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**THE CONSTITUTION  
OF  
THE REPUBLIC OF VIETNAM**

**SAIGON-VIETNAM  
THE SECRETARIAT OF STATE  
FOR INFORMATION**

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# THE HISTORY AND PHILOSOPHY OF THE CONSTITUTION

The promulgation of the Constitution takes place on October 26, 1956, on the anniversary of the proclamation of the Republic. For just over one year ago, on October 23, 1955, the people voted by universal secret ballot in a Referendum that deposed Emperor Bao-Dai and named then Premier Ngo-dinh-Diem as the Chief of State with the mission to build up democracy. On October 26, 1955, the Republican form of Government was proclaimed by President Ngô.

On January 28, 1956, the President in exercising the mandate of the People signed *Ordinance n° 8*, which called for the election on March 4th of a National Assembly. The Assembly was empowered to « discuss and approve » the nation's first Constitution which was being drafted by an 11-man Commission of lawyers and cabinet members appointed by the President.

Following the Presidential Ordinance, there was some question raised as to how much power the new Assembly had been given to frame or alter the draft Constitution. This question was not settled definitely until after the Assembly had been elected, organized, and was ready to address itself to the work at hand. Then, on April 17, 1956, the President sent to the Assembly a Message in which he outlined certain of his own basic recommendations but otherwise delegated to the legislative body complete constituent powers. Here is what he said :

Red 10-12-59, TAF-V-N.

## THE PRESIDENTIAL MESSAGE

« By virtue of the mandate which the Nation vested in me by the referendum of October 23, 1955, and by the terms of the provisional Constitution Act, I have the honor to transmit to the National Assembly my viewpoint on the constitutional problem.

« During the 18th and 19th centuries, numerous constitutions were drawn up to establish political regimes that later became known as *democracies*. Under these regimes, individualism and economic liberalism were advocated as the best formulas to emancipate mankind and produce a happy society ».

The President went on to show how, in his view, the evolution of modern democracy could provide both inspiration from its successes and instruction from its failures. For « while this system in its application brought relative freedom to a minority, at the same time it diminished the effectiveness of the State, which became impotent to defend collective interests and to solve social problems.

« The events preceding the two World Wars revealed these weaknesses more than ever before, and in certain States led to the birth of fascism with its concentration of power under personal dictatorships.

« On the same pretext to organize effective power in the name of social justice, another reaction appeared in the form of communism under the so-called popular democracies. At the cost of heavy restrictions and the sacrifice of individual freedoms, these systems have merely imposed dictatorships of political parties ».

In rejecting both extremes of fascism and communism, the President went on to point out that most democratic States, whilst remaining faithful to the traditional concept, have evolved by constitutional amendment or new legislation designed to provide a broader and more stable economic and political base. The new Republic of free Viet-Nam, he hoped, could choose the best of the West for application to its own particular situation in Asia.

« We affirm », he concluded, « that the sole legitimate end and object of the State is to protect the fundamental rights of the human person to existence and to the free development of his intellectual, moral and spiritual life.

« We affirm that democracy is neither material happiness nor the supremacy of numbers. Democracy is essentially a permanent effort to find the right political means of assuring to all citizens the right of free development and of maximum initiative, responsibility and spiritual life.

« In the name of these principles, we solemnly declare :

« 1. Viet-Nam is an independent Republic, one and indivisible.

« 2. Citizens are born free and equal before the law. The State should assure them equal conditions for the exercise of their rights and the accomplishment of their duties. It owes aid and protection to the family so that harmonious family life can develop. Citizens have the right to a secure and peaceful life, to justly remunerated work, to sufficient individual property to assure a dignified and free life, to democratic freedoms, and to the full development of their personalities...

« 3. Sovereignty belongs to the people.

« The elected National Assembly is vested with legislative competence. The President of the Republic, also elected by universal, direct and secret ballot, is vested with executive competence. The family vote is admitted, and the voting rights and eligibility of women is recognized. The separation of powers should be clear and the responsibilities of the different organs of the State well defined, and their activities well coordinated to assure a maximum of stability and efficiency. A High Court of Justice will be established to decide cases of high treason.

« 4. The judiciary should be independent in order to make an efficacious contribution to the defense of the Republic, of order, of freedom, and of Democracy.

« 5. A Supreme Court should be organized for the control of the constitutionality of laws.

« 6. Economic forces should associate in the exercise of power in the form of a National Economic Council composed of representatives of union and professional groups and which will present suggestions and opinions on bills of economic interest ».

With this Message to the Constituent Assembly, President Diem delegated greater powers than were specifically provided for in the original ordinance which had authorized the elections and prescribed the functions of the Assembly.

## THE CONSTITUTIONAL COMMISSION

Of the five members from the original 11-member Commission who were elected as delegates to the Constituent Assembly, four were chosen by the Assembly to serve on its own Constitutional Commission of 15 members. Mr. Tran Chanh Thanh was chosen as President of the Commission, Mr. Vu Quoc Thong as Vice-President, Judge Nguyen Van Lien as Secretary, and Mr. Nguyen Phuong Thiep as Reporter \*.

The constitutional document as prepared by the Commission and ratified after discussion by the Assembly comprises 98 Articles and 10 Chapters headed by a Preamble :

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\* The composition of the 15-member Commission according to political affiliation is as follows (The names marked with an asterisk [\*] were members of the original Presidential Commission) :

### EIGHT REPRESENTATIVES OF THE NATIONAL REVOLUTIONARY MOVEMENT (NRM) :

* Tran-Chanh-Thanh	<i>Secretary of State-Information, lawyer</i>
* Nguyên-Huu-Chau	<i>Secretary of State-Presidency, lawyer</i>
* Nguyên-Phuong-Thiep	<i>Director, La Gazette de Saigon, lawyer</i>
Ton-That-Toai	<i>Businessman</i>
Ha-Huy-Liem	<i>Professor</i>
Tran-Sy-Don	<i>Physician</i>
Ha-Nhu-Chi	<i>Professor</i>
Kré	<i>Representative of High land people</i>

1. — Basic Provisions
  2. — Rights and Duties of the Citizen
  3. -- The President of the Republic
  4. — The National Assembly
  5. — The Judges
  6. — The Special Court of Justice
  7. — The National Economic Council
  8. — The Constitutional Court
  9. --- Amendment of the Constitution
  10. --- Final Provisions.
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**TWO REPRESENTATIVES OF THE LABOR PARTY (RLP) :**

Tran-Van-Trai	<i>Lawyer</i>
Mrs. Huynh-Thi-Nu	<i>School teacher</i>

**THREE REPRESENTATIVES OF THE CITIZENS ASSEMBLY (VCA) :**

Truong-Vinh-Le	<i>Director, Imprimerie Saigonnaise</i>
Tran-Quang-Ngoc	<i>Ex-Director, Direction of Forests and Waters, Central Viet-Nam</i>
Nguyen-Van-Lien	<i>Ex-Judge-President of Bacieu Tribunal</i>

**ONE REPRESENTATIVE OF MOVEMENT FOR CONQUEST  
AND DEFENCE OF LIBERTY :**

* Vu-Quoc-Thong	<i>Secretary of State-Social affairs, Professor of law</i>
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**ONE REPRESENTATIVE OF INDEPENDENTS :**

Nguyen-Cao-Thang	<i>Pharmacist</i>
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## THE PREAMBLE

National and international vocations of the Republic of Viet-Nam are the two main outlines of the Preamble.

