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Accountability - theoretical and practical issues in Vietnam

Abstract. Completing the legal provisions on accountability of State administrative agencies has a significant implication in ensuring the requirements on publicity, transparency, democracy and improvement of the efficiency in the operations of State agencies, thereby better protecting the legal rights and benefits of organizations and individuals during the construction of the socialist rule-of-law state in Vietnam. Accordingly, accountability has been «legalized» in the Anti-Corruption Law 2005 and 2013 and formally incorporated into the Constitution of the Socialist Republic of Vietnam. In that spirit, regulations on accountability have been finalized, gradually concretizing the position, role and duties of the state apparatus. Decentralization and assignment of position - works of cadres and civil servants have clearly increased the effectiveness and efficiency in the public service performance. This is the basis and foundation for attaching accountability to cadres, civil servants and leaders at all levels, sectors and local governments. However, the practice of law enforcement on accountability of administrative agencies in Vietnam raises a lot of issues that need to be clarified.

Key words: accountability, public management, state management, public service, publicity and transparency.

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Perspectives on accountability
According to the OECD (Organization for Economic Cooperation and Development), accountability consists of two groups: Vertical accountability and horizontal accountability. Horizontal accountability is the mechanism of restraint - counterbalance between the three branches of legislative, executive and judicial powers. Vertical accountability is the relationship between people and the public authorities - those who are empowered to make decisions, but people have the ability to influence that decision-making process [2].

The term «accountability» implies that accurate and accessible information is the basis for assessing whether a job is well done or not. Accountability also includes the right reward and punishment mechanisms to encourage the work performance [7, p. 1].

Accountability is also recognized under two levels: Accountability in the system of state agencies and accountability before society (LERES document on participation and accountability in law-making). Accountability in the state system is the responsibility to report and explain to the superior or supervisory authorities about a specific issue or their activities. Meanwhile, the implementation of accountability before the society is a responsibility carried out by cadres and civil servants who are the holders of power, representing the state to the other party, the people and shall attached to people's direct or indirect participation. Since people are involved in the activities of state agencies, there is a basis for monitoring the contents and the process of work performance, thereby creating a basis to make a request for the implementation of accountability.

When mentioning the accountability of the government, the research perspectives suggested that the accountability of the government is often viewed from two main aspects: (i) accountability on the political aspect means accountability of politicians to the people about their political responsibility to related issues; (ii) accountability on legal aspects refers to the accountability of cadres and civil servants when occurring issues that affect the correctness in implementing public tasks and works. Of which, the accountability of politicians is the accountability before the voters and the people; and the accountability of cadres and civil servants in implementing their tasks and public services is the accountability with leaders, task assignors and even related people who are affected by the decisions and actions of cadres and civil servants.

In Vietnam, accountability is understood as obligations of state agencies, organizations and cadres, civil servants and competent people to carry out their duties, public duties shall disclose, explain and clarify information in their public service activities before the people and other organizations on a regular basis or/and when required, and take responsibility when it happens to be effective. The assurance of accountability is associated with the concepts, mechanisms and legal provisions on publicity, transparency and democracy in the activities of public authorities. In recent years, ensuring the transparency of state administrative agencies is mentioned as one of the requirements of improving the efficiency of state management, ensuring democracy in the state's operations and is a requirement of the implementation of international commitments.

On a broader sense, accountability is the responsibility of ensuring the publicity and transparency of the entire state apparatus. Many legal documents of countries around the world and in Vietnam approach and regulate this responsibility. Accountability basically makes sure that the people, the state and non-state organizations have the legal basis and the ability to compel state agencies and civil servants to explain what they have done and have not done or did not do during the course of performing public services.

The external accountability is expressed in various forms, in which the people and non-state stakeholders play a leading role in requesting the branches and levels to perform the accountability.

