

# BUILDING AND ORGANIZING THE APPARATUS OF DEMOCRATIC REPUBLIC OF VIETNAM – BASIC POLITICAL SOLUTION OF HO CHI MINH TO PROTECT THE NATIONAL INDEPENDENCE IN VIETNAM IN 1945-1946 PERIOD

Ngo Thi Phuong Thao

Researcher, Thai Nguyen University of Technology

Email: ngophuongthao@tnut.edu.vn

---

**Abstract:** The birth and development of an independent State is the basis for asserting the existence of an independent people. Therefore, the issue of building, organization and completion of a State has an important meaning to assert the independence of a country. The State is considered from the aspect of organizational apparatus, defining the functional competence of each agency in the State apparatus, including: legislative, executive and judicial. An independent State is defined on the basis of completing the above factors. As a result, in this article, the author deploys the issue of building and organizing the State of the Democratic Republic of Vietnam with three contents: Building a legislative body, an executive body and a judiciary agency in Vietnam in the 1945-1946 period, closely linked to Ho Chi Minh's role.

**Keywords:** State of Democratic Republic of Vietnam, Ho Chi Minh, national independence, 1945-1946, legislative, executive and judiciary.

---

## I. INTRODUCTION

In the 1945 - 1946 period, after the August Revolution (1945) succeeded in gaining national independence, bringing the government to the people's hands, the Interim Government of Ho Chi Minh was established. Although the Interim Government fully expanded the party members and patriotic figures, this was not a complete state with three legislative, executive and judicial bodies, and it was not the institution elected by all the people. Therefore, it had no legal basis. Consequently, this became one of the targets of attack and destruction of hostile forces, including foreign forces (Republic of China (ROC) Army and French Colonialism) and reactionary parties, especially Chinese National Army (Chiang Kai-shek). On the other hand, in the context of the increasingly complicated situation, especially the emergence of states of the parties, the building of hostile forces has created a picture of small decentralization throughout the territory of Vietnam. France not only created a puppet government, but also: "Try to set up puppet government or people's government in the places they occupy. The Dai Viet, Vietnam National Party, Nguyen Hai Than established a schizophrenic "government" in Vinh Yen, Yen Bai, and Mong Cai [3, p.23]. Therefore, the issue was to build and complete in terms of state organization - building an independent State. The birth of a National Assembly (legislature) elected by the people, a

Government (executive body) elected by the National Assembly and the judiciary was a unique political solution of Ho Chi Minh, thereby creating a firm legal and constitutional position for the Democratic Republic of Vietnam.

## II. CONTENT

### 1. Building legislative body

#### 1.1. Decide wisely and urgently organize the National Assembly General Election

From every early, Ho Chi Minh was aware of the importance of the position and role of the National Assembly (Parliament) in the democracy regime. Therefore, in the first session of the Interim Government of the Democratic Republic of Vietnam (September 3, 1945) chaired by Ho Chi Minh, he pointed out six urgent tasks that the revolutionary government should be focused on resolving in which he emphasized: "I propose to the Government to organize as soon as possible or the General Election with universal suffrage" [5, p.7]; "go to the National Assembly to stipulate the Constitution, elect the official Government" [3, p.26-27]. Thereby, to create a legal basis for the revolutionary government and to exercise the people's ownership. Ho Chi Minh's decision was meant as a constitutional statement while affirming the democratic nature and the legal position of the National Assembly in the state apparatus of the Democratic Republic of Vietnam.

However, it was extremely difficult to successfully conduct the General Election in this period because the political situation in the country was increasingly complicated: The fierce rebellion of reactionary forces, famine, ignorance and foreign invaders were threatening the national independence that had just been obtained. As a result, Ho Chi Minh carried out a series of strategic measures to successfully implement the General Election of the National Assembly - the legislative body of the State.

On the one hand, Ho Chi Minh took advantage of every opportunity to meet the General Election; on the other hand, issued a series of legal documents to create a legal basis for all Vietnamese citizens to participate in the election of their representative body. The first important ordinances on building ownership of Vietnamese citizens over national destiny were issued: The Ordinance No. 114/SL dated September 8, 1945 set a two-month period from the date of signing the ordinance to open the General Election and establish a Committee to draft the Constitution. The Ordinance No. 34/SL dated September 20, 1945 established the Companion Committee to draft the constitution consisting of 07 members. On September 26, 1945, the Ordinance No. 39/SL on the establishment of the Committee for drafting the General Election Rules, consisting of 9 members (04 communist members, 02 Democrats, 03 non-party members) represented the branches and sectors. The Ordinance No. 71/SL dated October 17, 1945 facilitated participation in the election and election of the people, etc. The above ordinances affirmed: "Vietnamese State will follow the Democratic Republic of the Republic and the national people's government will be elected by a National Congress by popular vote", "The Vietnamese people will be represented by the National Assembly as the supreme power to fix for Vietnam a Democratic Republican Constitution" [9, p.31]; "All Vietnamese citizens aged 18 and over, regardless of men or women, have the right to stand for election and vote" [11, p.436-437].

