


## *Records and archives legislation in Vietnam*

Duc Ha Minh Minh<sup>1</sup>, Pimphot Seelakate<sup>2</sup> 

<sup>1</sup> Graduate Programs in Information Studies, Faculty of Arts, Chulalongkorn University, Thailand

<sup>2</sup> Department of Library Science, Faculty of Arts, Chulalongkorn University, Thailand

**Paper Type:**

*Research Paper*

### **Abstract**

**Background of the study:** This paper consists of two parts. The first part provides the background of recordkeeping legislation in Vietnam. The second part discusses the current status of recordkeeping legislation in Vietnam.

**Purpose:** This research aims to examine the elements of existing records and archives legislation in Vietnam by applying the ICA Guidelines: Principle for Archives and Records Legislation (2004) as a framework to analyse a crucial insight of the laws' element.

**Method:** The research type is a qualitative research that involves non-numerical data which is literature to gather an in-depth understanding of a case study of a specific country.

**Findings:** The findings indicate that some elements are mandated in the existing laws such as definition of records and archives, scope of the legislation, establishment, responsibilities, and structure of the archival institution, advisory body, reporting responsibility, national archival coordination, records management, disposal, transfer of archives, access, and preservation whereas inalienability and imprescriptibility of public records and archives, acquiring records from the private sector, and sanctions are elements that can be revised in the future.

**Conclusion:** To develop the recordkeeping legislation in Vietnam, it is suggested that (1) the laws should distinguish the terms of document, records, and archives to avoid misunderstanding and confusion for recordkeeping practices, (2) they should add more texts on managing electronic public records of government agencies, and (3) they should be coherent to Law on Access to Information 2016 to provide access to the citizens.

**Keywords:** records management, archives management, legislation, laws, Vietnam

Submitted: 29 February 2024

Revised: 2 May 2024

Accepted: 9 August 2024

Online: 4 December 2024

\* Correspondence:  
Pimphot Seelakate

E-mail:

[pimphot.s@chula.ac.th](mailto:pimphot.s@chula.ac.th)

## Introduction

Generally, any infrastructure for effective records and archives management must be based on legislation, thus it is crucial to implement comprehensive laws to regulate records and archives management, to provide comprehensive codes for managing public records throughout their life, to designate a single authority responsible for public recordkeeping, and to enable records and archival services to operate with sufficient authority (Seelakate, 2018). A set of law concerning how records can and should be created and managed ensures the appropriate management and preservation over time, thus fostering accountability and reliability of a government. A comprehensive, up-to-date records and archives legislation is a critical prerequisite of effective records and archives management (Hamooya et al., 2011, p.117). In digital era where many electronic records are generated, an outdated archival legislation in which lacking of proper management of digital formats of records would be one of many barriers for effective records management program (Asma' Mokhtar, & Mohammad Yusof, 2009; Mosweu & Rakemane, 2020).

To tackle with this problem, the International Council on Archives (ICA) released the Guidelines: Principle for Archives and Records Legislation (2004) in response to "the rapid growth of electronic records and information the heightened demand for government transparency and ready access to recorded information, and the enactment of various new records related legislation in many parts of the world" (ICA, p. 5). The ICA's guidelines becomes the useful material for drafting or revising records and archives legislation within 150 countries member in all continents.

In modern times, archives, and records management play an important role in providing accountability, transparency, and good governance. Records provide evidence that supports the investigation phase of the accountability process. Without reliable recordkeeping activities, accountability cannot be proven. There are laws about records and archives management with concepts underpinning the laws (such as freedom of information, the right to know, privacy protection, accountability, transparency, cultural heritage preservation, information literacy, etc.) and these laws are worth to be studied in depth in order to examine their elements and reduce the gaps to increase effectiveness of their enforcement.

In many countries, the records and archives legislation such as the Freedom of Information Act and the National Records Management Policy has been recently studied in comply with the right of access to information deriving from public records and archives (Dikopoulou & Mihiotis, 2012; Khumalo & Baloyi, 2019; Özdemirci, 2008). Furthermore, in a comparative analysis among three Commonwealth countries, Goh (2002) also pointed out the difference of practicing of freedom of information legislation in different political and social context. This difference also modifies the effectiveness of the records program of a country.

This article therefore aims to introduce the records and archives legislation of Vietnam, which has been member of ICA from 1986 (Le-Tuyet, 2020), by examining the elements of existing legislation through the lens of framework of the ICA Guidelines: Principle for Archives and Records Legislation (2004) to contribute a case study within archives legislation discourses. Its structure includes two parts. Firstly, the archival landscape in Vietnam is presented in order to provide contextual factors shaping records and archives legislation. Secondly, the Vietnam recordkeeping legislation, focused on the Law on Archives of 2011, is analysed in accordance with the ICA's guidelines: Principle for Archives and Records Legislation.

## Literature Review

*Archival legislation landscape in Vietnam*

*Historical development of archival legislation in Vietnam*

After invading and turning Vietnam into a colony, it was not until 1918 the French



colonial government, aiming to solve practical problems of recordkeeping operation, has issued a decree to govern the records and archives situation. In the decree, however, concepts of documents, records, and archives have not been mentioned and explained due to the fact that it was not possible to determine which documents were valuable and which documents were not. This limitation led to overload of archival backlog during this period (Ha, 2019). After gaining independence in 1945 and completely ending colonial rule in South Vietnam, the US supported the government in South Vietnam to establish a Republican Government.

