

Vietnam Constitution 1946

Adopted by the National Assembly of the Democratic Republic of Vietnam, 1st Legislature, on November 9, 1946

PREAMBLE

The August Revolution won back the sovereignty for the country, freedom for the people and founded the republican democratic regime

After 80 years of struggle, the Vietnamese nation has freed itself from the colonialist yoke and at the same time abolished the feudal regime

The Fatherland has entered a new stage of its history

The duty of our nation at this stage is to defend the integrity of our territory, win back total independence and rebuild the country on a democratic foundation.

Having received from the people the responsibility to draft the first Constitution of the Democratic Republic of Vietnam, the National Assembly recognizes that the Constitution of Vietnam should record the glorious achievements of the Revolution and be established on the following principles:

- (i) The union of all the people, irrespective of race, sex, class and religion;
- (ii) The guarantee of the rights of democratic freedom;
- (iii) The establishment of a strong and enlightened people's power.

Fortified with the traditional spirit of unity of the struggle of the whole people and under a broad democratic regime, independent and unified Vietnam is marching forward on the path of glory and happiness, in the same rhythm as the

universal progressive movement and in accordance with humankind's wish for peace.

1

POLITICAL REGIME

- 1.—Vietnam is a democratic republic. All state powers belong to the people, irrespective of race, sex, property, class and religion.
- 2.—The country of Vietnam is an indivisible and monolithic bloc, comprised of *Bac Bo*, *Trung Bo* and *Nam Bo*.¹
- 3.—The flag of the Democratic Republic of Vietnam consists of a red background with a five-pointed yellow star at the centre. The national hymn is the "*Tien Quart Ca*"².
The capital is Hanoi.

2

DUTIES AND RIGHTS OF THE CITIZEN

Duties

- 4.—Every Vietnamese citizen must:
 - (i) defend the Country;
 - (ii) respect the Constitution;
 - (iii) obey the Law.
- 5.—The Vietnamese citizen has the duty to perform military service.

Rights

- 6.—All Vietnamese citizens have equal rights in all fields: political, economic and cultural.

¹ *Bac Bo*: North Vietnam; *Trung Bo*: Central Vietnam; *Nam Bo*: South Vietnam.

² "*Tien Quan Ca*" is literally the "song of the advance of the troops."

- 7.—All Vietnamese citizens are equal before the law and are able to participate in the government and in national construction, depending on their own abilities and virtues.
- 8.—Besides equality in rights, national minorities receive help in all areas in order to keep pace with the general level of the country.
- 9.—Women are equal in rights to men in all fields.
- 10.—A Vietnamese citizen has the rights to freedoms
 - (i) of speech;
 - (ii) of the press;
 - (iii) of association and meeting;
 - (iv) of belief;
 - (v) of residence and of travel in the country and abroad.
- 11.—No Vietnamese citizen shall be arrested and detained without a judicial decision. The residence and correspondence of Vietnamese citizens shall not be violated by anyone contrary to law.
- 12.—The right to ownership of property is guaranteed to Vietnamese citizens.
- 13.—The rights of intellectual and manual workers are guaranteed.
- 14.—Old and handicapped people, incapable of working, shall enjoy assistance. Children shall receive support in their education.
- 15.—Primary education shall be compulsory and free of charge. In local primary schools, citizens of ethnic minorities shall have the right to be educated in their own languages. Poor school-children shall be assisted by the Government. Private schools shall be free to operate, and must teach in accordance with the State curriculum.

16.—Persons outside the country struggling for democracy and freedom who must flee may stay in the country of Vietnam.

Election, Revocation and Referendum

17.—The electoral regime shall be universal suffrage.

Voting shall be free, direct and secret.

18.—All Vietnamese citizens aged 18 and above, irrespective of sex, have the right to vote, except insane persons and those deprived of civil rights.

Candidates for election must be persons who have the right to vote, are at least 21 years of age, and know how to read and write the national language.

Citizens serving in the Army also have the right to vote and to stand as candidates for election.

19.—Modalities of election shall be defined by law.