Thus, with a series of decrees issued and the General Election decision according to the principles of universal suffrage, equality, direct and secret ballot, Ho Chi Minh demonstrated in practice: General Election is democratic. This is a basic criterion of the people's democracy, an important guiding ideology to build a democratic and public electoral regime, and plays an important role, ensuring citizens exercise their rights to vote and self-nominate. It is contradicted the electoral principle of the bourgeoisie, democracy more broadly than the limited popular principle of the Soviet state at that time, and also a creative decision, demonstrating Ho Chi Minh's bravery. In many difficulties and challenges, the State of the Democratic Republic of Vietnam created all favorable conditions for Vietnamese citizens to stand for election and vote in the National Assembly General Election. Therefore, the National Assembly was elected with the support, agreement and consensus of the people, creating a legal basis for its existence.

One of the differences in both the nature and the form in the election and advocacy principles in Vietnam and the capitalist countries was handled very skillfully by Ho Chi Minh. If in capitalist countries, candidates for the National Assembly are nominated by parties, then in Vietnam the candidates of the Communist Party and the Democratic Party are revolutionary parties, so the candidates of the every Party is also in the spirit for the people, for the country, and are trusted and supported by the people. Even with opposition parties like the Viet Quoc, Viet Cach, etc., Ho Chi Minh also stated: "a) Please invite the National Assembly comrades to participate in the general election at various locations; b)

Please let us know where those candidates would like to stand for candidacy to facilitate the inclusion of their names on the candidate list; c) Those comrades have complete freedom of election activities as well as other parties. We are in charge of protecting and helping those comrades” [8, p.12.].

To expand the bloc of great solidarity for the entire people, to implement the policy of unity, unity and unification. Ho Chi Minh and the Viet Minh Headquarters decided to invite all people outside the Viet Minh Front to join the list of candidates. This action proved that the Government and Viet Minh always respected the people's right to freedom and democracy, respected talented people, united all patriotic forces, and had good will for the ultimate interests of the nation. Ho Chi Minh stated: “The general election is an opportunity for the entire nation to freely choose talented and virtuous people to take on the affairs of the country. In the General Election, everyone who wants to take care of the country's affairs has the right to stand for election; and every citizen has the right to vote. Not divided between girls and boys, rich and poor, religion, race, class, party, as a citizen of Vietnam, they all have these two rights. For that reason, the General Election means freedom, equality, and solidarity” [5, p.153]. Ho Chi Minh's opinion and outstanding efforts during the preparation of the General Election not only affirmed the democratic nature of the regime but also demonstrated Ho Chi Minh's assertive political bravery.

Closer to the date of the General Election, the members of Viet Quoc and Viet Cach tried their best to fight against. The reactionary force's distorted rhetoric revolves around issues such as: The general election could not be held because of low literacy, over 90% of the population was illiterate, so they were unable to exercise citizenship and should focus on fighting against aggression and should not waste time on voting. Their purpose was to prevent the legalization of the revolutionary government, because they knew that if the General Election happened, the people's votes would indirectly remove them from the political life of the country. Then, the time of General Election would be delayed.

It can be seen that the General Election was not a normal general election but was actually a political struggle, a very fierce national struggle. Therefore, in parallel with resolutely struggle, expose, against their destructive actions; under the leadership of the Party, Ho Chi Minh wisely implemented the strategy of concession and reconciliation to gradually prevent the violent intervention of the ROC army, when the Viet Cach relied on this force to demand the establishment of the government, abolished the revolutionary government, demanded that their representatives hold high positions in the government, the Viet Quoc demanded to take over the Ministry of the Domestic Affairs, Finance, Economy, and National Defense, etc. so that they occupied one third of the seats in the National Assembly.

In that urgent situation, on September 27, 1945, under the presidency of Ho Chi Minh, the Government Council held a meeting to discuss and agree to let Nguyen Hai Than hold the position of Vice President of the Government. Ho Chi Minh and Nguyen Hai Than signed the agreement and accepted the cooperation union. The “Solidarity measure”, including 14 main articles and 4 sub-articles, was signed by the Viet Minh delegates with the Viet Quoc Viet on December 24, 1945, with the following specific contents: national independence comes first, calls for solidarity, suspends publicly publishing newspapers to attack each other with words and actions, agreed to expand the Interim Government with representatives of Viet Quoc and Viet Cach,” will invite 50 people of Vietnam Nationalist Party and 20 people of Vietnam Revolutionary Alliance to the National Assembly [1, p.135] ...To ensure the success of the election, on January 1, 1946, the Interim Government reformed and expanded to the Interim Union Government, in which Nguyen Hai Than (Viet Cach) held the position of Vice-President, Truong Dinh Tri (Viet Quoc) held the position of Minister of Health ... The Interim Government of the Union consisted of 18 members, chaired by Ho Chi Minh.

It can be seen that in the political reality at that time, understanding the great political role and significance of the General Election, Ho Chi Minh implemented concession measures that were both timely, flexible and able to present the initiative in the condition of being drastically attacked by the enemy to achieve the goal at this time of successful General Election and National Assembly election.