Thus, domestic and foreign researches have common perspectives when acknowledging accountability as a term related to the expectations of the people and the principal about the accountability of the authorized person. All authorizations go hand in hand with the accountability responsibility. Accountability is an acknowledgment of responsibility for every action, product, decision or policy made by an attorney in leading, managing, and performing the work, consistent with the meaning of cases of reporting, explaining and justifying the incurred consequences. The accountability obligation is understood as fulfilling the obligation of full information, the obligation to justify the actions of the authorized person in the past, present or future and to suffer punishment if causing negative consequences. Therefore, accountability in the organization and operation of state administrative agencies is understood as the obligation of agencies, organizations, officials and civil servants to provide information related to functions, tasks, powers, also the results of the assigned tasks and shall be responsible to the people, society and relevant agencies, organizations and individuals for their public service duties. Accountability is one of the basic values of the public service in most developed countries along with other values such as validity, efficiency, transparency, etc.

From the above perspectives, the accountability is understood as the obligation to provide complete and clear information about the data generated by them and shall be responsible for that activity. With that in mind, the accountability of a state agency consists of two basic contents which are the obligation to provide and explain information and shall be tied to the legal responsibilities of the accountable organization or individual.

Forms of accountability

Accountability consists of two groups: vertical accountability and horizontal ac-

countability. Horizontal accountability is the mechanism of restraint - counterbalance between the three branches of legislative, executive and judicial powers. Vertical accountability is the relationship between people and the public authorities - those who are empowered to make decisions, but people have the ability to influence that decision-making process [5].

Accountability can also be divided into upward accountability and downward accountability. In which, upward accountability focuses on compliance with rules, directives and instructions from the State apparatus. This form will pay much attention to compliance with regulations; meanwhile, downward accountability focuses on the results that an individual or agency has an obligation to perform. This form will pay more attention to service [7].

If not focusing on the form of accountability by object, but focusing on sectors, the accountability can be divided into 8 types, namely accountability for ethics, accountability for administration, accountability for politics, accountability for management, accountability for market, accountability for justice; accountability before voters and accountability for occupation [3].

Accountability can also be divided into four categories, including: political accountability; administrative accountability; professional accountability, and social accountability [6]. This classification is very close to the governance, but it seems that the author rather limits the type of state accountability but identifies it with administrative accountability, which is only one content of the state accountability, including: administrative accountability mechanism, accountability mechanism before elected bodies; judicial accountability mechanism - an important type of accountability in the state apparatus.

From the perspective of ensuring the rights of information of the people in general, the accountability is linked to the information responsibility to the beneficiaries, is managed and is expressed in two forms: active accountability and passive accountability. Active accountability is that agencies,

organizations, units and individuals are proactive in information and proactively publicize their activities. Passive accountability: Is that agencies, organizations and individuals provide information at the request of relevant stakeholders [4]. Meanwhile, from the perspective that the accountability is tied to the responsibility of civil servants, this author divides the accountability into accountability in the system (focusing on explaining compliance with the principles, regulations and control from top to bottom - upward accountability) and external accountability (focusing on accountability for operation, task performance and public services in front of the people).

Thus, we can see that there are many ways to implement accountability, but in the state's operation, accountability is understood on two dimensions. Firstly, it is the State's accountability in general. Secondly, it is the accountability of cadres and civil servants who are competent to carry out their duties. The state accountability is generally the accountability of the state entire system and apparatus. The accountability of officials, civil servants and authorized persons will be carried out in two directions: internal accountability (i.e. accountability of compliance with principles, regulations and top-down control) and external accountability (i.e. to explain to subjects outside the state such as people, enterprises, etc.). This accountability content may be an accountability of the performance of tasks and official duties; and can be the accountability of the origin of the assets and associated with the disclosure of assets and income. The accountability on both sides helps stop and prevent acts of abusing positions and powers for self-profit seeking and corruption; control and evaluate the performance of public services. These will help improve the efficiency of state agencies, perform well the social management work of the state, and establish people's confidence in the national political system.

In order to classify accountability, it is necessary to answer questions like who is responsible for the accountability. To whom the accountability should be implemented?

What the accountability is about? What is the tool for accountability? What are the results of accountability? What is the regime for accountability? To answer the above questions, accountability can be divided in several approaches, such as:

– Political accountability: It is the accountability of each state organization and each party member before the Communist Party of Vietnam. In order to ensure leadership, the Party has set up an inspection system from the Central Inspection Committee to the Inspection Committee of the Party Committees, the Provincial Party Committee, the grassroots Party Committees, domestic affairs agencies, etc. The political accountability is implemented through reports on the activities of agencies and units at conferences; specific inspection and supervision reports; sanctions for violations of political accountability are forms of Party's discipline such as reprimand, warning, expulsion, etc., thus leading to resignation or dismissal of positions through the official channels of elected bodies or administrative body.