In the December 1973 National Assembly session, congressmen of the Republic of Vietnam government voted to approve and promulgated Law No. 020/73 "Archives Law". The Law No. 020/73, consisting of fourteen articles and four chapters, is a legal document with high authoritative effect which became an important legal basis for unified management of archives from central to local levels in the country (Nguyen, 2017). The Archives Law quite comprehensively regulates the contents of archival practice, stipulating the main principles and procedures for acquisition, appraisal, and using archival records; regulations on sanctions and penalties for violations in archival practice; functions and missions of the central archival agency. The Archives Law is concise, specific, and has clear sanctions, showing that lawmakers of the Republic of Vietnam have absorbed modern legislative perspectives from those that have an effective recordkeeping practice in the world such as the US, the ICA, etc. The Archives Law passed by the National Assembly of the Republic of Vietnam has affirmed the government's interest in recordkeeping practice (Nguyen, 2017).

In North Vietnam, immediately after the country gained independence, on September 8, 1945, the Government issued a Decree establishing and appointing the head of the Department of Archives and National Library under the Ministry of National Education (SRADV, 2017). On December 11, 1982, the State Council passed the Ordinance on the Protection of National Archives including nineteen articles and five chapters. This first regulation in archives of Vietnam proposed the notion of a State Archival Fond in which 'the records belong to all the people and were to be administered by the national government according to the principle of centralization and unity; No agency, group or individual may take it as private property' (Council of State, 1982). All archives within a archival repository are divided into fonds in which representative of personal papers, collections as well as groups of institutional records.

On January 25, 1991, the Chairman of the Council of Ministers issued Decision No. 24-CT assigning the State Archives Department to manage archival management. From 1984 to 1991, the State Archives belonged to the Council of Ministers. Since 1992, the Council of Ministers (currently the Government) has assigned the Government Organisation and Personnel Committee (currently the Ministry of Home Affairs) to directly manage the State Records and Archives Department. On April 4, 2001, the National Assembly Standing Committee passed the National Archives Ordinance with thirty-one articles and five chapters. Currently, in the second session of the 13th National Assembly, the Law on Archives was passed on November 11, 2011 (SRADV, 2017) with forty-two articles and seven chapters.

### *Current archival legislation in Vietnam*

The Vietnam's Law on Archives (LA) was approved by the National Assembly of the Socialist Republic of Vietnam in 2011 and officially took effect in 2012 (Vietnam National Assembly, 2011). This law has a total of forty-two articles in seven chapters, specifically as follows:

Chapter 1 of the LA provides general provisions of the law such as scopes and subject-matters, definitions, archival principles, state policies regarding archives, private archives, responsibilities of the head of the archival institution, archivists, and restrictions.

Chapter 2 deals with records management of the public agency from the creation to the



preservation in the records room. It then points out several matters relating to archival works such as appraisal, processing, accessioning. There is a minor article dealing with electronic records which are analysed further in next part.

Chapter 3 consists of the preservation matters for archives in archival institution, state statistics activities, and the destruction of records.

Chapter 4 deals with archival accessibility which emphasize the right and responsibilities of citizen to get access to archives, and its policies and procedures.

Chapter 5 provides archival training and education matters, and public services regarding archives.

Chapter 6 points out some miscellaneous issues such as the state authority of managing archives, finance, and international collaborations.

Chapter 7 concludes with enforcement terms.

To tackle with the emergence of electronic records, the Government later promulgated the Decree No. 01/2013/ND-CP providing in details a number of articles of the Law on Archives (thereafter Decree No. 01). This decree additionally implements electronic records matters which was mentioned in only one articles in the LA.

Finally, the Decree No. 30/2020/ND-CP on Clerical Work (thereafter Decree No. 30) stipulated in detail the draft of a public document and the registry system (also known as registry filing system or filing system) of active records within public agency. The registry system is used to capture and link the context of the records with their content by the methods used to capture and list the receipt and movement of records that are actively used in the organisation. It also stipulated electronic records together with paper-based records (Mutalib & Dahari, 2017).

In contrast to the principle set out by the International Council on Archives in 2004 (pp.5) stating that "the more flexible and easily altered regulations and policy directives may be used to facilitate interpretation and application of the law", the Law has undergone three changes and, as a consequence, the number of chapters and articles of the law has gradually increased.

## Method

### *Research type*

As mentioned earlier, this research aims to introduce and examine the elements of existing legislation in Vietnam (which has been member of ICA from 1986), regarding records and archives management by applying a framework of the Guidelines: Principle for Archives and Records Legislation (2004) of the ICA to contribute a case study within archives legislation discourses. The research type is a qualitative research that involves non-numerical data which is literature to gather an in-depth understanding of a case study of a specific country.

### *Research location*

Its research location is in Vietnam thus the scope of this research is limited to literature relating to the ICA principle and Vietnamese recordkeeping legislation.

### *Data collection*

The data collection is literature review to examine and analyse the current recordkeeping legislation in Vietnam context by applying the principle set out by the International Council on Archives (2004) as a framework to study the existing Vietnamese legislation which covers many areas on archival legislation i.e. definition of records and archives in general, definition of public records and archives, inalienability and imprescribibility of public archives, functions and organisation of public archives services, advisory body, records management,



establishment, responsibilities and structure of the archival institution, advisory body, reporting responsibility, national archival coordination, records management, appraisal and disposal, transfer of archives, arrangement and description, access, preservation, and sanctions.