To prepare carefully for the General Election to take place nationwide in the condition that more than 90% of the population is illiterate, and at the same time to disable information that is not beneficial to the Government, Viet Minh and conspiracy to destroy In the general election of hostile forces, Ho Chi Minh released the daily newspaper “National Assembly” to propagate and guide the people. With 15 issues published from December 17, 1945 to January 6, 1946, it showed thoughtful preparation for an extremely important event of the country on the basis of accurate analysis and judgment about the real situation of the country.

On January 5, 1946, on many mass media, Ho Chi Minh's "Call for the nation to vote" was transmitted: "Tomorrow, January 6, 1946. Tomorrow is a day that will put our nation on a new path. Tomorrow is a happy day for our people because tomorrow is the General Election Day, because tomorrow is the first day in Vietnamese history that our people begin to exercise their democratic rights" [5, p.166]. Overcoming many difficulties, on January 6, 1946, all citizens of our country voted for the National Assembly. For the first time, the General Election of the National Assembly of the independent Vietnam was held nationwide, despite the bombs of the French colonialists and the fierce resistance of reactionary positions. As a result, we elected "333 delegates, including 57% of the deputies from different democratic parties, 43% of non-partisan delegates [4, p.17-18], representing the will and aspirations of the people and affirming that the General Election was a great success.

The decision of the General Election in a difficult and challenging context bearing the imprint of democracy for the people not only asserted the "citizenship of an independent country" of our people, but also attested the power of the National Assembly not by the National Assembly, but by the people's mandate. The power of the National Assembly was the state power that represented the power of the people, given by the people, so the power the National Assembly received from the people was the supreme state power. The National Assembly was the highest body of state power, representing the will and aspirations of the people countrywide.

Thus, after only a short time, after declaring independence, Ho Chi Minh's thought of building the rule of law state was vividly realized in practice. The first National Assembly of our country was the Union of Parties, representing the strength of the national block, and the Constitutional National Assembly of the Democratic Republic of Vietnam.

Organizing the General Election in difficult political conditions was an open and secret confrontation between the young revolutionary state trying to win political goals in building the important legal basis on one side and many hostile forces that try to obstruct that goal on the other side. The success of the General Election established the National Assembly of Vietnam, facilitating the establishment of an official government (executive body) was "a leap forward development in the democratic institutions of Vietnam" [10, p.53]. It was the victory of the decision of both concession and determination in the difficult and challenging political struggle of Ho Chi Minh and the Party Central Committee and reactionary forces. The birth of the highest state authority marked the maturity of Vietnam's revolutionary state, opening up the prospect of a period of reform, the period when our country had a National Assembly, a unified Government, and a progressive constitution. The birth of the National Assembly was the first step in perfecting the picture of the first democratic state in Southeast Asia - the Democratic Republic of Vietnam.

The presence of the National Assembly and the role of this powerful body in practice affirmed the people's sovereignty and the legal basis of the revolutionary government - the most basic criterion of the rule of law state. From the National Assembly, the next powerful bodies of the State continued to be formed.

### *1.2. Direct the drafting and promulgation of the 1946 Constitution*

After winning independence, the promulgation of the Constitution was an inevitable matter. This was the supreme legal basis that forced the organization of state power and ensured the constitutionality of the state. Therefore, in spite of many serious difficulties in many fields, the fledgling revolutionary government, drafting the Constitution was one of the six urgent tasks of the revolution. Ho Chi Minh indicated: "Before we were ruled by an authoritarian monarchy, then a colonial regime no less authoritarian, so our country had no Constitution. Our people were not entitled to democratic freedoms. We must have a democratic Constitution" [5 p.7].

Carrying out that task, on September 20, 1945, Ho Chi Minh signed the Ordinance No. 34 to establish the Committee for drafting the Constitution consisting of seven people headed by Ho Chi Minh. However, the drafting of the Constitution was not simple.

After the year of 1945, in Vietnam, we both had to carry out our mission of both resistance war against the French colonialism and national construction and construction of the people's democracy. In October 1945, the Interim Government established the National Construction Committee, or the National Construction Committee for short. This Committee brought together patriotic personalities and intellectuals throughout the country, including: lawyers Phan Anh, Vu Van Hien, Tran Van Chuong, Professors Hoang Xuan Han, Ta Quang Buu, Nguyen Xien, literary researchers Dang Thai Mai, etc. for their comments on issues of national livelihood. In this Committee, there were many people interested and actively discussing the political issues of Vietnam. They were jurists who had access to Western bourgeois ideology,

very knowledgeable about the state politics, political regime - things that must be mentioned of course in the Constitution. Therefore, they advocated drafting another Constitution in parallel with the Committee's draft Constitution to be submitted to the Government. Very flexibly, Ho Chi Minh agreed to let the National Construction Committee submit another draft of the Constitution.

It should be affirmed that the acceptance of the parallel existence of the two constitutional drafting committees was a reasonable solution of Ho Chi Minh, demonstrating the broad democracy that the Government led by Ho Chi Minh. On the other hand, this existence was not a small challenge for Ho Chi Minh. Because the National Construction Committee group wanted to establish a model of state parliamentary style of the West. The Parliamentary government model often had a limited number of people involved in state affairs. Associated with the regulations on age, property, etc., workers did not actually have the right to vote. The problem posed how to reconcile the opinions, in fact the two groups followed two different paths, different ideas? How to ensure the original directions, paths and goals of Ho Chi Minh: power belongs to the people and ensures the interests of the people?