Apart from evaluating the effectiveness of accountability through the above reports, there is another criterion for assessing political accountability that is the prestige and influence of civil servants and officials in the delegated field by taking votes of confidence and evaluating leading cadres.

– Administrative accountability: In the administrative accountability, there are three main directions of accountability: Accountability before elected bodies (National Assembly, People's Councils); vertical accountability (between lower level and superior level); and horizontal accountability (between individuals/organizations and other units with inspection and supervision functions). If an official violates the provisions of Administrative Accountability, he/she will be subject to administrative sanctions (such as demotion, discipline, rotation, etc.) or legal sanctions (forced dismissal, compensation for damages, recourse rescuing criminal liability, etc.)

– Accountability for occupation: In the performance of public services, cadres and civil servants shall not only meet the legal

provisions, but also be bound by the effects of professional ethical rules. At present, in some industries, those ethical standards are sometimes homogeneous and integrated as standards for assessing working competence and work performance of civil servants. To promote professional accountability, it is required to enhance the autonomy and self-governance of organizations and agencies and consider accountability as one of the supporting factors for administrative accountability.

– Social accountability: In order to ensure an open politics and promote the participation of people in the state management, it is necessary to mobilize the supervision of the people, the civil society organizations and press agencies, etc. The need to exercise due accountability to the society for the people and social organizations is not only the object of state management, but also the subject of social management. Moreover, in order for public policies to be effective, it is necessary to have the consent, support and sharing of the people. The law on social accountability in fact is not as detailed as administrative accountability or political accountability, and its application in practice depends on the leadership perspectives and the situation of industries and localities. Social accountability does not lead to legal responsibility, but it has the potential to impact, spread, and pressurize the society, causing administrative agencies to recognize and address it.

Legislation on accountability in Vietnam today

The 2013 Constitution and various legal documents, such as Law on Organization of National Assembly (2014), Law on Organization of the Government (2015), Law on promulgation of legislative documents (2015), Law on supervision activities of the National Assembly and People's Councils (2015), Continued Laws access to information (2016), etc. provided for the accountability of the Government and state administrative agencies. By conducting researches, we can generalize the accountability of state administrative agencies in Vietnam through the following contents:

Firstly, on the subject and the object of accountability in the exercise of state power.

The Constitution 2013 and various legal documents have been specified. Article 94 of the Constitution 2013 states that «The Government is responsible to the National Assembly and reports its work to the National Assembly, the Standing Committee of the National Assembly and the President». Accordingly, the accountability subject is firstly the Prime Minister, who is most responsible for all activities of the Government and the state administrative system is accountable to the National Assembly for the Government's activities and the assigned tasks; report on the Government's work, etc. The Prime Minister shall submit regular reports to the people through the mass media on major issues to be settled by the Government and the Prime Minister [Clause 6, Article 98, Constitution 2013]; The Prime Minister «accounts and answers questions before the National Assembly and the Standing Committee of the National Assembly» [Clause 2, Article 29, Law on Organization of Government 2015].

Next is the Minister, Prime Minister of ministerial-level agencies are the accountability subjects under the Constitution 2013. The Ministers and Heads of ministerial-level agencies shall be personally accountable to the Prime Minister, the Government and the National Assembly for their respective fields and branches, and shall be, together with other members of the Government, collectively accountable for the activities of the Government [Clause 4, Article 95, Constitution 2013]; shall report to the Government and the Prime Minister and exercise a regime of reporting to the People on issues under their respective management [Clause 2, Article 99, Constitution 2013; Article 33 and Article 34, Law on Organization of Government 2015].

In addition, the Government is also responsible for synthesizing, researching, explaining and receiving comments from relevant agencies, organizations and individuals; publicizing information and posting accountability reports on the Government's

Web Portal [Article 34, Clauses 3 and 36, Law on Promulgation of Legal Documents].