Elaborated in the most critical period of the history of Viet-Nam, the Constitution, far from admitting the arbitrary partition of the fatherland, means to satisfy the aspirations of the entire Nation from the point of Camau to the gate of Nam-quan. Independence, Freedom, integral Democracy, such are the yearnings of the whole people, either in free zone or in the area temporarily controlled by international Communism. History has showed that our valiant ancestors many a time pushed out victoriously the northern invaders ; and this Constitution itself is the result of the merciless struggle of our people against colonialism and communism. That glorious past and this indomitable will of the whole nation gave the Constituents a deep trust in the eternal destiny of Viet-Nam, whose sons are not only united by the unanimous aspirations of the present time, but also and above all by an old civilization, the spiritualist foundations of which do satisfy the ideal of the Vietnamese-man.

Of the Vietnamese-man and of man in general. For the thirst for social justice and the love of liberty, « which is the ability to obey reason and moral precepts », are the very needs of humanity in the whole, which were injured these last centuries by capitalist and communist imperialisms, the concrete emanations of extremist individualism and collectivism. Viet-Nam being located at the crossroads of international lines of communication and migrations, her people were suffering in their flesh and blood the evils of these two human experiences. Confident in the sound basis of their culture, matured by their personal experiences of ideological struggles, they are ready « to receive all currents of progress », with a view to edify a humanistic civilization for « the safeguard and the development of man in his entirety ». The preamble of the Constitutions eloquently proves that the freedom-loving people of Viet-Nam, even in the darkest epoch of their history, keep intact their indestructible faith in their own destiny and in that of mankind.



## BASIC HUMAN RIGHTS AND DUTIES

Together with the Preamble the Constitution's Basic Provisions (Ch. I) cover almost entirely the six points made by the President in his special Message. Chapter II, which comprises the Vietnamese bill of human rights, elaborates the Basic Provisions : All citizens, enjoy equal rights and owe equal duties. These rights are : freedom of travel (Art. 13), speech and assembly and press (Arts. 15 and 16), and religion (Art. 17). Article 10 provides for a form of *habeas corpus*, and other articles provide for equal pay for equal work (Art. 14), the right of private property (Art 20), freedom of education in private schools (with compulsory free basic education guaranteed by the State (Art. 26), the right to strike and to form trade unions (Art. 23), the right to vote, stand for election, hold office and otherwise participate in the direction of public affairs (Arts. 18 and 19).

The duties which correspond to these rights are as much designed to protect as qualify them. These duties are defined in two ways : First, in terms of the anti-communist nature of the Constitution (Art. 7), designed to prevent the overthrowal of the democracy by force or subversion ; second, in terms of responsible, constructive democratic citizenship. Thus the *right* to equal pay for equal work implies every able citizen's *duty* actually to work (Art. 14). The right to form trade unions does not apply to public officials (Art. 23), nor the right to strike to civil servants, or employees whose activities are essential to the national defense, public security and welfare (Art. 23). Military training is obligatory under law, and every citizen must contribute taxes to public expenditures according to his or her means (Art. 29).

All citizens have equal rights to benefit from State welfare according to their individual needs in case of unemployment, old age, sickness or disaster from natural causes such as plague ; help to families in pregnancy, birth and nursing is also included (Arts. 24 and 25).

## THE CHECK AND BALANCE OF POWERS

Both the Presidential Message of April 17, 1956, and Articles 3 and 4 (Chapter I) of the Constitution call for the « separation »

of the legislative, executive and judicial functions of government. Actually, this separation of powers does not, and cannot, mean a rigid and mechanical partition of Power. « Separation », as expressed through the intention of the Constituent Assembly and in the Constitution itself, means rather the harmonious balance of the legislative, executive and judicial functions in a way designed to meet the needs of Vietnamese democracy and to assure its peaceful development in the future.

## **THE PRESIDENT OF THE REPUBLIC**

The Constitution gives to the President of the Republic normal prerequisites of office.

The President is vested with the leadership of the Nation (Art. 3). He is the Supreme Commander of the armed forces in time of both peace and war (Art. 37). He represents the nation in relations with foreign countries, appoints all ambassadors, and accredits foreign diplomatic representatives (Art. 35). He is assisted by a Vice-President elected simultaneously with him on the same ticket (Art. 30) and by Secretaries and Under-Secretaries of State appointed by and responsible to him (Art. 46). He appoints and dismisses all military and civil servants in conformance with existing laws, except in cases where the Constitution prescribes special procedures and he bestows all decorations, exerts the right of pardon, of mitigation, commutation and cancellation of penalties (Art. 37).

With the approval of the National Assembly, the President of the Republic ratifies international treaties and conventions (Art. 35), declares war and concludes treaties of peace (Art. 36). In case of emergency of alert or of siege within a given electoral district or districts (Art. 38), the President may extend the term of office of the deputy or deputies from that district, provided that at the latest within 6 months of the end of those special circumstances, partial elections must be held (Art. 38). The president must inform the Assembly of the state of the nation at least once each year and whenever else necessary (Art. 39). He communicates with the National Assembly by means of messages, he may attend its sessions and speak before it.

The President must submit the draft of the National Budget to the Assembly before September 30th of each year ; but if it is not voted definitively by December 31st as required by the Constitution (Art. 60), the President may enact it by decree and apply it under certain conditions until such a time as the Assembly passes further legislation (Art. 43).

The President and Vice-President of the Republic are elected by « universal, direct and secret vote » (Art. 30), as are the deputies to the National Assembly, but for a term of five (instead of three) years, and are eligible for re-election twice only (Art. 32).

The acting President of the Republic, Mr. Ngo-Dinh-Diem, in whom the people vested power by referendum on October 23, 1955, shall be the first President under the Constitution, and his term shall begin, like that of the first National Assembly, on the date of the promulgation of the Constitution (Art. 96). At the first meeting of the Assembly, the President shall nominate, subject to the Assembly's approval, the first Vice-President of the Republic. If the necessity for replacement arises, the nomination of a new Vice-President shall be made according to the same procedure throughout the entire term of the first President of the Republic (Art. 97). Further extraordinary powers to suspend temporarily certain civil liberties are delegated to the President during the first legislative term of three years (Art. 98) in order to provide better and more efficient safeguards for the nation during the present continuing period of crisis.

The functions of the President and Vice-President may come to an end before the normal term because of (1) death ; (2) incapacity to be ascertained by the National Assembly due to serious and prolonged illness ; (3) Resignation with notification to the National Assembly ; and (4) Deposition, or impeachment, by the Special Court of Justice (Art. 33).

## **THE LEGISLATIVE ASSEMBLY**

Perhaps the most important test of separation between the legislative and executive functions is provided by the provision (Art. 53) that the mandate of deputy to the National Assembly is incompatible with the office of Secretary and under-Secretary.

of State or any other civil service position — including the Vice-Presidency of the Republic, except for special limited missions during which period deputies may not participate or vote in the Assembly or its Committees. In this respect, the Vietnamese Constitution resembles more the American or Phillipino examples than the British, French or Japanese, where the Prime Minister and other members of his cabinet may sit with the Parliament whether they are members or not.

The Vietnamese Constitution provides only for a unicameral Assembly whose powers are to vote laws and to approve international treaties and conventions (Art. 55). Deputies may introduce proposals for laws and the President of the Republic may submit bills of laws (Art. 58) and when, in case of national emergency, the Assembly is not in session, the President may promulgate his own temporary ordinances or law-decrees subject to later ratification by the Assembly (Art. 41).

The President of the Republic may, with the consent of the Assembly, organize public referendum (Art. 40), the results of which must be respected by both the executive and legislative powers (Art. 40). This provision of the constitution is designed to provide against critical eventualities such as in case of serious conflict between the legislative and executive branches of government. The Constituent Assembly has rejected the solution for such crisis provided in parliamentary system — Constitution, which is the power of the Executive to dismiss the Assembly and Call for new elections, because it constitutes a serious violation of the fundamental principle of the separation of powers as consecrated by Article 3. Amendment of the Constitution except for Articles One through Four (Art. 89), may be proposed by either the President of the Republic or two-thirds majority of the National Assembly (Art. 90) and adopted by a three-fourths majority (Art. 92).