### *Data analysis*

The data analysis is carried out by using the framework applied through literature review to analyse the collected data and identify strengths and gaps in the legislation. The authors also provide a set of suggestions to develop recordkeeping legislation in Vietnam to empower public records and archives management at national level.

## **Result and Discussion**

Since this paper aims to theoretically examine and analyse the content of the archive legislation of Vietnam with the guidelines on principles for archives and record legislation recommended by the ICA in 2004, the Principles for Archives and Record Legislation (2004) suggests that records and archives legislation should specify these elements as follows: definition of records and archives, scope, inalienability and imprescriptibility of public records and archives, records from the private sector, establishment, responsibilities and structure of the archives institution, advisory body, reporting responsibility, national archival coordination, records management, appraisal and disposal, transfer of archives, arrangement and description, access, preservation, and sanctions. It is important for Vietnam to enforce the records and archives legislation as it provides the mandate for recordkeeping agencies, grants power and rights to citizens to use records and archives, supports transparency and good governance, and preserve collective memory of the country. The result from literature review, examining the legislation, and analysing each elements of the Vietnamese laws is discussed as follows.

### *Definition of Records and Archives*

In archives law, the terms and concepts are always presented in the first parts of the legislation to help readers easily understand the content of the text. In the LA, there are three terms are needed to comprehensively explain. Firstly, the term “record” in singular form, which is translated from Vietnamese word “tài liệu”, is defined as “information carrier created during the activities of agencies, organisations, and individuals” (Vietnam National Assembly, 2011). Record includes but not limit to many forms such as textual material (document, project, blueprint, map, research work, book, statistical report), audio-visual material (negative film, positive film, photo, microfilms; audiotape, videotape, audio video recording), electronic document, individual ownership’s (artistic and literary manuscript; workbook, diary, memoir, autograph, handwritten document); arts (painting or print); publication and other information carriers”. It could be seen that the definition of record was based on its medium rather than its value as information.

Secondly, the term “archives” or “archival record(s)”, which is translated from Vietnamese word “tài liệu lưu trữ”, is a sub-definition of the term “record”, in this case “tài liệu”, as “selected valuable record serving practical activities, scientific research, and history. Archives are conceptualised from the perspective of the value they bring to people and society. In Vietnamese language, the definition of “archives” or “archival record(s)” could be easily understandable as a mathematic formula: record + archival value = archival record(s). The plural form of “record” means explicitly plurality of record. In this case, the term “record(s)” can be used interchangeably in singular or plural form. An archive as a physical building is not mentioned in this law.

Lastly, the term “records” in plural form, however, which is translated from Vietnamese word “hồ sơ”, has been also defined under recordkeeping perspective as “a set of related



documents regarding a matter, an event, a specific object or with common characteristics, created during the process of operation and resolution within the function and duty of particular agency, organisation or individual” (Vietnam National Assembly, 2011). It could be argued that the concept of “records” in this scenario can be synonymous with the concept of “documents” in only plural form. The concept of “document(s)”, however, is not mentioned in this law but is described in the Decree No. 30, in which document(s) is defined as “written information... created during the activities of agencies, organisations... (Government, 2020). The meaning of the term “records”, therefore, is different in both records and archives perspectives. In archives perspective, the definition of “record” is “information carrier” rather than that of in recordkeeping perspective.

It should be noted that the definition of “record”, “records”, and “archives” in Vietnamese language are not as ambiguous as when translated into English even though its lack of English translation possibility could hinder the meaning and analysed of those definitions in global discourses.

Additionally, electronic records are also conceptualised in Article 13 as follows. “Electronic records are documents created in the form of data messages created during the activities of agencies, organisations, and individuals selected for storage or digitised from documents stored on the Internet or other information carriers”. This definition complies with the International Council of Archives (2004) in which electronic records is defined as “a record that is suitable for manipulation, transmission or processing by a digital computer. To be managed properly, electronic records must meet the standards regarding input data information, ensuring inheritability, integrity, authenticity, safety, and accessibility; they should be preserved and utilised through specialised methods and professional procedures. But there is one thing need to be concerned that the reliability of electronic records could not be apply to digitised records”.

It is necessary to clearly note that in the past, the term "document" has been used in conjunction with the term "record". This may lead to a lack of enforcement on public records management and also create a big challenge for managing public records at national level since all government agencies is required to create public records from their operation (Marutha, 2019, pp.551-552). The LA should emphasise and distinctly specify the definitions and ownership of public records, meaning that when addressing the terms "documents", “records”, and "archives", the legislation should clearly explain the terms or use precise words to avoid misunderstanding and confusion. The term “records” should be explained more clearly in the existing law which (1) is all information created and collected in any format through the operation of agencies, organisations, individuals; and (2) is evidence of the activities of agencies, organisations, and individuals. The appropriate terms can lead to correct implementation and set good practices for public recordkeeping system of the country.