20.—The people have the right to recall their representatives whom they elected, according to Articles 41 and 61.

21.—The people have the right to referendum on the Constitution and on important issues concerning the destiny of the country in accordance with Articles 32 and 70.

3

THE NATIONAL ASSEMBLY

22.—The National Assembly is the highest body of authority of the Democratic Republic of Vietnam.

23.—The National Assembly shall decide on all national issues, promulgate laws, vote on the budget, and approve treaties signed by the Government with foreign countries.

24.—The National Assembly shall be elected by Vietnamese citizens, once every three years, on the basis of fifty thousand persons having one representative.

The number of deputies of main cities and of the regions with ethnic minorities shall be defined by law.

25.—Deputies shall represent not only their own localities but the whole nation.

26.—The National Assembly shall determine whether the deputies have been properly elected or not.

The National Assembly shall receive applications for resignation from deputies.

27.—The National Assembly shall elect one Chairman, two Vice-Chairmen, 12 official members and 3 alternate members to form a Standing Committee.

The Chairman and the Vice-Chairmen of the National Assembly shall concurrently function as Chairman and Vice-Chairmen of the Standing Committee.

28.—The National Assembly's sessions shall be convened twice a year by the Standing Committee, in May and in November.

The Standing Committee may convene an extraordinary session if necessary.

The Standing Committee shall convoke the National Assembly at the request of one-third of the total number of deputies, or of the Government.

29.—There must be more than half of the members in attendance for the meeting to make a decision.

The meeting shall make decisions with a majority of the deputies present.

However, in case of a declaration of war, the decision must be approved by two-thirds of deputies present.

30.—Meetings of the National Assembly shall be public. The press shall be authorized to report discussions and decisions of the National Assembly.

In special cases, the National Assembly may decide to hold a closed meeting.

- 31.**—The laws approved by the National Assembly must be promulgated by the President of the Democratic Republic of Vietnam not later than 10 days after he receives notification. But within that term the President shall be entitled to request the National Assembly to proceed to a new discussion. If the laws are maintained by the National Assembly after further discussion, the President shall be compelled to promulgate them.
- 32.**—Important questions concerning the destiny of the nation shall be submitted to a popular referendum if so agreed by two-thirds of the total number of deputies.
The modalities of referendum shall be defined by law.
- 33.**—Whenever two-thirds of the total number of deputies agree, the National Assembly may dissolve itself. The Standing Committee shall announce the dissolution on behalf of the National Assembly.
- 34.**—When the National Assembly has completed its term or if it is not yet completed but is dissolved, the Standing Committee shall continue to hold office until the election of a new National Assembly.
- 35.**—Two months before the expiry of the National Assembly, the Standing Committee shall call an election.
The new election shall be completed within two months, before the expiry date of the National Assembly.
When the National Assembly dissolves itself, the Standing Committee shall call a new election immediately. The new election shall be completed in two months after the date of dissolution of the National Assembly.

Not later than one month after the election, the Standing Committee shall convoke the new National Assembly.

In case of war, if the term of office of the National Assembly expires, the National Assembly itself, or the Standing Committee shall be entitled to prolong this term of office for an indefinite time. But the National Assembly shall be elected not later than 6 months after the war ends.

36.—When the National Assembly is not sitting, the Standing Committee shall be entitled to:

- (i) vote for draft decrees and laws of the Government. Those decrees and laws shall be submitted to the National Assembly in the next session for approval or rejection;
- (ii) convoke the National Assembly;
- (iii) control and criticize the Government.

37.—Decisions of the Standing Committee shall not be valid unless a majority of the total number of members votes in favour.

38.—When the National Assembly cannot meet, the Standing Committee, together with the Government shall have the right to take decisions on the declaration or end of war.

39.—At the beginning of every session, after the work report by the Standing Committee, the question of confidence towards the Standing Committee may be put forward at the request of one-fourth of the total number of deputies. The entire Standing Committee shall have to resign in case of non-confidence. Members of the outgoing Standing Committee may be re-elected.