In case of executive incapacity due to « serious and prolonged illness », the Assembly may remove the President or Vice-President from office by a four-fifths majority of the total number of deputies (Art. 33). The power to impeach the President or Vice-President is delegated by the Assembly to the Special Court of Justice composed of 15 deputies elected by the Assembly and presided over by the President of the Court of Cassation.

The deputies to the National Assembly are elected by « universal, direct and secret ballot » according to certain procedures and conditions (Art. 49) supplemented by electoral laws that also fix the size of the Assembly (presently set at 123 deputies). This measure (Art. 48) does not limit the number of deputies or the number of electoral units in order to accommodate natural population increases as well as the eventual reunification of the nation, which will more than double its present size.

Deputies are elected for a term of three years and are eligible for re-election (Art. 51). In case of war or internal disturbances, their functions are automatically extended, provided that general elections must be organized at the latest within six months of the end of these special circumstances (Art. 38).

The present Constituent Assembly, elected on March 4, 1956, will be transformed into a legislature and begin its term as the first National Assembly on the date of the promulgation of the Constitution (Art. 95). \*

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\* Of the 123 deputies elected on March 4th, 121 were seated and two were refused for violation of the electoral law. New elections were held in the districts in question and the two successful candidates seated soon thereafter. There are five political groups and eleven independent deputies in the Assembly :

National Revolutionary Movement ( <i>Phong Trao Cach-Mang Quoc-Gia</i> )	61
Citizens' Assembly ( <i>Tap-Doan Cong-Dan</i> )	25
Revolutionary Labor Party ( <i>Can-Lao Nhan-Vi</i> )	15
Movement to Win and Preserve Freedom ( <i>Phong Trao Tranh-Thu Tu-Do</i> )	8
Dai-Viet Progressive Party ( <i>Dai-Viet Cap-Tien</i> )	1
Independents	11
	121

The average age of the deputies is 43 years : The oldest being 67 and the youngest 26 :

26 to 35 years : 25 deputies

36 to 45 years : 66 —

51 to 67 years : 30 —

In the transition from the constituent to a legislative Assembly, some changes are bound to take place. New faces will appear ; for, as already indicated, deputies holding civil service positions or ministerial posts incompatible with their elective offices are required by the Constitution to opt for one or the other. New officers may also be elected. But, by and large, the new National Assembly will be a reflection of the Constituent Assembly in both form and substance.

The political orientation of the present Assembly is difficult to assess by comparison with the practices in many countries of placing seats to the right or left of « center », as in France, government and opposition parties facing each other as in England or the two dominant parties seated separately as in the United States. For example, the Citizens' Assembly, while as a predominately Catholic party is on the extreme right, can hardly be called more conservative than the Independents of the National Revolutionary Movement in the center. The Revolutionary Labor Party with its obvious liberal bias is on the left in a certain sense. Yet there are no proper socialists or « Tories » to give the Assembly a broad spectrum of political representation. This situation may well change in the future, but for the present, deputies are seated by a non-political « geographical » plan.

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Professionally, the deputies represent a wide variety of occupations :

Professors and teachers . . . . .	23	Landowners . . . . .	19
Lawyers and judges . . . . .	15	Industrialists . . . . .	3
Physicians . . . . .	5	Journalists . . . . .	4
Pharmacists . . . . .	3	Retired Civil Servants . . . . .	5
Veterinarian . . . . .	1	Civil Servants (on leave) . . . . .	14
Dentist . . . . .	1	Civil Guard officers . . . . .	2
Engineers . . . . .	2	Employees . . . . .	2
Businessmen . . . . .	16	Workers . . . . .	2
		Other professions . . . . .	4

It is noteworthy that six delegates to the National Assembly are women — more than serve in any other Asian parliament except in Japan. This marks the first participation of women in the political life of Viet-Nam and the election the second time, following the Referendum of October 23, 1955, that women have voted.

The legislative Assembly shall prescribe its own internal regulations (Art. 68). Up to now, the procedures of the Constituent Assembly did not differ much from those followed by other countries of the free world, although they have been reduced to a minimum for greater efficiency. The agenda of each session has been established by the officers of the Assembly in agreement with the leaders of the political groups. Should a deputy wish to request the addition of an item to the agenda, he may do so through the leader of his party or group.

Ordinarily the Constituent Assembly met in plenary session at three o'clock in the afternoon. Committees met at their own convenience. Assembly sessions were public except for closed sessions called by half of the deputies present or by the President of the Republic. Full reports of the debates and documents produced, except for closed sessions of the National Assembly, have been published in the *Official Journal*. For the public sessions, seats are reserved for the diplomatic and press corps ; the general public must, however, request invitations because of the limited space.

Voting in the Assembly may be either by raised hands, or public, or secret ballot, depending on the importance of the issue. Constitutional amendments by the National Assembly, like those on the original articles by the Constituent Assembly, must be taken by public ballot. Otherwise, the secret ballot is reserved when a three-fourths or greater majority is required. Vote by correspondence is not permitted. Vote by proxy is limited to one absentee ballot for each deputy present.

The permanent officers of the Constituent Assembly consist of a President, two Vice-Presidents and six Secretaries. They direct the debates of the Assembly and its subsidiary organs. When the Assembly President is absent, the first or second vice-president directs the debates, controls the administration and security of the Assembly, and represents it in dealing with the administration and at official ceremonies.

The Secretaries of the Assembly are in charge of the reports of the sessions and entrusted with the supervision and control of the various administrative offices. At least two Secretaries must attend each session and, concurrently with the President or Vice-President in charge, sign the reports of those sessions.

As elected representatives of the people, deputies enjoy parliamentary immunity (Art. 54) and certain other privileges and priorities fixed by the Assembly within the limits prescribed by the Constitution.

## THE JUDICIAL FUNCTION

With the promulgation of the Constitution, existing laws and regulations remain in force until modified or abolished. In the year since Viet-Nam gained its independence, the laws inherited from the French colonial system, which were a conglomeration of common law, Royal ordinances and French law, have been steadily revised to provide the basis of truly Vietnamese justice. Within a short time, the Government will submit to the National Assembly bills of unified penal and civil codes together with procedural codes. These laws and the courts which execute them will be firmly based upon the Constitution.

The independence of the judiciary as prescribed in the Constitution's Basic Provisions (Art. 4) is implemented by the High Council of the Judiciary and two different supreme courts with distinct non-conflicting functions :

*The High Council of the Judiciary* (Ch. V), as created by the Constitution, is designed to supervise the application of the Statute of judges (Art. 73). According to articles 71 and 72, magistrates on the bench shall make decisions according to their own conscience, only public prosecutors shall be supervised by the department of Justice. The principle of the independence of the Judiciary, set forth in article 4 and stated again in article 70, is put in concrete form by the provisions of the Constitution itself.

*The Special Court of Justice* has been created by the Constitution (Ch. VI) and empowered with a unique function :

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\* Magistrates and justices of the lower courts are appointed, like all her civil servants, by the President of the Republic ; but unlike prosecutors and other public servants, they are vested by present law with irremovability as well as complete independence of action. Women as well as men may serve on the bench in Viet-Nam. There is at present one woman magistrate in a court of Saigon.