Furthermore, the State Audit Law 2005 stipulates that state administrative agencies are one of the subjects responsible for reporting accountability on matters related to revenue and expenditure under the scope of regulation of the Law on State Budget 2002, together with the order and procedures for conducting audits, as well as the rights and obligations of State auditors and the obligation to report on accountability of state administrative agencies.

The Law on Cadres and Civil Servants 2008 stipulates the obligations of cadres and civil servants as leaders shall be responsible for the activities of the agencies and units under their charge. To keep close contact with the people, listen to the people's opinions and submit to the people's supervision [Articles 8, 9, Law on Public Employees 2008].

Secondly, the provisions on the content of accountability.

The accountability subject is the Prime Minister, the content of accountability is the tasks and powers prescribed by the law for each position and title of a Government member associated with the rationality, legality and effectiveness in carrying out that task and title. The Article 27 of the Law on Governmental Organization (2015) stipulates: The Government shall be responsible to the National Assembly for performing its duties and powers, for the results, effectiveness, efficiency of management and administration of the state administrative apparatus, and for undertakings and policies that it proposes to the National Assembly. The Law also prescribes that the Prime Minister «Take responsibility to the National Assembly for the Government's performance and state administrative system at the central level through the local one; for decisions and the result of implementation of his decisions within his/her delegated duties and powers» [Clause 1, Article 29, Law on Organization of Government 2015].

For members of the Government, as heads of ministries, ministerial-level agencies, ministers, heads of ministerial-level agencies take sole responsibility for all as-

pects of work of Ministries and Ministry-level agencies; direct their affiliates to execute approved strategies, proposals, plans, programs or projects, and implement duties of Ministries and Ministry-level agencies assigned by the Government...» [Article 34, Law on Organization of Government].

For state administrative agencies in general, according to the Decree No. 90/2013/ND-CP, it is required to explain all contents under its management, except for contents such as: Content of information related to state secret; Content related to direction, organization of implementation of tasks, public missions in internal scope of state agencies; in direction and management of the superior administrative agencies with the inferior administrative agencies; Content of information belonging to private secret; Content of information belonging to business secret; Content which have been explained or accepted for settlement by competent agencies [8].

Thirdly, in terms of form and method of performing accountability

The forms and methods of government's accountability prescribed in Vietnam's legal system are quite diverse.

Objects of accountability are the Prime Minister and members of the Government: The Law on Organization of the Government (2015) stipulates that the Government's accountability is to be accountable to the National Assembly and the President on a regular and even irregular basis at the request of the National Assembly, the Standing Committee of the National Assembly and the President. In addition, according to Article 80, the Constitution 2013 and Clause 2, Article 32 of the Law on Organization of the National Assembly (2014), it also provides quite detailed provisions on the form of the National Assembly's questioning to the Government and considers answering the Government's questions. Accordingly, the questioned persons shall answer before the National Assembly at the session or at the meeting of the Standing Committee of the National Assembly during the period between two National Assembly sessions, in case of necessity, the Standing Committee

of the National Assembly may allow to answer in writing». The Law on Supervisory Activities of the National Assembly and People's Councils (2015) also stipulates that there are two types of questions of the National Assembly delegates: questions of the National Assembly delegates at the National Assembly's sessions and the questions of National Assembly delegates [Article 15 and Article 26, Law on oversight activities of the National Assembly and People's Councils (2015)].

For state administrative agencies, Article 11 of the Decree No. 90/2013/ND-CP stipulates that the request for accountability is «executed in writing or directly at the responsible state agency for accountability». Accordingly, the accountability of state administrative agencies are also carried out in two forms: written accountability and direct accountability. The officer who receives the request for accountability shall honestly present the content of the request for accountability in writing. For the implementation of the accountability, the direct accountability requests have a simple content and the presenter can explain it directly. For other accountability requests, the person conducting the accountability shall carefully study the content of the request for accountability; collect and verify relevant information; work directly with the requesters for clarification of relevant content when deemed necessary; send accountability documents to requesters for accountability; in case of necessity, publicize such explanatory documents as prescribed by the law.