As the head of the drafting committee of the Constitution, in the context of many hostile forces wanting to destroy and overthrow the revolutionary government, Ho Chi Minh skillfully reconciled views, factions, and ideologies to issue the most suitable Constitution. During the first session of the National Assembly (March 2, 1946), Ho Chi Minh discussed and elected a subcommittee on the draft Constitution headed by him. Based on the project issued by the Government, compare with the draft of the National Construction Committee and a collection of recommendations and suggestions from the entire people, refer to experiences on the Constitution of European-Asian countries. The Subcommittee drafted the Constitution to submit to the National Assembly. The 1946 Constitution combined two drafts of the Constitution of two different drafting committees.

As Head of the Board of Drafting the Constitution, Ho Chi Minh had a great influence on the content included in the Constitution. Ho Chi Minh's ideology on building the state of the Democratic Republic of Vietnam with regulations on the legislature, executive and judiciary was gradually improved. Born in such historical context, this Constitution affirmed an unchanging principle in Ho Chi Minh's ideology: All power in the country belongs to the people.

For the first time in history, the 1946 Constitution legally affirmed that the Vietnamese people were the subjects of state power: "Vietnam is a Democratic Republican country. All authority in the country belongs to the entire people of Vietnam, regardless of race, girl, boy, wealth, class or religion". "All Vietnamese citizens are equal in all aspects: politics, economy and culture. All Vietnamese citizens are equal before the law, and are allowed to participate in the government and national construction work, depending on their talents and virtues" [12]. These institutions are really a major turning point in the development of democratic ideology, and at the same time affirm that in fact the people have a constitutional basis to enjoy democratic freedoms, and participate in the organization and exercise state power. The equality of rights and obligations of all citizens in the admitted Constitution clearly shows the ideology of state building of the great unity bloc all people. It is not only political principle but has become a constitutional principle aimed at mobilizing the power of the entire people in the resistance war. Also from these institutions, the greatest value of the state model in the Constitution is the provisions on the nationality of the State. It is a national state, regardless of class, bearing Ho Chi Minh's imprint, and it is also the success of Ho Chi Minh's ideology on building a state for the people, by the people and for the people in Vietnam.

Also in the 1946 Constitution, the People's Parliament was the highest authority. Articles 22 and 23 of the Constitution clearly stated: "The People's Parliament is the most powerful body of the Democratic Republic of Vietnam" [12] elected by the people, including representatives of all classes and strata of society, had the right to "solve all common problems of the whole country, set laws, vote on the budget, and ratify treaties that the Government has signed with foreign countries" [168]. In the actual situation of Vietnam at that time, the drafting and ratification of the institution of the People's Parliament of Ho Chi Minh was creative, both suitable to the circumstances and meeting the requirements of the revolutionary practice. Although it is the most powerful body, the Parliament was not the "super power" agency. The State power of the Parliament when exercised was also checked by the state institutions and by the people themselves - the subject of power. Also in this institution, it was clear that the guarantee of the people's power was clearly showed in the fact that the representative body (Parliament) was the most powerful body, the only body with legislative powers, but was still accountable to the people.



The Constitution also stated clearly: The highest administrative body of the country was the Government. The government includes: President of the Democratic Republic of Vietnam, Vice President and Cabinet. "The President of the Democratic Republic of Vietnam is chosen in the People's Parliament and must be voted by two thirds of the total number of parliaments" [12]. Thus, the State President is both the head of state, as well as the head of the Government, with executive power. The power of the State President is very great: "Not to bear any responsibility, unless committing treason" [12]. The State President in the Democratic Republic of Vietnam was not established by hereditary path, but must be chosen by the people in the highest representative body of the people, the Parliament.

With the construction and approval of the institution: The Parliament, the Government and the President of the Constitution gave Ho Chi Minh a special position. Ho Chi Minh was both the leader of the Party and the President, the head of state, and the head of the Government and had supremacy (veto power) in order to increase power and handle necessary affairs in the situation "Boiling water, burning fire", and performed the key national tasks: independent protection.

As the first Constitution of the new Vietnam country, the 1946 Constitution provided quite simply the judiciary. Accordingly, the judiciary of the Democratic Republic of Vietnam included: Supreme Court, courts of appeal, and secondary and primary courts. There was no separate provision in the Constitution defining the functions of the judiciary, but through the terms it can be seen that this body included courts and had a judicial function. The judge was the conductor of the trials and was appointed by the Government. During the trial process, the judges only complied with the law, and other agencies were not allowed to intervene. This was a feature of the independence of the judiciary. The trial must be conducted publicly, ensuring the interests of the people and in compliance with the law.

It can be seen that on the basis of researching the history of state power organizations of advanced countries in the world, Ho Chi Minh inherited and developed creatively the principles of organizing state power agencies to build in accordance with the practice. The institutions of state authority were specified in the Constitution. It was not like the archetype of the state organization model that was popular back then (United Kingdom, France, etc.). In a particular context, the requirement of state construction must demonstrate unity and widespread democracy, serving the cause of the resistance war, national construction, and avoiding purely public-agricultural dictatorship. It is the democratic state and the people. However, under difficult conditions, Ho Chi Minh still firmly adhered to the principle of democratic centralization in state construction and ensuring the dictatorship of proletariat.