40.—Deputies to the National Assembly shall not be arrested or prosecuted without the consent of the National Assembly or, when the National Assembly is not in session, the consent of the Standing Committee.

A deputy shall not be prosecuted because of statements made or votes in the sessions of the National Assembly

In case of being caught violating the law, the Government may arrest a deputy immediately, but not later than 24 hours, the Government must inform the Standing Committee. The National Assembly or the Standing Committee shall take a decision.

When a deputy loses his eligibility, at the same time he loses his status as deputy

- 41.**—The National Assembly shall consider the issue of recall of a deputy at the request of one-fourth of the total number of electors of the province or city having elected him. The deputy shall have to resign if the revocation is approved by two-thirds of the total number of deputies.
- 42.**—The allowances to deputies shall be defined by the law.

4

THE GOVERNMENT

- 43.**—The highest administrative body of the nation is the Government of the Democratic Republic of Vietnam.
- 44.**—The Government is composed of the President of the Democratic Republic of Vietnam, the Vice-President and the Council of Ministers.
- The Council of Ministers shall consist of the Prime Minister, the Ministers and the Vice-Ministers. There may be a Vice-Premier in the Council of Ministers.
- 45.**—The President of the Democratic Republic of Vietnam shall be chosen from among the members of the National Assembly with the consent of two-thirds of the total number of deputies. If the necessary number of votes is not obtained

in the first ballot, the second ballot shall be determined by the relative majority.

The term of office of the President of the Democratic Republic of Vietnam is 5 years and he may be re-elected.

Within one month before the term of office of the President expires, the Standing Committee shall convoke the National Assembly to elect a new President.

- 46.**—The Vice-President of the Democratic Republic of Vietnam shall be chosen from among the members of the National Assembly and elected according to ordinary procedures.

The term of office of the Vice-President shall be that of the National Assembly.

The Vice-President shall assist the President.

In case the President dies or resigns, the Vice-President assumes the role of President temporarily. Within two months, the election of a new President shall be undertaken.

- 47.**—The President of the Democratic Republic of Vietnam shall choose the Prime Minister from among the deputies of the National Assembly and submit his choice to the National Assembly for vote. In case of winning the confidence of the National Assembly, the Prime Minister shall choose the Ministers from among the deputies of the National Assembly and submit the whole list of Ministers to the National Assembly for a vote. The Vice-Ministers may be chosen from outside the National Assembly and recommended by the Prime Minister to the Government Council for approbation.

Members of the Standing Committee of the National Assembly shall not participate in the Government.

- 48.**—If there is a vacancy in any ministerial portfolio, the Prime Minister, with the agreement of the Standing Committee,

shall immediately nominate an interim minister until the National Assembly meets and approves.

49.—The authority of the President of the Democratic Republic of Vietnam shall be:

- (i) to represent the country;
- (ii) to assume the function of Commander-in-chief of the National Army, to nominate or dismiss generals and high-ranking officers of the Infantry, the Navy and the Air Force;
- (iii) to sign decrees to nominate the Prime Minister, the members of the Council of Ministers and the high-ranking officials of governmental agencies;
- (iv) to preside over the Government Council;
- (v) to promulgate the laws voted by the National Assembly;
- (vi) to award medals and diplomas of honour;
- (vii) to promulgate special amnesties;
- (viii) to sign treaties with other countries;
- (ix) to accredit Vietnamese diplomatic representatives abroad and receive diplomatic representatives from other countries;
- (x) to declare war or the end of war in accordance with the provisions of Article 38.

50.—The President of the Democratic Republic of Vietnam shall bear no responsibility, except in case of high treason.

51.—When the President, the Vice-President, or a member of the Council of Ministers is prosecuted, the National Assembly shall organise a special court for judgment.

The arrest and prosecution of a member of the Council of Ministers for a common offence shall be undertaken with the authorisation of the Government Council.