To try, and impeach, the President or Vice-President of the Republic for treason as this and other capital crimes are defined by the Constitution (Art. 74). The Court's power also extends to impeachment of the President of the Court of Cassation and of the Constitutional Court. It is presided over normally by the President of the Court of Cassation and a jury composed of 15 deputies elected from the National Assembly for each legislature ; but when the President of the Court of Cassation is himself accused, the Special Court of Justice is presided over by the President of the Constitutional Court.

In effect, therefore, the Special Court of Justice empowers the highest judge and the National Assembly through its 15 elected representatives to impeach the President and Vice-President. This provision is designed to assure an impartial justice when the accused are the highest civic officers of the State.

The function of the *Constitutional Court* (Ch. VIII) is, as its name implies, to ascertain the constitutionality of laws, decrees and administrative regulations (Art. 85). It does not replace either the present Court of Cassation or Council of State, but has greater competence or power than either ; for it not only handles appeals on administrative decisions handed down by the latter, but rules on the constitutionality of all laws, decrees and regulations submitted by the lower courts, both judicial and administrative (Art. 87).\*

The Constitutional Court shall consist of a President appointed by the President of the Republic with the approval of the National Assembly ; four high-ranking judges or lawyers appointed by the President of the Republic ; and four deputies elected by the National Assembly (Art. 86).

## THE NATIONAL ECONOMIC COUNCIL (Ch. VII)

The balance or « separation » of the legislative, executive and judicial powers of government described above is largely normal

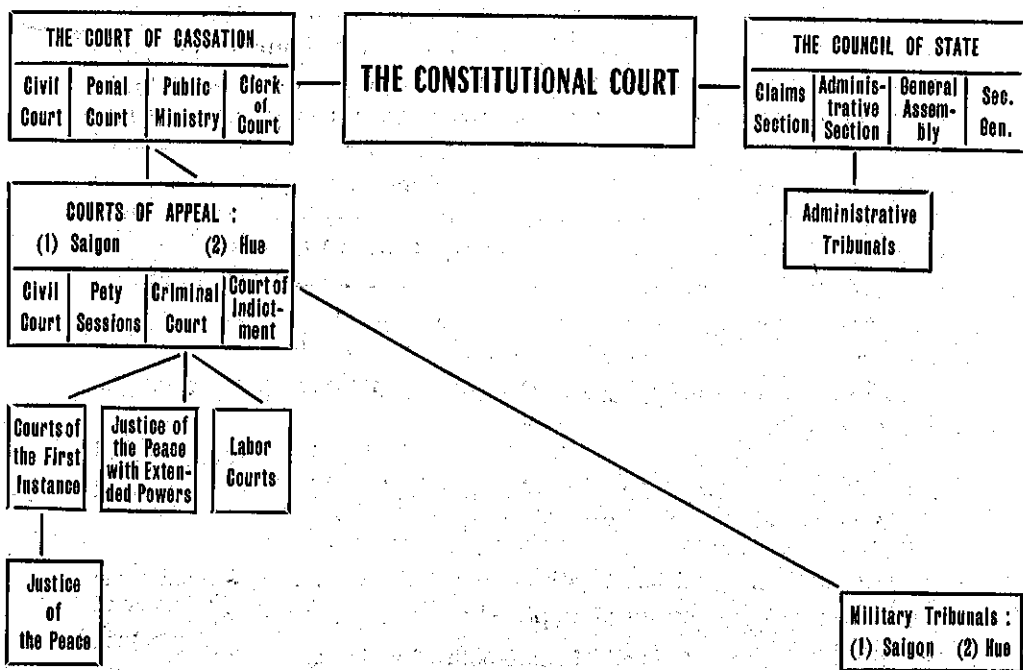
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\* The present judicial organization in Viet-Nam, as reformed from the French colonial system, is based upon the separation of judicial and administrative powers as represented the former, by the Court of Cassation, and the latter by the Council of State both of which are...

to the political function of democracy as it is understood today in the free world. The creation of a National Economic Council, however, recognizes a growing need for expert and independent help in this field beyond the ability of special Committees of the legislature or even the specialized departments of the administration.

The Council whose chairman shall be the Vice-President of the Republic (Art. 83), is further comprised of representatives of trade unions, various branches of economic activities, various social organizations and economists, and has the task of suggesting ideas and giving its opinion on the bills and draft-laws relating to the economy (Art. 82). The detailed organization and functioning of the Council are to be defined by further legislation (Art. 84). The independence of the Council is guaranteed by the Constitution : « Membership in the National Economic Council is incompatible with memberships in the National Assembly » (Art. 84).

... completely autonomous.



## THE SPIRIT OF THE CONSTITUTION

As reflected by the new Constitution, the principle of democratic government in Viet-Nam is derived chiefly from various Western sources adapted after consideration of many existing Asian constitutions to local conditions. Inevitably the strongest of Western political influences has been French. But the heritage of French imperialism — of democratic individualism pushed to the contradiction of true democracy — has never been regarded as a blessing by Vietnamese, who suffered for nearly a century under the double standard of colonial « justice » with its one set of laws for French citizens and another set for the « natives ». Nor did the example of French parliamentary practice with its weakness and instability inspire the makers of the Vietnamese Constitution with the same admiration as the Indians, for example, quite justifiably felt towards British parliamentary practice.

Hence the rejection by Viet-Nam of the basic Anglo-French parliamentary system in favor of a strong executive instead of a prime minister or premier. Yet the new Vietnamese Constitution in other ways resembles the French Constitution of 1946 as closely as any other modern Constitution. The Vietnamese document is much briefer and does not deal directly in economic theories, as does the French ; but it does make similar detailed provisions concerning the right to strike, collective bargaining and, particularly, the creation of an Economic Council. A significant difference is that the Vietnamese bill of human rights is included in the text of the document itself rather than, as with the French, as a Preamble, or as amended to the Constitution of the United States of America. Discussion is thus avoided, as in France, where some jurists claim that the *Droits de l'Homme* have no force of law, since they are not actually part of the Constitutional document, but merely a catalogue of desirable things, like the United Nations list of the Rights of Man.

But, above all, the Vietnamese Constitution consolidates the national independence. Many laws have been or will be changed and the rest adapted to the true interests of the people. Only the true and original spirit which French law shares with all the great democracies has been kept. This is the spirit symbolized by the principle that « everyone is presumed innocent until proven

guilty » and that « no one can be accused, arrested, or detained except as defined by law ». This is the rule of democratic law whose essence is symbolized even more intimately by two of the world's greatest religious moralities : The « Golden Rule » of Christ and its Asian complement, the « Silver Rule » of Confucius : « Do *not* unto others as you would *not* have others do unto you ».

These two religions are not, of course, the only faiths practiced in Viet-Nam. Buddhism with its great doctrine of the Deliverance which is closely related to the other great Confucian theory of the Universal Harmony, emphasizes the peculiarly Asian aspects of this meeting between East and West, between Christianity and Confucianism.

But what a difference between this rich and complex heritage of spiritual belief when it is compared to the sterile atheistic philosophy of communism ! For collectivism, no less than individualism, violates the essential spirit of Democracy. Hence the goal of the new Constitution of the Republic of Viet-Nam has been to take the Middle Way to the Golden Mean between these two extremes.

Communism imitates democratic processes and institutions and thus betrays through hypocrisy and heresy its own guilty conscience. For if its own political institutions were valid and legal, it would have no need to steal and distort the meanings of traditional terms and ideas. The so-called « constitution » and « People's Parliament » of the « Democratic Republic » of the communist North Viet-Nam provides a study by contrast with the free South.