The 1946 Constitution showed uniqueness in that, the power institutions in the state did not build and operate according to the theory of separation, division and control of power, but assigned and coordinated activities together under the leadership of the Communist Party. With these institutions, the functions, powers and relationships between the legislature, the executive and the judiciary created conditions for the state apparatus to operate effectively in the conditions of the country at that time. The 1946 Constitution shows very concentrated Ho Chi Minh's thinking on the State.

Thus, with the introduction of the 1946 Constitution, Ho Chi Minh affirmed, this is "the first Constitution in the history of the country ... is a historical vestige of the first Constitution in the East Asian Region. That Constitution is incomplete, but it has made it according to a practical situation. That constitution declares to the world that Vietnam is independent. That constitution declares to the world that the Vietnamese people have all their freedoms ... That constitution states a spirit of close solidarity between the peoples of Vietnam and a spirit of integrity and justice of all classes" [2, p.440]. The democratic spirit of the Constitution contributed to the gathering of all patriotic forces, creating a political and legal foundation for the national nation, democracy in the resistance war and national construction.

## **2. Building executive body**

The issue of construction, organization and operation of the Government - the second most powerful agency among the three state agencies is the most specific.

In the very first meeting of the Interim Government Council, Ho Chi Minh stated: After eighty years of oppression, exploitation, and under the foolish policy of the French colonialists, you and I, we are all not familiar with administrative techniques. Meanwhile, the intent of the French colonialists and the Chinese government (the Chiang Kai-shek Government) was to put the Interim Government in a position to be overthrown at any time, and the national independence could no long exist. Therefore, the difficulties faced by the Interim Government after its establishment

were: “The newly-won government has to deal with three difficult things: 1) Fight against the French colonialist invasion, 2. Fight against famine, 3. Dealing with the Dai Viet, Vietnam Nationalist Party, Nguyen Hai Than relied on the Chinese forces, merged into a bloc ... opposing the government, participating in the government [3, p.23], which required Ho Chi Minh with as head of the Interim Government, there must be appropriate measures to delay peace with the French colonialists and the ROC forces to create time to build the Government - the executive body of the state.

The core issue is that, after the August Revolution, conducting the General Election of the National Assembly as soon as possible to create a legal, constitutional position for the Government was one of the most urgent requirements. Since, the Government was passed by the National Assembly. In order to create certain concessions towards the Viet Quoc and Viet Cach, Ho Chi Minh's first solution was to reform the Interim Government into the Interim Government of the Resistance, opening the door to adding some members from Viet Quoc and Viet Cach to join the Government.

The advent of the Interim Union Government was also the result of negotiations between the Government of Ho Chi Minh and the Republic of China. On the ROC side, we requested: “The Chinese General Staff requires the establishment of Vietnam's Union Government within a minimum period of time, in which the pro-China parties will have a decisive influence” [6, p.207]. Therefore, after many meetings and exchanges, the Joint Conference between the three parties: The Viet Minh, the Viet Quoc and the Viet Cach took place on November 19, 1945 and came to an agreement on the conditions of cooperation that were to suspend mutual attacks and support the South Vietnamese Resistance.

During the fight and negotiation process, Vietnam Quoc agreed to cooperate with the Government and support the General election. On that basis, on December 24, 1945, Viet Minh, Viet Quoc and Viet Cach signed the measure of Solidarity. Under the agreement, from January 1, 1946, the Provisional Government reformed itself into the Interim Government of 18 members, of which Ho Chi Minh held the position of President, Nguyen Hai Than of Viet Cach hold the position of Vice President, etc. After its establishment, the Government of the Interim Union issued a Policy Statement which outlined the domestic program such as: “Make the entire people elected to be successfully elected and get ready for the meeting” [9, p.39]. The establishment of the Interim Union Government continued the work of the Interim Government, especially promoting the work of preparing for the General Election.

Thus, in the form of the Interim Union Government was the Union Government - a pluralistic multi-party government. The pluralism manifested in the fact that state power was placed in a wide coalition of parties, namely the Viet Quoc, the Viet Cach, the Democrat and the Viet Minh. It was the result of Ho Chi Minh's strategic solution to avoid a direct confrontation with the ROC troops. Although it only lasted for a short time, it was a necessary stepping stone to form the official Government. The agreement with the ROC forces, allowing reactionary parties to join the government was a very clever strategic solution of Ho Chi Minh, avoiding direct confrontation to preserve the Revolution force. The soul of the Government and the Government's leader was the Indochinese Communist Party led by Ho Chi Minh. Declaring the dissolution of the Communist Party, allowing reactionary parties to join the Government was a step backward, but in doing so, we have turned dangerous pressure and the danger of annihilation into an opportunity for possible conducting the General Election go to the official Government.

Immediately after the success of the General Election, Ho Chi Minh, as President of the Interim Government of the Union, opened the first session of the National Assembly, at the same time empowering the National Assembly to organize an official government. However, the official government must be selected in the People's Parliament (National Assembly).

