

Autonomy in Vietnam's Law of Higher Education

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Abstract

“Autonomy” is a fundamental concept in Western higher education discourse, but is relatively new in Vietnam. Its first mentions can be traced back to the mid 1990s with the establishment of the two national universities, which are until now regarded as having the highest level of autonomy in the system. With the promulgation of the Law of Higher Education in 2012, for the first time in the history of Vietnam’s higher education this new concept has been legalized.

However, in spite of its being included in the Law of Higher Education, autonomy is still not the reality in Vietnam’s higher education, as can be seen in various practices where government control is not at all loosened. The author argues that the mere mention of autonomy in the Law of Higher Education in an article does not mean that the concept is fully understood, not to mention its being implemented, as there are many other articles that prove otherwise.

Consequently, it is necessary to continue to discuss the importance of autonomy for the development of a sound system of higher education in Vietnam, how autonomy can be implemented in the context of Vietnam’s higher education, and to consider revising the Law to make it more consistent with the idea of allowing universities more autonomy as currently practiced in other countries in the world.

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Autonomy: Why, what, and how?

- Even though “autonomy” has only recently emerged in Vietnam’s higher education discourse, it is a fundamental concept in the West that is as old as the university itself, widely discussed and understood.

Autonomy: Why is it important?

- UNESCO (2014):
 - The importance attached to autonomy in higher education reforms in Asia reflects the **influence of the concept of ‘new public management’ - a lesser reliance on the state and a greater reliance on markets.**
 - This means institutions are granted more freedom to plan their activities, mobilize resources to implement programs, and monitor activities.

Autonomy: Why is it important?

- Bieri 2010:
 - Universities need autonomy to compete, nationally and internationally. In a global context, universities as “**knowledge enterprises**” should be able to behave like international firms.
 - Universities need the authority to be able to **protect the single knowledge producer** – professors, post-docs, graduate students, etc.
 - Universities must create an atmosphere that **respects and promotes strong individuals**. Universities are neither industrial plants nor consulting firms where people may be replaced easily.

Autonomy: What is it?

- Several definitions and discussions of autonomy have been advanced.
 - Some authors distinguish between autonomy and academic freedom, the latter meaning **“our freedom from external interference in (a) who shall teach, (b) what we teach, (c) how we teach, and (d) whom we teach”**. Others consider academic freedom an aspect of autonomy.
 - Generally speaking, definitions of autonomy agree that this is a multifaceted concept including several aspects, the most commonly cited of which are governance, financial, academic.

Autonomy: What is it?

- The following definition appears to have captured the essence of the concept (UNESCO 2014):
 - University autonomy is the **freedom and authority enjoyed by universities** and institutions of higher education to **play their role and contribute to societal development within the framework provided by public authorities.**
 - Institutional autonomy implies **the freedom for an institution to run its own affairs without the direct control or influence of the government.** The influence exercised by the government may be based on legislative measures.

Autonomy: What is it?

- Two levels of autonomy: substantive and procedural (Robert Berdahl 1990)
 - Substantive autonomy gives institutions **the authority to take decisions and operate with authority** with regard to their own goals and program matters. Linking decision-making to action is expected to improve operational efficiency.
 - Procedural autonomy implies freedom regarding administrative matters **without real authority to take decisions, with but greater authority to implement them.**

Autonomy: What is it?

- Three most important aspects of autonomy: institutional, financial, administrative
 - Institutional autonomy implies appointive authority, particularly in cases where staff are not employed as civil servants.
 - Financial autonomy has been granted in recent reforms primarily due to the inability of the public sector to support an expanding higher education sector.
 - Administrative authority plays an important role in facilitating faster implementation of decisions.

Autonomy: How is it achieved?

- Three aspects of autonomy: institutional, financial, administrative
 - **Institutional autonomy** implies appointive authority, particularly in cases where staff are not employed as civil servants.
 - **Financial autonomy** (*mobilizing resources, collecting fees, having contracts with other organizations*) has been granted in recent reforms primarily due to the inability of the public sector to support an expanding higher education sector.
 - **Administrative authority** plays an important role in facilitating faster implementation of decisions.