### *Scope of the Legislation*

It is crucial for the recordkeeping legislation to specify the scope and extent it applies to ensure well-management of public records by the responsible agencies assigned by the law. For Vietnam, in Article 1, Chapter 1, the bodies subject to the LA implementation are state agencies, political organisations, socio-political organisations, socio-political-professional organisations, and social organisations, socio-professional organisations, economic organisations, public service units, people's armed units and individuals. The dynamic range of public records which are subject to the LA embraces the responsibilities of government (Hamooya et al., 2011, pp.119). Both the management of individual’s private records stipulated in Article 5 and that of public bodies in terms of division, acquisition, suspension, and ownership conversion in Article 24 are foreseen aspect of the enforcement. The scope of LA,



however, still lacks of mechanism so that the archival institution could not control the management of records of abovementioned subjects. For instance, the national archival institution has been not given authority to control the processing of archival records of state-owned enterprises after their equitisation, those records remain unprocessed for a long time and thus leading to deterioration. They become backlogs which are not appraised and therefore hinder the accessibility of public (Mosweu & Rakemane, 2020). Recently, the revised Vietnam's LA is officially approved on July 2024 and will take in effect in 2025 with its purpose to increase the scope of state management to include all types of records (either public or private records). Some may regard this as unnecessary because this may create a burden to government agencies responsible for managing archives.

### *Inalienability and imprescriptibly of public records and archives*

Concept of inalienability implies that public records, which are created by government agencies, should rightfully and legally belong in the custody of government or state archives and should not be transferred to private institutions. Hence, inalienability helps protect public records from being transferred to those who are not legally allowed to possess them (Caswell, 2013, p.114). According to the ICA 2004 guidelines, ideally the national archives should be given the right and a mechanism to inspect, replevin, recover and instruct protection of public records. The mechanism should be established to help protect public records of the country. However, from reviewing the literature, it is found that currently there is no specific part in the LA mentions its inalienability and imprescriptibly of public records and archives in Vietnam.

### *Records from the private sector*

Nowadays, many governments outsource their functions and services to serve the public and this includes corporatisation, privatisation, etc. thus it is crucial to ensure that public records created before organisational changes are managed properly and able to preserve their nature as public records. In theory, the national archives should have authority to acquire those public records from private institutions through the legislative framework in order to preserve these non-current public records as public cultural property for collective memory.

In Vietnam, there are private agencies, organisations and enterprises currently operating in the national territory of Vietnam or located abroad whose content, subjects, objects, and activities related to the country and people of Vietnam. The private records and archives are formed through the activities of these agencies, organisations, and enterprises. However, the current legislation lacks of provision to acquire public records from the private sector, thus it is suggested that the concepts of "records" and "archives" should be added in the LA based on their ownership, specifically: (1) The first group is "public records" and "public archives" consisting of records formed during the operation of public (state-owned) agencies and organisations. (2) The second group is "private records" and "private archives" referring to records formed during the operation of non-public agencies and organisations, which can be called private.

Currently, the scope of state management of Vietnam government has increasing and outsourcing by using the services of these private agencies, organisations and enterprises. Therefore, if such activity is associated to state management operation, private agencies, organisations, and enterprises must comply with the regulations in the LA and the government archives should also properly supervise private records and archives related to government operation to ensure legality and transparency.

### *Establishment, responsibilities, and structure of the archival institution*

The archival legislation is a critical element for an effective recordkeeping practice at



national level because the legislation can specify functions, missions, responsibilities, and structure of the national archives which will provide good conditions for archivists to perform their tasks sufficiently. The ICA Committee on Legal Matters (2004, p.2) defines the term “national archives” as a national organisation with the authority to take care of archives and/or records. The archival legislation is regarded as a foundation to proper management of public records and archives. The law that grants financial support on regular basis for the national archival institutions all over the country can ensure development of this discipline and build up recordkeeping professionals’ profile in the country (Zulu, Ngoepe, & Saurombe, 2017, pp.152-153).

In Vietnam, the agency responsible and competent for records and archives management is the State Records and Archives Department of Vietnam (SRADV). The SRADV is an administrative agency under the Ministry of Home Affairs, performing the function of advising and assisting the Minister of Home Affairs in state management of records and archives at national level (Ministry of Home Affairs, 2022). It also manages state archives belonging to the State Archives Fond and performs public services regarding records and archives according to the provisions of law.

The establishment with missions and board functions of the SRADV has not been mentioned in the LA due to the fact that the SRADV is under the Ministry of Home Affairs. Although authority of the Ministry of Home Affairs in state management of records and archives has been mentioned in Article 38 of Vietnam’s LA, but so as to the Communist Party and its organs, other Ministries at national level and local government at municipality level (National Assembly, 2011). It could be seen that the authority has been scattered among horizontal and vertical bodies thus hindering the effective of management. Other studies also point out the need of positioning archival institution under influential government ministries as a proposed solution for good records management (Mosweu & Rakemane, 2020).

There is currently a separate regulation to specify the establishment, functions, and organisational structure of the SRADV. According to Decision 1199 of the Ministry of Home Affairs regulating the functions, tasks, authorities, and organisational structure of the SRADV (Ministry of Home Affairs, 2022), the affiliated public non-business units that are required to perform the function of preserving state archives are as follows: a) National Archives Center I, b) National Archives Center II, c) National Archives Center III, d) National Archives Center IV, e) National Archives Center for Electronic documents, f) Center for Science and Technology of Records and Archives, and g) National Archives Insurance Center.