Meanwhile, hiding under the People's Republic of China, forces of the Vietnamese Nationalist Party (Viet Quoc), the Vietnamese Revolutionary Dong Minh Hoi (Viet Cach) demanded the reestablishment of the Government and demanded to cede some positions in Government. To form an official government, Ho Chi Minh needed to take appropriate steps to stop their destructive plots. With the cleverly timely and flexible concession, Ho Chi Minh legalized these special cases, before being put into law enforcement, by asking the National Assembly to “back-accept” an additional 70 seats in the National Assembly without going through election. Very cautiously and flexibly, Ho Chi Minh affirmed: “While all the people are struggling, those who work overseas cannot participate in the general election of our people; therefore, to show the solidarity of the entire people, The Government proposed to the National Assembly to expand the number of delegates to 70 more people [7, p.41- 42]. 70 members of the National Assembly of the Viet Quoc and Viet Cach were “back-accepted” by the National Assembly (with special privileges not through election), invited to the meeting hall, as members of the expanded National Assembly. This solution of Ho Chi Minh was flexible while ensuring the principle that

key positions in the Government must be chosen from the Parliament even in the special cases specified in the Constitution.

If in the past, when entering Vietnam with the conspiracy to use force to overthrow the revolutionary government, the Chiang Kai-shek army and the lackeys (Viet Quoc, Viet Cach) did not consider it an “official recognition”, the inclusion of 70 of them in the National Assembly not only “pleases” the Chinese Nationalist Party generals, but also thereby affirmed their official recognition to our Government, blocking the publicity against of reactionary elements. Commenting on this strategy, some foreign researchers called: “Unique tricks of Ho Chi Minh”. Thereby, it is affirmed that the Government of Vietnam was a multi-party government, making it clear to the people of the world, to the entire people that we are unified and unanimous, if unite by consensus, everything would succeed.

With high consensus, the National Assembly discussed the establishment of the Government of the Union of the Resistance, Ho Chi Minh was elected President of the Democratic Republic of Vietnam, entrusted with the responsibility of establishing a new Government.

On the basis of the general situation, for the purpose of protecting the independence of the nation, the freedom of the people, respecting the power of the supreme representative agency, performing the assigned responsibility Ho Chi Minh submitted to the National Assembly the Association lists members of the Government of the Resistance Union, aiming to implement “the important thing now is the resistance”. Taking national interests first, Ho Chi Minh negotiated and negotiated with parties to make the Government of the Resistance Union organized as quickly as possible. The government was officially launched, comprising of “partisan and non-partisan brothers” delegates, chaired by Ho Chi Minh and empowered by Ho Chi Minh. The Government consisted of the President, Vice Chairman, 10 ministries and a Resistance Committee. Specifically:

<b>The Union Government of the Resistance War (established on March 2, 1946)</b>	
Chairman	Uncle Ho Chi Minh
Vice Chairman	Mr. Nguyen Hai Than
Minister of Foreign Affairs	Mr. Nguyen Tuong Tam
Minister of Domestic Affairs	Mr. Huynh Thuc Khang
Minister of Economy	Mr. Chu Ba Phuong
Minister of Finance	Mr. Le Van Hien
Minister of National Defense	Mr. Phan Anh
Minister of Social Affairs cum Health, Relief and Labor	Mr. Truong Dinh Tri
Minister of Education	Mr. Dang Thai Mai
Minister of Justice	Mr. Vu Dinh Hoe
Minister of Transport and Public Works	Mr. Tran Dang Khoa
Minister of Agriculture	Mr. Bo Xuan Luat (until April 1946) Mr. Huynh Thien Loc (from April 1946)
Supreme Advisory Group	Advisor Vinh Thuy
Resistance Chairman Commissioner	Mr. Vo Nguyen Giap

(Source: Chinhphu.vn)

Looking from the list of members in the new Government, in the complicated and volatile context at that time, Ho Chi Minh's selection of intellectuals and professionals including those trained and worked in the old government apparatus into the revolutionary government was the political solution of great significance. In the Government, there was Mr. Huynh Thuc Khang “a man of honorable morals that the entire nation knows”, Mr. Le Van Hien “a noble revolutionary



for many years", lawyer Phan Anh, Mr. Vu Dinh Hoe, etc. Participating a large number of individuals and intellectuals in the Government of Ho Chi Minh was a Government that gathers talents, unifying all forces of the entire nation. Contributing to smashing the rhetoric of Ho Chi Minh's government was the Communist government of the reactionary forces at that time.

Especially, there was the appearance of the Advisory Board to the Government. Supreme advisor Vinh Thuy - Bao Dai was the last king of the Nguyen Dynasty. Inviting government advisory boards, who previously worked for the former regime, was a hallmark of Ho Chi Minh's government-building. This was far different from the world revolutions, after taking power, the former head of the regime was often arrested or executed. However, in Ho Chi Minh's new government, the king of the old regime was persuaded to become the supreme advisor to the new government, accepting his abdication to become a citizen of the Democratic Republic of Vietnam, joining in new regime construction.