Autonomy in Vietnam's Law of Higher Education: Article 32

Autonomy in Vietnam's Law of Higher Education

- Autonomy as a term and a concept entered Vietnamese higher education discourse around the beginning of the new millennium, but its first appearance in a legal document was in the Law of Education promulgated in 2005.
- Article 14 of this law states that the role of the state is to “*implement the decentralization of educational management; and to increase the autonomy and accountability of educational institutions*”.
- However, this is a mere mention of the term “autonomy” without any explanation of what autonomy means, or when and how the state will increase it within HEIs.

Autonomy in Vietnam's Law of Higher Education

Điều 14, Luật Giáo dục 2005

Nhà nước thống nhất quản lý hệ thống giáo dục quốc dân về mục tiêu, chương trình, nội dung, kế hoạch giáo dục, tiêu chuẩn nhà giáo, quy chế thi cử, hệ thống văn bằng, chứng chỉ; thực hiện phân công, phân cấp quản lý giáo dục, tăng cường quyền tự chủ, tự chịu trách nhiệm của cơ sở giáo dục.

The State consistently manages the national education system - its objectives, programs, content, education plans, teacher standards, testing policies, and academic degree system; *implements the decentralization of educational management; and increases the autonomy and accountability of educational institutions.*

Autonomy in Vietnam's Law of Higher Education

- In the Law of Higher Education promulgated in 2012, however, autonomy occupies a whole article, Article 32.
- For the first time in the history of Vietnam's higher education, autonomy is granted to HEIs as a legal right, and not as a favor from MOET.
- Article 32 covers all 3 major aspects of autonomy: governance, academic, and financial.

Autonomy in Vietnam's Law of Higher Education

- This is how Article 32 on autonomy reads:
 - *Higher education institutions are autonomous in major activities related to their organization and personnel, finance and infrastructure, training and research, and quality assurance. Higher education institutions can be granted a higher degree of autonomy based on their capacity, ranking, and accreditation results.”*
 - *HEIs which show that they are no longer capable of being autonomous, or which violate the law while exercising their autonomy, and will be sanctioned according to the law.*

Autonomy in Vietnam's Law of Higher Education

Luật Giáo dục đại học 2012, Điều 32. Quyền tự chủ của cơ sở giáo dục đại học

- 1. Cơ sở giáo dục đại học tự chủ trong các hoạt động chủ yếu thuộc các lĩnh vực tổ chức và nhân sự, tài chính và tài sản, đào tạo, khoa học và công nghệ, hợp tác quốc tế, bảo đảm chất lượng giáo dục đại học. Cơ sở giáo dục đại học thực hiện quyền tự chủ ở mức độ cao hơn phù hợp với năng lực, kết quả xếp hạng và kết quả kiểm định chất lượng giáo dục.
- 2. Cơ sở giáo dục đại học không còn đủ năng lực thực hiện quyền tự chủ hoặc vi phạm pháp luật trong quá trình thực hiện quyền tự chủ, tùy thuộc mức độ, bị xử lý theo quy định của pháp luật.

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- Even though there is a restricting clause right after the clause granting full autonomy to HEIs, which shows a breath of reluctance on the part of the law-maker, this looks like a breakthrough from a tightly controlled system that Vietnamese HEIs have learned to accept.

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Autonomy in Vietnam's Law of Higher Education

There are actual and obvious improvements, especially in terms of academic autonomy. For example, in student admissions, Article 34 on student admissions reads:

Article 34. Admission quota and organizing the admission

b) Higher education institutions autonomously decides their admission quota, are responsible for publicizing their quota, the quality of their programs, and the conditions to assure quality of educational activities in their institutions;

Autonomy in Vietnam's Law of Higher Education

Article 36 on curriculum and coursebooks reads:

Article 36. Curriculum and coursebooks

d) HEIs are autonomous and held accountable in establishing, examining, and issuing program curricula for all levels of training – associate, bachelor's, master's, and doctoral;

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Điều 36. Chương trình, giáo trình giáo dục đại học

d. Cơ sở giáo dục đại học tự chủ, tự chịu trách nhiệm trong việc xây dựng, thẩm định, ban hành chương trình đào tạo trình độ cao đẳng, đại học, thạc sĩ, tiến sĩ;

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Article 38 on degree certificates /testamurs reads:

Article 38. Degree certificates

2. HEIs create the master copy and print their own degree certificates and award them to their graduates; and make public all information about degree wards on their websites.