To anyone who considers the Vietminh constitution for the first time, it all seems so plausible, so well-designed for « reader appeal », especially to those who know nothing about its origins or subsequent fate. For between the time the Vietminh « Assembly » met for the first time on February 25th and its second session on October 28th, its membership had shrunk from 370 delegates to 291 on the first day. Two days later 33 delegates from the opposition parties had been arrested « for common law crimes », according to a government announcement, and four others had disappeared. The purges by the Central Committee of the Communist Party

continued while the Assembly was in session until November 9th, when the new « Constitution » was voted. *Only* two opposition members were left while the total Assembly membership had shrunk to 242 ! (The « Constitution » was adopted by a vote of 240 to 2).

The Vietminh « Constitution » itself gives extraordinary powers to a small Permanent Committee (Art. 27-28, 33-40), which are almost identical to those given to the Praesidium of the Supreme Soviet of the U.R.S.S., and which effectively deprive the Parliament of legislative authority. The Vietminh « Parliament, » however, was never given the chance to exercise what meagre powers it had. For the Assembly was adjourned on November 14th and did not meet again until after the war, by which time the Praesidium of the National Assembly was almost indistinguishable from the Central Committee of the Communist Party, or, in other words, the Vietminh regime itself.

Still this parody of truly democratic institutions goes on. The reason why is clear, for the international prestige of democracy and its institutions is still as high as the totalitarian methods of communism are low. Democracy provides the sheep's clothing for the communist wolf, who hopes to lure the unwary « progressive » and « neutralist » within reach of his fangs. Thus the Vietminh communists argue for nationwide elections despite their inability and unwillingness to provide conditions according to the terms of the United Nations Organization.

The Government of the Republic of Viet-Nam has tried, for its parts, to meet these conditions, both according to the letter and the spirit of the law. The new Constitution is proof of its good faith in terms of deeds as well as words.

All of these conclusions were expressed somewhat differently by President Diem when he sent a final Message to the Constituent Assembly on October 15th together with his recommendations for a number of minor last minute changes in the draft Constitution \*. Here is what he said :

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\* Among the changes suggested by the President and approved by the Assembly, two articles were eliminated and one added (Art. 8). The Assembly rejected two other Presidential recommendations, notably by its refusal to reduce the age limitation of presidential candidates from 40 to 35 years (Art. 31).

« ... We conceive that the working out and the promulgation of the Constitution constitute only a first step on the path to democracy and its edification. This work calls for ceaseless efforts from one and all, because democracy not only consists in mapping out and promulgating a Constitution ; it is essentially a state of mind, a way of living.

« For example in England where no written Constitution is available, the democratic traditions are no less deeply rooted in the nation's heart.

« To be able to turn the democratic experiences of other countries into written statements, it is not necessary for us to elaborate a too long and detailed Constitution. Legislative power will be based on the principles put in the Constitution to legislate in an adequate way, fit with the circumstances specified in space and time.

« The vital issue is to establish an effective state apparatus capable of solving in due time complex problems which must be in a modern nation's daily life.

« Experience drawn from some countries' history shows that a weak and powerless Executive will bring about discontent and indignation among the population. Some people might hold this state of things as a grievance against the democratic regime. This might pave the way to a revolution which results in overthrowing democracy in favor of a totalitarian regime.

« A strong and efficient executive organization capable of rapidly solving the complex and urgent problems is a guarantee for the democratic regime. »

# **THE TEXT OF THE CONSTITUTION**

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## **THE PREAMBLE**

Confident in the glorious and eternal destiny of the Vietnamese State and Nation, a destiny which is guaranteed by the victorious struggles of our ancestors and the indomitable will of our people ;

Confident in the perpetuity of our civilisation which rest on spiritualist foundations and the propagation of which is the duty of all citizens ;

Confident in the transcendent value of the human person whose free, harmonious and complete development on the individual as well as on the communal plan must be the object of all state activity ;

Conscious that the Constitution must satisfy the aspirations of the entire Nation from the point of Ca-Mau to the gate of Nam-Quan, these aspirations being ;

— the consolidation of national independence and the struggle against all forms of domination and imperialism ;

— the safeguard of the liberty for each individual and for the Nation ;

— the erection, in the respect for the human person, for the benefit of all classes of the population of a political, economic, social and cultural democratic regime.

Conscious that liberty, which is the ability to obey reason and moral precepts, can only be preserved if collective security is assured and the legitimate rights of men respected ;

Conscious that our nation being located at the crossroads of international lines of communication and migrations, our people is ready to receive all currents of progress with a view to perfecting before the Almighty and before Humanity its mission which is the edification of a humanistic civilisation for the safeguard and the development of man in his entirety ;

We, Members of the National Constituent Assembly,

After deliberation, adopt the Constitution, the purpose of which is as follows ;

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## CHAPTER I

### BASIC PROVISIONS

- ARTICLE 1.** -- Viet Nam is an independent, unified, territorially indivisible Republic.
- ARTICLE 2.** -- Sovereignty resides in the whole people.
- ARTICLE 3.** -- The Nation vests the executive functions in a President elected by the people, and the legislative functions in a National Assembly also elected by the people. The separation of powers between the executive and the legislative agencies must be clear. The activities of the executive and legislative agencies must be brought into harmony.
- The President is vested with the leadership of the Nation.
- ARTICLE 4.** -- The Executive, the Legislative and the Judiciary have as their responsibility the defense of freedom, democracy, the republican form of Government, and public order.
- The Judiciary shall have a status which guarantees its independent character.
- ARTICLE 5.** -- All citizens, without distinction of sex, are born equal in dignity, rights and duties, and must act towards each other in a spirit of fraternity and solidarity.
- The State recognizes and guarantees the fundamental rights of the human person in his individual capacity and in his capacity as member of the community.
- The State shall endeavour to establish for all equal opportunities and the necessary conditions for the enjoyment of their rights and the performance of their duties.
- The State shall aid the economic development, cultural creation, scientific and technical expansion and progress.
- ARTICLE 6.** -- Every citizen has duties towards the Fatherland, the community, and fellow-citizens in the pursuit of the harmonious and complete development of his personality and that of others.
- ARTICLE 7.** -- All activities having as their object the direct or indirect propagation or establishment of Communism in whatever form shall be contrary to the principles embodied in the present Constitution.
- ARTICLE 8.** -- The Republic of Viet Nam shall adhere to the principles of international law which are not contrary to the exercise of national sovereignty and the realization of the equality of nations.
- The Republic shall endeavour to contribute to the maintenance of world peace and security as well as to strengthen the bonds of friendship which unite it with other peoples on a basis of freedom and equality.

## CHAPTER II

### RIGHTS AND DUTIES OF THE CITIZEN

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**ARTICLE 9.** — Every citizen has the right to life, liberty and security and integrity of his person.

**ARTICLE 10.** — No one may be illegally arrested, detained, or exiled.

Except in cases of flagrante delicto, no arrest may be carried out without a mandate of the competent authorities, and which does not conform with the conditions and procedures prescribed by law.

In accordance with the procedures prescribed by law the accused in cases of crimes or misdemeanour shall have the right to choose their defense or request that one be designated for them.

**ARTICLE 11.** — No person may be tortured or subjected to brutal, inhuman or degrading punishment or treatment.

**ARTICLE 12.** — The private life, family, home dignity and reputation of every citizen shall be respected.

The privacy of correspondence may not be violated except on order of the Courts or in cases necessitated by the protection of public security or the preservation of public order.

Everybody shall be entitled to the protection of the law against illegal interference.

**ARTICLE 13.** — All citizens have the right to circulate and likewise reside freely on the national territory, except in those cases prohibited by law for reasons of public health or public security.

All citizens have the right to go abroad, except in the cases of restrictions by law for security, national defense, economic, financial reasons or in the public interest.