Implementation of law on accountability in Vietnam

Accountability in the state system is the responsibility to report and explain to the superior or supervisory authorities about a specific issue or their activities. Meanwhile, the implementation of accountability before the society is a responsibility carried out by cadres and civil servants who are the holders of power, representing the state to the other party, the people and shall attached to people's direct or indirect participation. Since people are involved in the activities of state agencies, there is a basis for monitoring the

contents and the process of work performance, thereby creating a basis to make a request for the implementation of accountability [1].

Regarding the implementation of the accountability of the Prime Minister and members of the Government before the National Assembly, the questioning sessions take place vigorously, showing the democratic, frank and responsible spirit of the National Assembly delegates, Government members and leaders towards every pressing issue of the people. Ministers and heads of industries have been well-prepared for answering questions, basically grasping and comprehensively grasping the problems of the branches and fields under their charge, frankly accept responsibilities, and state the causes and solutions to overcome them. However, there are some answers to questions that have not yet been focused, raising issues, but having not clearly defined responsibilities.

For the authorities at all levels, given the current reality, the implementation of accountability of the authorities at all levels in our country is not high. The level of interaction between the people and the government is weak. The quality of the accountability is not high, there are still formality in the implementation and lack of clarity. Meanwhile, cadres and public servants on duty are «authoritarian». Some cadres and civil servants said that they only had the duty to report and account to their superiors, but have «no» duty to report and account to the people and organizations. From the side of the people, it seems that they are not aware of the right to request accountability from state management agencies, nor have a need for forcing state management agencies to account. Moreover, there are two important institutions for the people to participate in monitoring and demanding the accountability of the authorities to the people: the People's Inspection Board and the Community Investment Supervision Board. Nonetheless, the effectiveness of these two boards is still very low, and people do not seem to know the existence of these two institutions.

The survey results in 2014 on Vietnam's Global Governance Index included 2 out of 6 index groups (voice and quality of accountability; political stability and non-violence; government effectiveness; quality of business regulation; rule of law; and control of corruption) are close to the average score of countries in the world, which is an indicator of political stability and government's effectiveness. This is the result for the efforts of the Government and the State of Vietnam in the process of social management, showing our past efforts to improve the government's effectiveness. However, according to that assessment, there are groups of indexes with low rankings, among the top ten countries with the lowest indexes are the voice of the people and the accountability of the government. In order to improve our position in the rankings in the coming time, we need to build a more open and transparent political institution, including the need for state accountability.

Some of the bottlenecks in implementing accountability in our country have been recorded as:

– Accountability is only focused on two types of accountability: political accountability and administrative accountability while social accountability does not seem to be paid due attention. This is evidenced by the fact that there are not many methods of accountability to the people, the content of accountability to the people is still stereotypical, not close to the desired reality and requirements of the people; the time for meeting the request for accountability is still long; and there are no prescribed sanctions if they do not meet the requirements of accountability to the people, etc.

– Not only in the documents that regulate accountability, but in the reality of implementation, the accountability is weighed on passive accountability, meaning that the accountability is only implemented when being requested. Therefore, the effectiveness of the accountability is not high, it is not possible to create a «culture of accountability» or consider it as a part of public service activities.

– Current forms of accountability are still quite monotonous, lack of creativity, ineffective; are mainly written reports; and have few direct dialogues, so the accountability is often in one direction, and the interaction among accountability subjects is poor. This leads to the fact that accountability is just formal, procedural and coping.

– The mechanism for assessing the effectiveness of accountability has not been specified and has not considered the implementation of accountability properly, sufficiently and effectively was one of the factors to evaluate public service competence of civil servants.

– The participation of the people, society and the media in monitoring the State's accountability has not been really effective. This may stem from the incomplete legal mechanism, the obscured social criticism role of the media compared to other economic benefits, etc.

– The accessibility of the people and society with the results of the State accountability activities is still limited due to the way of publicizing the results of the accountability is not public and transparent; the online data storage and provision infrastructure of the public administration has not been really developed, etc.

Thus, it can be seen that the implementation of state accountability in Vietnam at present has many problems and limitations. So, what are barriers and causes for these limitations? These barriers can be identified based on three factors that determine the effectiveness of the state, namely the capacity of the state administrative apparatus; essential resources; and the participation of the people and the society.