### *Advisory Body*

In this digital age, it is noted that recordkeeping practice is challenging by the rapid changing environment. The government agencies may face difficulties when managing their public records and archives either traditional records or electronic records. Some are under-resourced and under-staff, thus it is important to assign a governmental body to supervise, inspect, monitor, and advise these governmental agencies on records and archives management (Khumalo, & Baloyi, 2019, pp.176-178).

Nowadays, there is no regulations in Vietnam assigning or establishing a governmental unit that will perform the task of consulting and advising government agencies on recordkeeping practice, although the Inspection Committee can be regarded as a single advisory body since this committee has the function of advising government agency managers on deciding to dispose non-current records or to review the retention period of public records.

### *Reporting responsibility*

In theory, the government agencies responsible for managing public records e.g.





National Archives, should be set up under a powerful ministry or above public administration in order to control public records and archives management of the government. The records and archival legislation which designates effective coordinated procedures for managing public records is necessary for establishing for proper public records management at national level (Prasad, 2014, p.1370). Also, it is crucial to assign the responsibility to a specific agency for managing public records because this relates to implementing freedom of information law and to guarantee good governance, accountability, transparency, and culture of openness (Khumalo, & Baloyi, 2019, pp.176-178).

In Vietnam, the direction of reporting responsibility is mentioned in Article 27 of the LA. Regulations on reporting responsibility are implemented to make statistics on the number of public records kept at each National Archives Center (at national level) as well as historical archives centers (at local level). Statistics are carried out annually from January 1st to December 31st to gather information from low to high levels, ranging from commune to district, then to province, and finally to central level respectively.

#### *National archival coordination*

The law also describes the concept and function of historical archives in Article 19 of the LA as follows: Historical Archives are organised at the national and local levels to preserve records with permanent value listed in the records inventory submitted to the Historical Archives centers. Historical Archives at the central level are National Archives Centers. Historical Archives at local level are Historical Archives Centers.

These two types of historical archives centers coordinate with each other in operation and are at the same time under the direction of the SRADV to carry out the archival practices. For archives at the smallest level of communes, wards, and towns, it is clearly stated in Article 14 that records created during the operation of the People's Council, People's Committee, social organisations, socio-professional organisations of communes, wards and towns are selected and preserved at the Office of the People's Committee.

#### *Records Management*

Although records management is not regulated in the LA, it is regulated in a Decree No. 30 on Clerical Work. In Article 1 of Decree No. 30, records management is defined as one of the entire processes of clerical work, including drafting, signing, and promulgating documents; registering document and records; filing records and transferring them to the agency's records center or archival repository; and managing and using seals, and confidential secured devices as shown in Table 1. Hamooya et al. (2011, pp.119) argue that archival legislation should emphasize on both on archives administration obligations and records management obligations.

To create public records, it is based on the registry filing system called "expected records inventory", carried out and responsible by each government officer. According to Article 3 of Decree No. 30, expected records inventory is defined as a systematic inventory that identifies the list of total public records expected to be created for a whole year. The inventory will be revised each year to respond to changing organisation's function and structure. Afterwards, within a year after having the task accomplished, those public records with a minimum retention period of five years must be transferred to the records center, within three months as for capital construction records. Most of the records center is an independent centralised unit of the organisation itself. Meanwhile, those public records with a retention period of less than five years will be kept at the creator's office.



Table 1. Record legislation

Sector	Name of legislation	Note
General	Circular No. 09/2011/TT-BNV regulating the retention period of records commonly created in the activities of agencies and organisations Circular No. 10/2022/TT-BNV stipulating the retention period of records	Repealed on February 15, 2023  A synthesis of Circular No. 09/2011/TT-BNV (above) and Circular No. 13/2011/TT-BNV (below)
People's Committee	Circular No. 13/2011/TT-BNV stipulating the retention period of records created in the activities of People's Committees of provinces and centrally run cities	Repealed on February 15, 2023
Ethnic Minority Affairs	Decision No. 63/QD-UBDT issuing regulations on the retention period of records created in the activities of the Committee for Ethnic Minority Affairs	
Construction	Circular No. 02/2006/TT-BXD on guidelines for the archival storage of design documentation and as-built drawings of construction projects Inter-ministerial Circular No. 01/2014/TTLT-BNV-BXD providing guidance on the documentation components of projects, construction works to be submitted for preservation in historical archives  Circular No. 26/2016/TT-BXD providing detailed regulations on some contents regarding quality management and maintenance of construction works	Inter-ministerial Circular of Ministry of Home Affairs and Ministry of Construction
Finance	Law 88/2015/QH13 on Accounting Decree No. 174/2016/NĐ-CP detailing some provisions of the Law in Accounting Decree No. 123/2020/NĐ-CP regulating invoices and accounting voucher Circular No. 155/2013/TT-BTC stipulating the retention period of records commonly created in the activities of the Finance sector	
Banking	Circular No. 43/2011/TT-NHNN stipulating the retention period of records in the Banking sector	
Tax	Decision No. 374/QD-TCT on the issuance of a schedule for the retention period of records in the Tax sector	
Custom	Decision No. 888/QD-TCHQ issuing regulations on the retention period of records created in the activities of the Customs sector	
Justice	Decision No. 1904/QD-BTP on the issuance of a schedule for the retention period of records of the Ministry of Justice	