**ARTICLE 14.** — Every one has the right and the duty to work. Pay shall be equal for equal work.

Every one who works shall be entitled to an equitable remuneration guaranteeing to him and to his family an existence consistent with his human dignity.

**ARTICLE 15.** — Every citizen has the right to freedom of thought, and, within the limits set by law, of meeting and association.

**ARTICLE 16.** — Every citizen has the right to freedom of expression. This right may not be used for false accusations, slander, outrages against public morals, incitations to internal disturbances or for the overthrow of the republican form of government.

Every citizen has the right to liberty of press in order to establish a truthful and constructive opinion which the state must defend against all effort to distort the truth.

**ARTICLE 17.** — Every citizen has the right to freedom of belief, religious practice and teaching, provided that the exercise of these rights shall not be contrary to morality.

**ARTICLE 18.** — In accordance with the procedures and conditions prescribed by law, every citizen has the right to vote, and to take part in the direction of public affairs, either directly or through his representatives.

**ARTICLE 19.** — Every citizen has the right to hold public office, according to his abilities and on a basis of equality.

**ARTICLE 20.** — The State recognises and guarantees the right of private property.

The law shall fix the procedures of acquisition and enjoyment of the right of property so that every one may become a proprietor and in order to assure to the human person a worthy and free life, and at the same time to construct a prosperous society.

In the circumstances prescribed by law and on the condition of compensation, the State may expropriate private property in the public interest.

**ARTICLE 21.** — The State shall facilitate the use of savings in acquiring dwelling, agricultural land and shares in business corporations.

**ARTICLE 22.** — Every citizen has the right to set up economic associations, provided the aim of such associations is not to establish illegal monopoly in order to engage in speculation and manipulation of the economy.

The State shall encourage, and facilitate associations for the purpose of mutual aid, the intent of which is not speculation.

The State does not recognize business monopoly except in cases determined by law for reasons of national defense, security or public utility.

**ARTICLE 23.** — The right to free trade unions and the right to strike are recognized and shall be exercised in conformity with the procedures and conditions prescribed by law.

Public officials have no right to strike.

The right to strike is not recognized in regard for the personnel and the workers in those activities related to national defense, public security or the needs indispensable to the life of the community.

A law shall determine the branches of activities mentioned hereabove and guarantee to the personnel and workers of these branches a special status with the purpose of protecting the rights of the personnel and workers in those branches.

**ARTICLE 24.** — Within the limits of its capacity and economic progress, the State shall take effective measures of assistance in cases of unemployment, old age, illness, natural disaster or other misfortunes.

**ARTICLE 25.** — The State recognizes the family as the foundation of society.

The State shall encourage and facilitate the formation of families and the fulfilment of the mission of the family, especially in regard to maternity and infant care.

The State shall encourage the cohesion of the family.

**ARTICLE 26.** — The State shall endeavour to give every citizen a compulsory and free basic education.

Every citizen has the right to pursue his studies.

Those who are capable but lack private means shall be helped in the pursuit of their studies.

The State shall recognize the right of parents to choose the schools for their children, and of associations as well as individuals to open schools in accordance with conditions fixed by law.

The State can recognize private institutions of university or technical education which satisfy the legal requirements. The diplomas granted by these institutions can be recognized by the State.

**ARTICLE 27.** — Every citizen has the right to participate in cultural and scientific activities, and to enjoy the benefits of the fine arts and of technical progress. Authors shall enjoy legal protection for their spiritual and material rights relating to scientific inventions, literary or artistic production.

**ARTICLE 28.** — The rights of each citizen shall be exercised in conformity with the procedures and conditions prescribed by law.

The rights of each citizen shall be subjected only to those legal restrictions fixed by law in order to ensure respect for the rights of other citizens and satisfaction of the legitimate requirements of general security, morality, public order, national defense.

Whoever abuses the rights recognized by the Constitution with the object of jeopardizing the republican form of Government, the democratic regime, national freedom, independence, and unity shall be deprived of his rights.

**ARTICLE 29.** — Every citizen has the duty of respecting and defending the Constitution and the law.

Every citizen has the duty of defending the fatherland, the republican form of Government, freedom and democracy.

Every citizen must fulfil his military obligations in conformity with the procedure and in the limits prescribed by law.

Every one has the duty of contributing to public expenditure in proportion to his means.

## CHAPTER III

### THE PRESIDENT OF THE REPUBLIC

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**ARTICLE 30.** -- The President of the Republic shall be elected by universal and direct suffrage with secret ballot, in an election in which all electors throughout the country may participate.

A law shall determine the procedures of the election of the President of the Republic.

The Vice President of the Republic shall be elected simultaneously with the President of the Republic and on the same ticket.

**ARTICLE 31.** -- Those citizens shall have the right to be a candidate for President or Vice-President of the Republic who shall have fulfilled all of the following conditions ;

1. -- To have been born on Vietnamese territory and possess Vietnamese nationality without interruption since birth or to have recovered Vietnamese nationality prior to the date of the promulgation of the Constitution.

2. -- To have had residence on the national territory with or without interruption for a period of at least fifteen years.

3. -- To be forty years of age ;

4. -- To enjoy the rights of citizenship ; The offices of President or Vice-President of the Republic shall be incompatible with any other paid or unpaid activity in the private domain.

**ARTICLE 32.** -- The President and the Vice-President of the Republic shall be elected for five years.

They shall be eligible for re-election for two terms.

**ARTICLE 33.** -- The terms of the President and of the Vice-President of the Republic shall expire exactly at noon, on the last day of the sixtieth month beginning from the day they effectively take office, and the terms of the new President and Vice-President shall begin at the same moment.

The functions of the President and of the Vice-President of the Republic may come to an end before the normal term, in the following circumstances :

1. -- Death,

2. — Incapacity, because of serious and prolonged illness, to exercise the powers and fulfil the duties of the office. This incapacity must be ascertained by the National Assembly with a majority of 4/5 of the total number of deputies, after medical examination and cross examination.

3. — Resignation duly tendered to the National Assembly,

4. — Deposition by the Special Court of Justice, under article 31.

**ARTICLE 34.** — The election of a new President and of a new Vice-President of the Republic shall take place on a Sunday, three weeks before the expiration of the terms of the President and Vice-President of the Republic in office.

In case of cessation of function before the expiration of the presidential term, the Vice-President of the Republic shall exercise the functions of President until the end of the term.

Under the circumstances mentioned in the preceding paragraph, in the case in which there shall be no Vice-President of the Republic or in which the Vice-President of the Republic for some reason cannot fulfil the presidential function, the President of the National Assembly shall temporarily exercise the function of President of the Republic in order to expedite current affairs and to organize the election of a new President and a new Vice-President of the Republic within a maximum period of two months. In this case, the first Vice-President of the Assembly shall assume the acting Presidency of the National Assembly.

**ARTICLE 35.** — The President of the Republic shall conclude and, after approval by the National Assembly, ratify international treaties and conventions.

The President of the Republic shall appoint ambassadors, accredit foreign diplomatic representatives and represent the Nation in its relations with foreign countries.

**ARTICLE 36.** — With the agreement of one half of the members of the National Assembly, the President of the Republic shall declare war and conclude treaties of peace.

**ARTICLE 37.** — The President of the Republic shall appoint and dismiss all military and civil servants in conformance with existing laws, except in cases where the Constitution shall prescribe special procedures.

The President of the Republic shall be the *Suprême* Commander of the armed forces.

The President of the Republic shall bestow all decorations.

The President of the Republic shall exert the right of pardon, of mitigation, commutation, cancellation of penalty.

**ARTICLE 38.** — In case of war or internal disturbances, the term of office of the Deputies such as defined in the Constitution shall be automatically extended at the expiration of their normal terms of office.

