan also focused on the improving the quality of local government officials, many reforms concerning to staff reductions, salary and allowance, recruitments. Therefore, Vietnam needs to focus on retaining the high-qualified staffs, reforming the salary system, training legal capacity as the main tasks for promoting capacity in performing the administrative functions of civil servants. Especially, the Vietnam Government should created and carry out a master plan to train and strengthen local official who manages in the field of economy, culture and social affairs. Attention should be given to provide cadres and civil servant as local government with knowledge and skill to enable them to fulfill the task and responsibilities transfer from central to local governments.

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