– Regarding the capacity of the state administrative apparatus, there are two factors affecting the accountability: decentralization, awareness and qualifications of civil servants.

The decentralization and identification of functions and powers among agencies and titles are not really clear, resulting in many difficulties and obstacles when handling responsibilities if violations occur. At the

same time, it is difficult to determine who is responsible for the accountability?

One of the reasons for the formality of accountability is that cadres and civil servants are still «authoritarian». Some cadres and civil servants said that they only had the duty to report and explain to their superiors, but to the people and organizations. This is due to limited awareness and legal knowledge and professional capacity.

– Essential resources:

Currently, the allocation of resources and the use of fiscal discipline to ensure the alignment between policies and the state's financial capacity in implementing accountability are not really consistent and reasonable. This has led to a reduction in the effectiveness of state accountability.

One of the essential resources affecting the government's accountability is the environment and information infrastructure. The current accountability is mainly on the traditional methods such as paper documents, meetings, etc., but has not paid attention to the accountability on the media, on the information portals of the government and state agencies, etc. Incomplete information infrastructure is not only limited, which reduces the effectiveness of the accountability from the accountability subject, but also hinders the access accountability information of the people and the society.

– People's participation: People's participation in state management activities is affirmed for «people know, people discuss, people check», but due to the lack of information access mechanism, it is difficult for people to participate in all three steps of knowing, discussing, and checking on which are mainly engaged in the issues that have been decided.

People's awareness of the right to request accountability by state agencies, as well as the lack of demand for forcing state management agencies to account. Two important institutions for people to participate in monitoring and demanding accountability of all levels of government which are the People's Inspection Board and the Community Investment Supervision Board are currently ineffective; many people even do not

even know the existence and role of these two institutions.

Perspectives and solutions to enhance the accountability of the State

To well carry out the accountability, the problem now is that state agencies; State cadres and civil servants shall be responsible for carrying out the assigned work with results and shall take responsibility for the assigned jobs. Strengthening the implementation of accountability will contribute to significantly reducing the lawsuits and questions of the people to the state agencies. Of which, organizing dialogues can be considered as an effective form of accountability. That officials at all levels have direct dialogues with the people is a form of democratic, open and highly public activities. In dialogues, the parties need to argue, question equally and show mutual respects. This is also a cultural feature in communication between officials and people. In that spirit, it is necessary to:

Firstly, perfect the system of government's accountability policies, such as: Include the position of active accountability in the rules of accountability, so that the accountability is understood in both directions: active and passive accountability. There should be agreement on legal documents about accountability, avoiding dispersal and lack of concentration.

Secondly, have a sufficiently strong mechanism for accountability violations to ensure the implementation effectiveness.

Thirdly, strengthen the coordination between state agencies together in the performance of accountability to clarify the subject and the contents of the accountability.

Fourthly, promote the participation of the people, the press, the society, etc. in the process of monitoring accountability of the state through the development of a complete legal mechanism, which clarifies the accountability to the people and the society as

the responsibility of the state agencies and take measures to handle the violations of social accountability, etc.

Fifthly, propagandize and educate in order to raise the awareness of civil servants, the people and the society about the State's accountability to form a deep and unified awareness foundation.

Sixthly, implement administrative reform, build a modern electronic administration to facilitate the implementation of the accountability and access to the results of the accountability, building an electronic, open and transparent government and aim to provide more online public services to the people.

Conclusion

The reality of over 30 years of development and completion of the socialist rule-of-law state, state of the people, by the people and for the people, we have obtained a lot of important achievements, the social management role of the State is affirmed, the people trust the leadership of the Party and the Government, creating a political stability for economic, cultural and social development. However, to modernize the institution and promote the performance of the State, we need to robustly renovate, improve competency and accountability of the State, by organizing a reasonable state apparatus, ensuring the real control and balance between executive, legislative and judicial branches; promoting the civil rights by establishing a strict legal framework; and the public authorities shall be transparent and create an interactive mechanism with the people. Transparency and accountability are requirement and also standard toward a modern management institution. This is a sound pathway to develop an effective public administration and promote the roles of the whole political system, the people and the whole society.

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