Thus, with the recognition of the National Assembly marked the official birth of a Government - the highest administrative body of the Democratic Republic of Vietnam. This was a legal and constitutional Government, with full prestige and effectiveness to organize the people resistance, perform all internal and external functions, carry out the resistance war, and maintain national independence. The birth of the official government not only smashed the conspiracies of France and the Republic of China: "I wish to see Uncle Ho Chi Minh and Viet Minh disappear from the political and administrative stage of the North" [6, p.186], but it also creates a firm foothold for the Government in the diplomatic struggle to maintain national independence.

After a period of time with a reasonable delay, we were sent home nearly 20,000 ROC troops. The reactionary forces in the two Viet Quoc and Viet Cach organizations had no place to rely. Their representatives in the government all fled. From October 28 to November 9, 1946, the second National Assembly session was held. Ho Chi Minh continued to be commissioned by the National Assembly to establish a new government - a resistance government. This government was not under pressure from outside, the members of the Government were selected as capable people and had revolutionary moral qualities. From the above standards, the list of new Government members introduced by Ho Chi Minh was approved by the National Assembly on November 3, 1946. Ho Chi Minh was President and Minister of Foreign Affairs.

**New government (after November 3, 1946 to the beginning of 1955) (in place of the Resistance Union Government, which was presented by President Ho Chi Minh at the second session of the I National Assembly, passed on November 3, 1946 and supplemented until 1955)**

President and Prime Minister	Mr. Ho Chi Minh
Deputy Prime Minister	Mr. Pham Van Dong
Minister of Domestic Affairs	Mr. Huynh Thuc Khang (passed away on April 21, 1947)
Acting Minister of Home Affairs	Mr. Phan Ke Toai (from November 1947)
Minister of Foreign Affairs	Uncle Ho Chi Minh (until 1947) Mr. Hoang Minh Giam (from 1947 to April 1954). Mr. Pham Van Dong (from April 1954)
Minister of National Defense	Mr. Vo Nguyen Giap (to 1947) Mr. Ta Quang Buu (from 1947 to July 1948) Mr. Vo Nguyen Giap (from July 1948)
Minister of Economy (from 5-1951 renamed the Ministry of Industry and Trade)	Mr. Ngo Tan Nhon Mr. Phan Anh (since 1947)
Minister of Justice	Mr. Vu Dinh Hoe
Minister of Finance	Mr. Le Van Hien
Minister of Education	Mr. Nguyen Van Huyen
Minister of Agriculture	Mr. Ngo Tan Nhon (to March 1954) Mr. Nghiem Xuan Yem (from March 1954)

Minister of Transport	Mr. Tran Dang Khoa
Minister of Labor	Mr. Nguyen Van Tao
Minister of Health	Mr. Hoang Tich Tri
Minister of Relief	Mr. Chu Ba Phuong
Minister of None-Ministry	Mr. Nguyen Van To (died in 1947)
Minister of None-Ministry	Mr. Bo Xuan Luat Mr. Dang Van Huong (since 1947)
General Director of the National Bank of Vietnam (established May 1951)	Mr. Nguyen Luong Bang (from May 1951)
Minister of Public Security (June 1953 changed the name of Deputy Minister of Public Security to Ministry of Public Security)	Mr. Tran Quoc Hoan (from June 1953)

(Source: Chinhphu.vn)

Inviting the government to many great dignitaries and intellectuals, regardless of the Party's participation in Ho Chi Minh, it was clear that the establishment of a unified government, and united entire people. From the establishment of the Government of the Resistance Union to the Government of the Resistance, Ho Chi Minh always had a consistent point of view that for the sake of the nation, the nation cooperated honestly, regardless of class, without considering past choices, prestigious intellectuals, ethical to establish a democratic government, a government with wisdom, education, government with enough talents from North, Central, and the South to carry out the mission of resistance war and national construction.

The establishment of the Resistance Government marked the process of completing the state apparatus, and at the same time, in terms of form, closed the process of continuous changes in the government apparatus under the pressure of the factions. The birth of the National Assembly and the Government at the same time marked the process of perfecting the state apparatus, being qualified to lead the entire people to the resistance war and to build the country. With high determination, the Party and Government not only built a legitimate position for the government but also through state power to successfully fight the enemy against hunger and ignorance, build a new lifestyle, eradicate the unreasonable tax, etc.

It can be seen that the building of the executive branch of the Democratic Republic of Vietnam is closely linked to the bravery and role of Ho Chi Minh. It is an elected Government from the Parliament - the most powerful body elected by the people. That government is representing the people. It is a government with great power.

Thus, after reading the "Declaration of Independence" to November 1946, the Democratic Republic of Vietnam had a National Assembly, a Constitution, and an official Government. This is the testimony to confirm the independence of the Vietnamese people in accordance with international practices. The establishment of the Government both ensures the legality and compliance with the regulations, and at the same time reconciles many interest groups and the government of virtuous and talented people elected by the people.