52.—The authority of the Government shall be:

- (i) to execute the laws and decisions of the National Assembly;
 - (ii) to submit drafts of laws to the National Assembly.
 - (iii) to submit drafts of decrees in Council to the Standing Committee in special cases and when the National Assembly is not in session.
 - (iv) to cancel orders and decisions taken by lower agencies if necessary;
 - (v) to appoint or dismiss the personnel of administrative and specialised agencies;
 - (vi) to execute the law on military mobilisation and all means necessary for the defence of the country;
 - (vii) to establish the draft budget every year.
- 53.**—Every decree issued by the Government shall be signed by the President of the Democratic Republic of Vietnam and depending on the attributions of Ministries, counter-signed by one or more Ministers who shall be responsible before the National Assembly.
- 54.**—Any Minister who does not obtain the confidence of the National Assembly shall have to resign.
- The whole Council of Ministers shall not be jointly responsible for the acts of a Minister.
- The Prime Minister shall be responsible for the political line of the Council of Ministers. But the National Assembly only must vote on the issue of confidence when it is put forward by the Prime Minister, the Standing Committee or one-fourth of the deputies.
- Within 24 hours after the vote by the National Assembly of non-confidence in the Council of Ministers, the President of Vietnam has the right to submit the issue to the National

Assembly for discussion again. The second discussion shall be organised at least 48 hours after the first discussion

After losing confidence in this vote the Council of Ministers must resign.

55.—The Ministers shall have to give a verbal or written response to questions by the National Assembly or its Committee.

An answer shall be given within 10 days after the receipt of question.

56.—When the term of office of the National Assembly expires or the National Assembly dissolves itself, the Council of Ministers shall remain in power until the new National Assembly meets.

5

PEOPLE'S COUNCILS AND ADMINISTRATIVE COMMITTEES

57.—Vietnam shall be administratively divided into 3 *bo*: *Bac Bo*, *Trung Bo* and *Nam Bo*.³ Each *bo* shall be divided into provinces, each province into districts and each district into communes.

58.—In provinces, cities, provincial towns and communes, People's Councils shall be elected by universal and direct suffrage.

The People's Councils of provinces, cities, provincial towns and communes shall appoint their Administrative Committees.

In every *bo* and district shall be established an Administrative Committee. The Administrative Committee of a *bo* shall be elected by the People's Councils of provinces and cities.

³ See note above

The Administrative Committee of a district shall be elected by the People's Councils of communes.

59.—The People's Council shall decide on problems belonging to its own locality. Those decisions shall not go counter to the directives of higher authorities.

The Administrative Committee shall be responsible for:

- (i) executing orders from higher authorities;
- (ii) executing decisions of the People's Council of its locality, after approbation by higher authorities;
- (iii) controlling administrative affairs of its locality.

60.—The Administrative Committee shall be responsible to higher authorities and to the People's Council of its locality.

61.—Members of People's Councils and Administrative Committees may be recalled. The procedures of revocation shall be defined by law.

62.—A law shall define the details of organisation of People's Councils and Administrative Committees.

6

JUDICIAL BODIES

63.—The judicial bodies of the Democratic Republic of Vietnam shall comprise:

- (i) the Supreme Court;
- (ii) the Courts of Appeal;
- (iii) the courts of second and first instance.

64.—Judges shall be appointed by the Government.

65.—In the judgment of penal cases, there shall be people's assessors to express their views in minor cases, or to jointly take decisions with judges in criminal cases.

66.—Citizens of ethnic minorities shall be entitled to use their own languages before the court.

- 67.—Meetings of the court shall be public, except in special circumstances. The defendant shall be entitled to defend himself or to hire a barrister.
- 68.—Acts of torturing, violence and persecution against accused and condemned persons are prohibited.
- 69.—In judgment, judges shall obey only the law. Other agencies shall not interfere with the judgment.

7

AMENDMENT OF THE CONSTITUTION

- 70.—Amendments to the Constitution shall follow the following modalities:
- (i) The amendments shall be requested by two-thirds of the total number of deputies;
 - (ii) The National Assembly shall elect a committee to draft the articles to be changed;
 - (iii) The articles to be changed after approval by the National Assembly must be submitted to a national referendum.