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Điều 38. Văn bằng giáo dục đại học

Cơ sở giáo dục đại học in phôi văn bằng, cấp văn bằng cho người học; công bố công khai các thông tin liên quan về văn bằng cho người học trên trang thông tin điện tử của cơ sở giáo dục đại học.

Mismatches and conflicts within the
Law of Higher Education as regards
the claim of autonomy

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

- There are several mismatches and conflicts in the law. A few examples would suffice to prove the point.
- Article 34 allows HEIs to make decisions on student admissions.
 - b) Higher education institutions autonomously decides their admission quota, are responsible for publicizing their quota, the quality of their programs, and the conditions to assure quality of educational activities in their institutions;*

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

But immediately before that, and also immediate after the article on autonomy we have this:

Article 33 - New course offerings

2. The Minister of Education issues specific regulations concerning the conditions, sequence, procedures to offer or cancel new degree courses at associate, bachelor, master, or doctoral degrees; decides whether to allow or cancel new course offerings at the aforesaid levels.

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

- Another example is Article 38 on degree certificates .
 2. *HEIs creates the master copy and print their own degree certificates and award them to their graduates; and make public all information about degree wards on their websites.*

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

- But right below this, in the same article we have:

MOET issues regulations concerning the design of degree certificates; the printing, awarding and revoking degrees; regulates the responsibility and authority to grant degrees of Vietnamese HEIs in joint degrees with foreign partners; regulates the responsibility of HEIs with FDIs in awarding degrees in Vietnam; sign agreements with international organizations concerning degree equivalency and recognition; and regulates the sequence and procedures for recognizing foreign degrees held by Vietnamese.

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

- **Điều 38. Văn bằng giáo dục đại học**

Bộ trưởng Bộ Giáo dục và Đào tạo quy định mẫu văn bằng giáo dục đại học; việc in, quản lý, cấp phát, thu hồi, hủy bỏ văn bằng giáo dục đại học; quy định trách nhiệm và thẩm quyền cấp văn bằng của cơ sở giáo dục đại học Việt Nam khi liên kết đào tạo với cơ sở giáo dục đại học nước ngoài; quy định trách nhiệm của cơ sở giáo dục đại học có vốn đầu tư nước ngoài thực hiện việc cấp văn bằng giáo dục đại học tại Việt Nam; ký hiệp định tương đương và công nhận văn bằng với các nước, tổ chức quốc tế; quy định trình tự, thủ tục công nhận văn bằng giáo dục đại học do cơ sở giáo dục đại học nước ngoài cấp.

Mismatches and conflicts within the Law of Higher Education as regards the claim of autonomy

- A few changes in the academic aspects of autonomy. The biggest changes are related to student admissions. But from the examples given, do you think this academic autonomy as it universally understood?
- No real changes in terms of governance in the law. Everything is tightly controlled with very detailed regulations.
- No real changes in financial autonomy.

Suggestions for further changes

- It is necessary for everyone, especially MOET, to understand autonomy more fully, and to distinguish between substantive and procedural autonomy. MOET still looms very large in the law.
- It's substantive, and not procedural, autonomy, that can help change the face of higher education in Vietnam.
- New structures of governance are needed. The structure and role of the Board of Trustees or University Board, the Communist Party, and the Rectorial Board are in cases either redundant or conflicting.
- The role of professional organizations is not mentioned in the Law and need to be seriously taken into consideration, especially their role in quality assurance of professional degree programs.