In case an electoral district shall be placed in a state of emergency, of alert or of siege, the President of the Republic may extend the term of office of the Deputies of that district.

However, general or partial elections must be organized at the latest within six months of the end of the special circumstances referred to in the two previous paragraphs.

**ARTICLE 39.** — The President of the Republic shall communicate with the National Assembly by means of messages.

The President of the Republic may attend the sessions of the National Assembly and speak before it.

Each year, at the beginning of the second regular session of the National Assembly and whenever he deems it necessary, the President of the Republic shall inform the National Assembly on the state of the nation and on the domestic and foreign policies of the Government.

**ARTICLE 40.** — The President of the Republic may, with the consent of the Assembly, organize a referendum. The results of the referendum must be respected by the President of the Republic and the National Assembly.

**ARTICLE 41.** — Between two sessions of the National Assembly the President of the Republic may, for reason of emergency, sign orders in council.

The orders in council shall be transmitted immediately after their signature to the Bureau of the Assembly. If the National Assembly does not reject these orders in council during its next regular session, they shall become laws.

**ARTICLE 42.** — In cases of emergency, war, internal disturbances, or financial or economic crises, the National Assembly may vote a law conferring on the President the power to sign orders in council for a definite time and within definite limits, with a view to enforcing the policy defined by the National Assembly in the law by which it delegates power to the President.

The orders in council must be communicated to the Bureau of the National Assembly immediately after their signature. Thirty days after the expiration of the time limit defined in the law delegating the power, these orders in council shall become laws proper if the National Assembly does not reject them.

**ARTICLE 43.** — In case the budget should not have been voted upon within the period defined in Article 60, the President of the Republic may sign budgetary orders in council for the financial period following. In each quarter the President of the Republic may expend one fourth of the budget until the time when the National Assembly shall have taken a final vote on the law concerning the budget.

In the budgetary law the National Assembly must solve the problems resulting from the rejection or alteration of the provisions of the budgetary orders in council.

**ARTICLE 44.** — The President of the Republic may sign a decree proclaiming a state of emergency, alert or siege in one or many areas; this decree may temporarily suspend the application of one or many laws in these areas.

**ARTICLE 45.** — Upon assuming office the President of the Republic shall take the following oath: « I solemnly swear:

- to fulfil the obligations of President of the Republic to the best of my ability,
- to respect and defend the Constitution,
- to serve the Fatherland faithfully and to devote myself entirely to the public interest ».

**ARTICLE 46.** — The President of the Republic shall be assisted by a Vice-President of the Republic, Secretaries of State and Under Secretaries of State. The two last mentioned shall be appointed by the President of the Republic and shall be responsible to him.

**ARTICLE 47.** — Secretaries of State and Under-Secretaries of State can confer with the President and the Vice-President of the National Assembly, and the Chairmen of the Committees of the National Assembly, in order to give explanations on problems relative to legislation.

## CHAPTER IV

### THE NATIONAL ASSEMBLY

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#### Section 1. — The Deputies

**ARTICLE 48.** — The electoral law shall fix the number of Deputies to the National Assembly and the electoral constituencies.

**ARTICLE 49.** — The Deputies shall be elected by universal and direct suffrage with secret ballot, according to procedures and conditions fixed by the electoral law.

**ARTICLE 50.** — Those citizens may be candidates for the National Assembly who :

1. — Possess Vietnamese nationality without interruption since birth, or have obtained Vietnamese nationality at least five years prior thereto, or recovered Vietnamese nationality at least three years prior thereto exclusive of those who have recovered Vietnamese nationality before the date of the promulgation of the Constitution ;

2. — Enjoy their rights of citizenship ;

3. — Are fully twenty-five years of age before election day ;

4. — Fulfil all the other conditions laid down in the electoral law.

However, in special cases where persons have recovered or acquired Vietnamese nationality and have rendered exceptional service to the Fatherland, the President may by decree reduce the five and three years requirements cited above.

**ARTICLE 51.** — The term of office of the Deputies shall be three years. The Deputies may be reelected.

The election of a new National Assembly shall take place one month prior to the expiration of the term of the existing legislature.

**ARTICLE 52.** — When a Deputy resigns, dies, or terminate his mandate for any reason whatsoever, the election of a replacement shall takes place within three months. There shall be no election for a replacement if the vacancy occurs less than six months prior to the end of the original term of office.



**ARTICLE 53.** — The mandate of a Deputy is incompatible with any other remunerated public function or with any other elected office. Civil servants who are elected shall take leave of absence ; military personnel elected shall be demobilized.

The mandate of a Deputy is incompatible with the office of a Secretary or Under-Secretary of State.

However, Deputies may be charged with special missions lasting not more than twelve months each nor exceeding *in toto* one half of the life of the legislature. While discharging such special assignments, Deputies shall not have the right to debate or vote in the National Assembly or its committees.

Deputies may serve as teachers in Universities and Higher-Technical Schools.

In no case may Deputies participate in competitive bidding sponsored by government organs, or enter into contracts with them.

**ARTICLE 54.** — No Deputy may be pursued, arrested, incarcerated, or sentenced because of anything he may have said or any vote he may have cast in the Assembly or any of its committees.

Except in cases of high treason, injury to the security of the State, or *flagrante delicto* no deputy may be pursued arrested, incarcerated, or sentenced during the whole period of National Assembly sessions, including the time for repairing to the Assembly and returning from it.

## **Section 2. — The Powers of the National Assembly**

**ARTICLE 55.** — The National Assembly votes the laws. It approves international treaties and convocations.

## **Section 3. — Legislative Procedures**

**ARTICLE 56.** — Deputies may introduce proposals for laws in the National Assembly ; the President of the Republic may submit bills of law to the National Assembly for its examination.

**ARTICLE 57.** — Bills of law and proposals for laws which are approved by the Assembly shall be transmitted to the President within a period of seven full days. The President must promulgate such laws within a period of thirty full days from the date of receipt. In a case declared by the Assembly to be urgent, the period for promulgation shall be reduced to seven full days.

**ARTICLE 58.** — During the period allowed for promulgation, the President may transmit to the Assembly an explanatory message calling upon that body to reconsider one or several provisions of a law which it has approved.

With a second reading of the bill, the Assembly, if it rejects the modifications proposed by the President's message, will enact the law by a roll call vote of three-fourths of its membership.

**ARTICLE 59.** — If during the period provided in Article 57, the President of the Republic neither promulgates nor returns to the National Assembly for reconsideration a text which it had earlier approved, that text shall become law.

**ARTICLE 60.** — Budget proposals must be sent to the Bureau of the Assembly before the 30th of September. The Budget shall be voted before December 31.

**ARTICLE 61.** — Deputies have the right to initiate expenditures but at the same time they shall propose corresponding new receipts.

#### **Section 4. — Functioning of the National Assembly**

**ARTICLE 62.** — The National Assembly shall meet in regular and special sessions.

**ARTICLE 63.** — Each year there shall be two regular sessions — one beginning on the first Monday of April and one beginning on the first Monday of October. Neither regular session shall last longer than three months.

**ARTICLE 64.** — The National Assembly shall be convened in special session if the President of the Republic or more than one-half of the membership of the Assembly so demand. When convened by the President, the agenda of the special session is to be fixed by him.

When convened on the demand of the Deputies, the agenda is to be fixed by the Bureau of the Assembly.

The duration of each special session may not exceed thirty days.

**ARTICLE 65.** — The National Assembly shall meet in public. However, it may meet in closed session if a majority of over one-half of the members present or the President of the Republic so demand.