Industry and Trade	Circular No. 24/2013/TT-BCT stipulating the record inventory of records related to nuclear power plants
Natural Resources and Environment	Circular No. 46/2016/TT-BTNMT regulating the retention period of records in the specialised field of Natural Resources and Environment
Science and Technology	Circular No. 19/2019/TT-BKHCN stipulating the retention period of records in the specialised field of Science and Technology
Education and Training	Circular No. 27/2016/TT-BGDĐT stipulating the retention period of records in the specialised field of Education and Training
Transportation	Decision No. 1223/QĐ-BGTVT issuing the schedule for the retention period of records of the Ministry of Transport
Public health	Circular No. 53/2017/TT-BYT stipulating the retention period of records in the specialised field of Health
Physical Education and Sports	Decision No. 1725/QĐ-TCTĐTT issuing regulations on record inventory of records in the sector of Physical Education and Sports
Statistics	Decision No. 556/QĐ-TCTK issuing the schedule for the retention period of records commonly created in the activities of the Statistics sector
Veterinary Medicine	Decision No. 380/QĐ-BNN-VP issuing temporary regulations on the retention period of records in the specialised field of Veterinary Medicine
Civil Judgment Enforcement	Decision No. 734/QĐ-TCTHADS issuing the schedule for the retention period of records in the field of Civil Judgment Enforcement
Courts	Decision No. 312/2017/QĐ-TANDTC issuing the schedule for the retention period of records within the system of People's Courts
Nation defense	Circular No. 15/2012/TT-BQP regulating the retention period of records commonly created in the activities of military units Circular No. 91/2012/TT-BQP issuing regulations on the record and archival works, and records confidentiality within the military
Posts and Telecommunications	Decision No. 151/QĐ-VNPT-HĐTV-VP issuing regulations on the retention period of records of the Vietnam Posts and Telecommunications Group
Electricity	Decision No. 678/QĐ-EVN on the issuance of the schedule for the retention period of records of the Vietnam Electricity Group



Social Insurance	Decision No. 1556/QD-BHXH issuing regulations on the retention period of records commonly created in the activities of the Social Insurance system in Vietnam
Public Security	Circular No. 71/2009/TT-BCA regulating the records, administrative, and archival works within the People's Police force; Circular No. 08/2020/TT-BCA regulating the archival works within the People's Police force

Table 1.: List of Retention Period legislation in governmental sector (adopted and translated from Ho Chi Minh city Department of Records and Archives)

Although the concept of electronic records is also mentioned in Article 13, it is important to add more texts regarding electronic public records management. Electronic records are records created, generated, sent, communicated, received and or stored by electronic means which can be records created using the computer, a document stored on a digital video disk, or a message sent in facsimile. Electronic records are created in a huge volume because of the advance in computer technology (Mutsagondo & Chaterera, 2016, pp.254-255). Consequently, many government agencies are managing records in a hybrid environment and they may face some difficulties to preserve electronic public records. Hence, it is critical for archival legislation to mandate on which archival institution should be authorised to supervise the creation, use, maintenance and disposal of electronic public records at national level. The law should be legislative frameworks for government agencies and organisations in the future when they decide to operate an archival management system (both paper or electronic), it will be easier to understand the principles and requirements of the recordkeeping practices so they can choose functional models of the archival management system that suit their environment and conditions (Asma' Mokhtar, & Mohammad Yusof, 2009, pp.241).

### *Disposal*

The disposal of archives is decided by a committee called the Inspection Committee, as mentioned earlier, and is specified in Article 18 of the LA. To clarify, this committee is established at each body of government agencies to decide on the destruction of non-current public records that have no historical value and running out of retention period. The board of the Inspection Committee includes a board chairman who is the agency's executive manager, a secretary who is an agency archivist/a records manager, and many members who are low-level managers whose public records will be destroyed.

To legally destroy non-current public records, archivists must make decisions based on the records life cycle. According to the LA, there are two types of public records: (1) permanent value records whose meaning and value do not depend on time of retention and (2) short-term value records which are those with retention period under 70 years. In some cases, the Inspection Committee may decide to re-appraise the value of public records. Destruction of non-current public records must ensure that all information in records is completely destroyed, and the activity of the Inspection Committee in destroying records must be documented. It is suggested that the revised LA needs to be clearly indicated that the destruction of records, either paper-based or electronic, must be "complete destruction", meaning that after destruction, there should be no possibility of recovering part or the entire content of the records.

### *Transfer of Archives*

Regulations on transfer of public records are also described in detail in Article 11 of the



LA. In case a unit or individual wishes to retain records to assist their operation, they need to receive the approval from the head of the agency or organisation. The duration they are allowed to retain records is no more than two years from the due date. After that, non-current public records must be transferred to records center within one year after the administrative task finished or within three months for the capital construction records.

The public records transferred to the records center can be categorised into two types: (1) permanent value records and (2) short-term value records. Short-term value records will be kept at records center and scheduled for destruction subsequently. Within ten years, permanent value records must be transferred to the archival repository which is either (1) national archives centers at national level or (2) historical archives centers at local level. With exceptions, this provision does not apply to public records within Public Security, Nation Defence, and Diplomatic Sector.

In addition, public records must satisfy one of the following two conditions before transferred to archival repository. They may either belong to the public agencies which are required to transfer records to the archival repository; or must be listed in the records inventory that are required transferring to the archival repository. Public records that do not fit any criteria will be retained at the creator's records center regardless of its value.