The State of the Democratic Republic of Vietnam with the executive body is the Government headed by Ho Chi Minh with strong powers, high initiative, and real capacity to carry out his functions and duties. Therefore, in 1946, in the face of encroachment, betrayal, attack and consecutive ultimatums to the Government of Vietnam demanding to be on duty in Hanoi, Ho Chi Minh convened a meeting with the Head of the Standing Committee of the National Assembly and the Government Council, discussed and unanimously mobilized the people of the whole country to stand up to fight the French colonialism. The "call for national resistance war" was sent, expressing the timeliness and initiative of Ho Chi Minh and the Standing Committee of the National Assembly. With the powers of the President of the Government stipulated in the Constitution, especially in the special circumstances of the situation, Ho Chi Minh led and ran the Government, together with the Standing Committee of the National Assembly to lead the Resistance war against the French colonialist invasion, leading the nation to the path of unity and independence.

### 3. *Building a judicial body*

Affirming that power belongs to the people, but all people and all subjects must be protected by the law. Therefore, from very early on, Ho Chi Minh paid attention to the activities of the judiciary. Through the process of signing a series of Ordinances such as the Ordinance No. 163/SL dated August 23, 1945, the Ordinance No. 33/SL dated September 13, 1945, and the Ordinance dated November 24, 1945 have made important contributions creating a unified court system in the country. The Vietnam People's Court was born and developed incessantly associated with the role of Ho Chi Minh.

Another important issue in the judiciary that Ho Chi Minh paid special attention to was the building of a contingent of judges. Because judicial activities are judging activities, with strong independence. It depends a lot on the judge. In the Ordinance No. 13 signed by the Signer, the requirements for judges are also fully specified to build a team of judges with professional qualifications and revolutionary ethical qualities. It can be seen that, through the signing of a series of decrees, the judicial bodies have been gradually improved and reformed in accordance with the current situation, ensuring democracy.

### III. CONCLUSION

Thus, along with the journey of choosing the way to save the country, choosing the state model "of the masses" is the process of forming a rule of law state with the idea of power belongs to the people. That thought was clearly expressed through the documents drafted by Ho Chi Minh himself, at the same time through the process of revolutionary practice, the practice of building a new state, a common state of the entire nation, building Parliament/National Assembly, power belongs to the people has changed and developed.

From the selection of the Government of the public - agricultural - soldiers in the first Political Platform to the Democratic Republic of the Republic raised the importance of the Eighth Central Conference and the Viet Minh Program in 1941, from the National Congress of Tan Trao to the first National Assembly where people exercised their power delegation through their delegates' confidence and freedom to choose in the 1946 General Election, was the process of formation, adjustment and development in Ho Chi Minh's thought about the powerful bodies in the state apparatus. It was the inevitable result of the development of the Marxist-Leninist theory about the dictatorship of the proletariat in the practice of the Vietnamese revolution, inheriting and promoting the power of patriotism in line with the development trend of the times.

As the leader of the Party, assigned to hold the position of head of state - President, directly administering the Government, cum Minister of Foreign Affairs, Ho Chi Minh was very quick to make bright decisions to lead the people throughout the resistance to protect the government, exercise the right to freedom and democracy in each specific situation. With the success of the first election of the National Assembly, the Vietnamese people had a solid political system with a full range of legislative body (National Assembly), executive body (Government), judiciary body (Procuracy, Court). Therefore, since 1946, as an independent state, it led the people to conduct the resistance against the French invasion. An independent state was born and developed, not only affirming the existence of an independent people in a turbulent historical period, but also helping us to have enough strength to carry out the resistance against the French colonialism in the long term.

### ACKNOWLEDGEMENT

**The article is the result of a research sponsored by Thai Nguyen University of Technology**

### REFERENCES

- [1] Steering Committee for Compiling History of the Government of Vietnam (2006), *History Book of the Government of Vietnam 1945-2005, January 1 (1945-1954)*, Culture and Information Publishing House, Hanoi
- [2] *Celebrity Ho Chi Minh* (2000), Labor Publishing House, Hanoi
- [3] Communist Party of Vietnam (2000), *Full volume of Party Document, Volume 8*, National Political Publishing House, Hanoi.
- [4] Le Mau Han, Tran Ba De, Nguyen Van Thu (2010), *General Outline of Vietnamese History, volume III*, Vietnam Education Publishing House, Hanoi

- [5] Ho Chi Minh (2011), *Complete Works, Volume 4*, National Political Publishing House, Hanoi
- [6] Ph.Devillers (2003), *Paris - Saigon - Hanoi, Archives of the War 1944-1947*, General Publishing House of Ho Chi Minh City, Ho Chi Minh City
- [7] *National Assembly of the Socialist Republic of Vietnam* (2006), Document of the National Assembly, Volume 1, National Political Publishing House, Hanoi
- [8] Phung Duc Thang (1992), "*Viet Minh Front and Opposition Organizations*", Journal of Party History (5)
- [9] National Assembly Office (1994), *History of Vietnam National Assembly 1946-1960*, National Political Publishing House, Hanoi.
- [10] National Assembly Office (2000): *History of Vietnam National Assembly 1946-1960*, National Political Publishing House, Hanoi.
- [11] Office of the National Assembly (2001), *President Ho Chi Minh with National Assembly and People's Council*, National Political Publishing House, Hanoi.
- [12] [https://moj.gov.vn/vbqp/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=536#](https://moj.gov.vn/vbqp/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=536#)