Verbatim accounts of the discussions and documents produced in the Assembly, except for the accounts of closed sessions, shall be published in the Official Journal.

**ARTICLE 66.** — To control the regularity of the elections of its members, the National Assembly shall set up a Control Committee with the responsibility to report on this matter.

The National Assembly has the full power of decision.

**ARTICLE 67.** — The National Assembly will elect a Bureau composed of a President, 2 Vice-Presidents, 1 Secretary-General, 3 Assistant Secretary-General, and the necessary staff.

The Assembly shall designate various committees.

**ARTICLE 68.** — The National Assembly shall prescribe its own internal regulations especially with regard to:

The internal organization of the Assembly and its Bureau;

The Assembly's rules of procedures and the powers of the Bureau;

Discipline within the Assembly and disciplinary sanctions;

The composition and functions of committees.

**ARTICLE 69.** — A bill of law or proposal for law approved by the National Assembly shall be valid only if the majority vote received is not inferior to one-third the total number of Deputies.

## CHAPTER V

### THE JUDGES

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**ARTICLE 70.** — To discharge the duties set forth in Article 4, the judicial system shall be organized in accordance with the principles of the equality of all persons before the law and of the independence of the magistrates on the bench.

**ARTICLE 71.** — Judges shall make decisions according to their own consciences, with respect for the law and the interest of the Nation.

**ARTICLE 72.** — Under the supervision of the Department of Justice, the public prosecutors shall supervise the application of the law, the respect for morals, and public order.

**ARTICLE 73.** — There shall be established a High Council of the Judiciary with the mission of supervising the application of the Statute of the public prosecutors.

The organization, functions and powers of the High Council of the Judiciary shall be determined by law.

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## CHAPTER VI

### THE SPECIAL COURT OF JUSTICE

- ARTICLE 74.** — The Special Court of Justice shall be a court competent to judge the President and Vice-President of the Republic, the President of the High Court of Appeals, and the President of Constitutional Court in cases where charges of treason or high crimes are brought against them.
- ARTICLE 75.** — The Special Court of Justice shall include the following :
- President of the High Court of Appeals... President
  - Fifteen Deputies elected by the National Assembly for each legislature... Counselors
- When the President of the High Court of Appeals is the accused, the President of the Constitutional Court shall sit as President of the Special Court of Justice.
- ARTICLE 76.** — The Commission of Inquiry of the Special Court of Justice shall include five Deputies elected by the National Assembly for each legislature.
- ARTICLE 77.** — Charges shall brought in accordance with the following conditions.
- a) A motion containing the reasons for the charges shall be signed by three-fifths of the membership of the Assembly and presented to the Bureau of the Assembly fifteen days before debate begins.
  - b) That motion shall be approved by two-thirds of the membership of the Assembly.
  - c) Deputies sitting on the Special Court of Justice or on the Commission of Inquiry shall not have the right to present a motion of charges or to vote on that motion.
- ARTICLE 78.** — The functions of the accused shall be suspended from the date of passage of the motion of accusation by the National Assembly until the decision of the Special Court of Justice is rendered. During that period, the procedures set forth in Article 34, paragraphs 2 and 3, shall obtain.
- ARTICLE 79.** — The Commission of Inquiry have the right to summon witnesses and to compel interested agencies to place secret documents and files at its disposal. The Commission of Inquiry shall present its report within two months unless a delay of an additional month should be accorded by the Special Court of Justice.
- ARTICLE 80.** — The Special Court of Justice shall convene to hear the statements of the Commission of Inquiry and the accused ; it shall render its decision by a three-fourths vote of the membership of the Court.
- ARTICLE 81.** — If the accused is found guilty, the Special Court of Justice shall declare his removal from office. This decision shall enter into force immediately.

## CHAPTER VII

### THE NATIONAL ECONOMIC COUNCIL

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**ARTICLE 82.** — The National Economic Council shall have the function of suggesting ideas and rendering its opinion on economic projects and proposals.

The National Economic Council shall be chosen from among professional associations, from the various branches of economic activity, from various social organizations relating to the economy, and from among economists.

Membership in the National Economic Council is incompatible with membership in the National Assembly.

**ARTICLE 83.** — The Vice-President of the Republic shall be the chairman of the National Economic Council.

**ARTICLE 84.** — A law shall fix the organization and functioning of the National Economic Council.

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## CHAPTER VIII

### THE CONSTITUTIONAL COURT

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**ARTICLE 85.** — A Constitutional Court shall decide the constitutionality of laws, orders in council, and administrative regulations.

**ARTICLE 86.** — For each term of the National Assembly the Constitutional Court shall consist of :

— A chairman appointed by the President with the consent of the National Assembly ;

— Four high-ranking judges or lawyers appointed by the President ;

— Four Deputies elected by the National Assembly.

**ARTICLE 87.** — The Constitutional Court shall receive petitions for decisions on the constitutionality of laws, orders in council and administrative regulations submitted to it by the various courts.

The decisions of the Constitutional Court shall have the effect of suspending the application of unconstitutional clauses from the date the decision is published in the Official Journal.

**ARTICLE 88.** — A law shall determine the organization and functioning of the constitutional Court as well as the procedure to be followed before that body.

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## CHAPTER IX

### AMENDMENT OF THE CONSTITUTION

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**ARTICLE 89.** — Articles 1, 2, 3 and 4 and this article of the Constitution shall be neither amended nor abrogated.

**ARTICLE 90.** — The President of the Republic or two-thirds of the membership of the National Assembly may propose amendments to the Constitution.

Proposals for amendment of the Constitution, citing the reasons therefore must carry the necessary number of signatures and be delivered to the Bureau of the Assembly.

**ARTICLE 91.** — After receipt in due form of a proposed amendment to the Constitution, the Bureau of the National Assembly shall convene a special session of the Assembly to designate a committee of at least fifteen members charged with studying the proposal and with seeking the advice of the Constitutional Court and of the President of the Republic.

Within a maximum period of sixty days the committee shall report to a special session of the Assembly.

**ARTICLE 92.** — The proposed Constitutional amendment shall be approved or assented to by three-fourths of the total number of Deputies voting in person on a roll-call vote.

**ARTICLE 93.** — The approved proposal shall be promulgated in accordance with the procedures set forth in Article 57, 58 and 59.

If the amendment is returned for a second reading, the National Assembly shall then decide finally by a three-fourths vote of the total number of Deputies voting in person on a roll-call vote.

CHAPTER X

GENERAL PROVISIONS

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**ARTICLE 94.** — The Constitution shall be promulgated on October twenty-six, Nineteen hundred and fifty-six.

**ARTICLE 95.** — The National Assembly elected on March 4, 1956, shall be the first Legislative Assembly according to the Constitution of the Republic of Viet Nam.

The term of office of Legislative Assembly shall begin as of the promulgation of the Constitution and shall end on the 30th of September 1959.

**ARTICLE 96.** — The present President of the Republic who was charged, by the people in the referendum of October 23, 1955, with establishing a democratic regime, shall be the first President of the Republic according to the Constitution of the Republic of Viet Nam.

The President's term of office shall begin as of the date of promulgation of the Constitution and shall end on April 30, 1961.

**ARTICLE 97.** — During the first session of the first Legislative Assembly, the present President of the Republic shall designate the first Vice-President of the Republic. This designation shall be final if it is approved by the Assembly.

If the necessity of replacement arises the designation of the new Vice-President shall follow the same procedure throughout the term of the first President.

**ARTICLE 98.** — During the first legislative term, the President of the Republic may decree a temporary suspension of the rights of freedom of circulation and residence, of speech and the press, of assembly and association, and of formation of labor unions and strikes, to meet the legitimate demands of public security and order and of national defense.