### *Access*

Apart from to acquire and preserve records, the mission of archives is to make the collections accessible for public, thus archive is a significant place where citizens exercise their rights to access to information (Čtvrtník, 2023, pp.2-3). In terms of Vietnamese law, the LA also stipulates the right of the citizen to access to records in Article 29 for many different purposes such as: serving authorised matter, scientific research, and other legitimate needs. Public records kept in records center are mainly intended for internal use. When records are transferred to archival repository, they will be widely used by public, except for those belonging to the limited or confidential records inventory. Moreover, Article 34 allows records to be taken out of the storage. Confidential records are allowed to be accessed after forty years and sixty years depending on the level of confidentiality and declassification status. Personal records are widely used after forty years, from the year of the individual's death.

In the future, the historical archives centers (especially the National Archives Centers) should provide information regarding their archival collections to citizens in compliance to the Law on Access to Information 2016, especially the widespread of Internet use increases information demands of general public, private, and non-governmental organizations (Özdemirci, 2008, pp.311). The freedom of access to information is recognised as a fundamental aspect of the goals for accountability, transparency, and openness (Thurston, 2015). It is necessary to clearly stipulate a mechanism for citizens to easily access to archival records and clearly define the responsibilities of relevant agencies when unable to provide timely information. Access to information is important to good governance administration at national level (Hamooya et al., 2011; Mosweu & Rakemane, 2020).

### *Preservation*

Although the regulations on preservation outlined in Article 25 are not specific about the process or how the public records can be preserved, the LA also mentions the responsibilities of heads of government agencies that are responsible for building and arranging necessary records center, archival repository, equipment and facilities, and implementing technical and professional measures to protect and safely preserve archival records.



### Sanctions

Ideally, the law should provide sanctions in order to effectively enforce the protection and preservation of public records and archives. In some countries, such as in Thailand, the law imposes a clause prohibiting the removal, damage, destruction, export, purchasing, etc. of public archives (Seelakate, 2018). Normally, it is depended on the responsible agencies to regulate any rules for penalties regarding misconduct or misuse of public records and archives. For Vietnamese law, Article 8 of the LA lists prohibited acts such as changing the structure and content of records, buying, selling, or destroying records without permission. However, the law does not have specific regulations on fines or penalty frames for these crimes.

### Conclusion

In summary, after reviewing literature, the research result indicates that the existing records and archival legislation in Vietnam comprehensively contains many elements suggested in Guidelines: Principle for Archives and Records Legislation (2004) such as definition of records and archives, scope of the legislation, establishment, responsibilities, and structure of the archival institution, advisory body, reporting responsibility, national archival coordination, records management, disposal, transfer of archives, access, and preservation. Meanwhile there are rooms for improvement in terms of inalienability and imprescriptibly of public records and archives, acquiring records from the private sector, and sanctions.

The examining and analysis help us identify the strength and gaps in the current legislation in Vietnam, the research suggests that (1) it is significant to clearly distinguish the terms of document, records, and archives in the existing legislation to avoid misunderstanding and confusion for recordkeeping practices, (2) it is needed to add more texts on managing electronic public records of government agencies, and (3) it should be coherent to Law on Access to Information 2016 to provide access to archival records to the citizens. It is expected that revising the existing laws can strengthen the regulatory environment and empower records and archives management in Vietnam.

This initial research practically serves as an analysed subject-based framework for policy maker in near future when the revised Law on Archives of 2024 will take effect in a year later. Its theoretical implication contributes to the knowledge of archival studies from a point of view that how different historical and political context of a country critically shape archival legislation. The limitations of research focusing on only one country and at only current archives law, however, could be hindered by further research in comparative analysing perspective in order to get a holistic view of archives legislation in a region of Southeast Asia for example.

### Acknowledgments

The authors would like to sincerely thank the Department of Library Science, Faculty of Arts, Chulalongkorn University, Information Landscape Research Unit, and Faculty of Archivology – Office Management, University of Social Sciences and Humanities, Vietnam National University.

### Authors' Contributions

All authors have contributed to the final manuscript. The contribution of all authors: conceptualization, methodology, formal analysis, writing original draft preparation, writing review, and editing. All authors have read and agreed to the published version of the manuscript.

### Conflict of Interest

All authors have no conflict of interest related to this study.



## Funding

The author(s) received no financial support for the publication of this article

## References

- Asma' Mokhtar, U., & Mohammad Yusof, Z. (2009). Electronic records management in the Malaysian public sector: The existence of policy. *Records Management Journal*, 19, 231–244. <https://doi.org/10.1108/09565690910999201>
- Caswell, M. (2013). Rethinking Inalienability: Trusting Nongovernmental Archives in Transitional Societies. *The American Archivist*, 76(1), 113–134.
- Council of State. (1982). *Ordinance on the Protection of national archive*.
- Čtvrtník, M. (2023). Introduction. In M. Čtvrtník (Ed.), *Archives and Records: Privacy, Personality Rights, and Access* (pp. 1–17). Springer International Publishing. [https://doi.org/10.1007/978-3-031-18667-7\\_1](https://doi.org/10.1007/978-3-031-18667-7_1)
- Dikopoulou, A., & Mihiotis, A. (2012). The contribution of records management to good governance. *The TQM Journal*, 24(2), 123–141. <https://doi.org/10.1108/17542731211215071>
- Goh, E. M. Y. (2002). *Archival law from the trenches: The impact of archival legislation on records management in commonwealth countries*. (Doctoral thesis, University of British Columbia, 2002). <https://open.library.ubc.ca/soa/cIRcle/collections/ubctheses/24/items/1.0300019>
- Government. (2020). *Decree 30 on Clerical Work*. <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=199378>
- Ha, D. (2019). *Archives of Cochinchina during the French colonial period (1858-1945)* [Thesis, University of Social Sciences and Humanities, Vietnam National University Ho Chi Minh city]. <http://elib.hcmussh.edu.vn/handle/HCMUSSH/7752>
- Hamooya, C., Mulauzi, F., & Njobvu, B. (2011). Archival legislation and the management of public sector Records in Zambia: A critical review. *Journal of the South African Society of Archivists*, 44, 116–123. <https://doi.org/10.4314/jsasa.v44i0>
- The ICA Committee on Legal Matters. (2004). Guidelines: Principle for Archives and Records Legislation. [https://www.ica.org/sites/default/files/CLM\\_2004\\_archival-principle\\_paper\\_draft\\_EN.pdf](https://www.ica.org/sites/default/files/CLM_2004_archival-principle_paper_draft_EN.pdf)
- Khumalo, N. B., & Baloyi, C. (2019). The possible benefits of freedom of information laws to the records management landscape in the ESARBICA region. *Information Development*, 35(2), 176–190. <https://doi.org/10.1177/0266666917735879>
- Le-Tuyet, M. (2020). *Vietnam international cooperation activity on archives from 1962 to 2017*. (Doctoral thesis, Vietnam National University Hanoi, 2020). [https://ussh.vnu.edu.vn/uploads/ussh/dao-tao/2021\\_01/le-tuyet-mai-1.pdf](https://ussh.vnu.edu.vn/uploads/ussh/dao-tao/2021_01/le-tuyet-mai-1.pdf)
- Marutha, N. (2019). The application of legislative frameworks for the management of medical records in Limpopo Province, South Africa. *Information Development*, 35(4), 551–563. <https://doi.org/10.1177/0266666918772006>
- Mosweu, O., & Rakemane, D. (2020). The role of records management in ensuring good governance in Africa: Impediments and solutions. *Journal of the South African Society of Archivists*, 53, 103–123. <https://doi.org/10.4314/jsasa.v53i1.8>
- Ministry of Home Affairs. (2022). *Decision 1199 regulations on the functions, duties, powers and organisational structure of the state records and archives department*. [https://moha.gov.vn/Media\\_Share/BoNoiVu/DATA/DOCUMENT/2022/12/1199\\_CucVTLT.pdf](https://moha.gov.vn/Media_Share/BoNoiVu/DATA/DOCUMENT/2022/12/1199_CucVTLT.pdf)
- Mutalib, S. K. S. A., & Dahari, S. N. S. (2017). The transition of registry system in the developed countries. *International E-journal of Advances in Social Sciences*, 3(8),



- 729-732. <https://doi.org/10.18769/ijasos.337943>
- Mutsagondo, S., & Chaterera, F. (2016). Mirroring the National Archives of Zimbabwe Act in the context of electronic records: Lessons for ESARBICA member states. *Information Development*, 32(3), 254–259. <https://doi.org/10.1177/0266666914538272>
- National Assembly Standing Committee. (2001). *National Archives Ordinance*. <https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Phap-lenh-luu-tru-quoc-gia-2001-34-2001-PL-UBTVQH10-47662.aspx>
- Nguyen, B. (2017). *Organisation and archive activities under the Republic of Vietnam regime (1955-1975)* (Thesis, University of Social Sciences and Humanities, Vietnam National University Ho Chi Minh city). <http://ir.vnulib.edu.vn/handle/VNUHCM/5162>
- Özdemirci, F. (2008). Government records and records management: Law on the right to information in Turkey. *Government Information Quarterly*, 25(2), 303–312. <https://doi.org/10.1016/j.giq.2006.07.017>
- Prasad, A. (2014). The Tarachand Committee on Archival Legislation (1960) and Its Impact on Archival Policy in India. *Proceedings of the Indian History Congress*, 75, 1370–1376.
- Seelakate, P. (2018). *Standards and standardisation for archival practices in Thailand*. (Doctoral thesis, University College London). <https://discovery.ucl.ac.uk/id/eprint/10060866/>
- SRADV. (2017, July 3). *Formation and development*. SRADV; State Records and Archives Department of Vietnam. <https://luutru.gov.vn/gioi-thieu/su-hinh-thanh-va-phan-trien.htm>
- State Council. (1982). *Ordinance on the Protection of National Archives*. <https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Phap-lenh-bao-ve-tai-lieu-luu-tru-quoc-gia-1982-8-LCT-HDNN7-36977.aspx>
- Thurston, A. (2015). Access to Reliable Public Records as Evidence for Freedom of Information in Commonwealth Africa. *The Round Table*, 104(6), 703–713. <https://doi.org/10.1080/00358533.2015.1112095>
- Vietnam National Assembly. (2011). *Law on Archives*. <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=162373>
- Zulu, P., Ngoepe, M., & Saurombe, N. (2017). The importance of legislation in the provision of national and public library services in Zambia. *Journal of Librarianship and Information Science*, 49(2), 152–164. <https://doi.org/10.1177/0961000616632865>

