

# ON THE UNICAMERAL STRUCTURE OF VIETNAM'S NATIONAL ASSEMBLY

PHAM VAN CHUC \*

**Abstract:** Vietnam Parliament has the unicameral structure at present, unlike the bicameral structure of parliaments in many other countries. In practical operation, Vietnam parliament hasn't encountered such political divisions or opposition between different classes, factions or parties as those of the parliaments in capitalist countries. In terms of the entire apparatus of the State, there is no contradiction, conflict or crisis between legislative, executive and judicial institutions. The decisive factor for such unity and stability is the very leadership of the Communist Party. The unicameral structure is really appropriate for the parliament of our country at present.

**Key words:** Parliament, unicameral, bicameral, Vietnam.

1. Vietnam's amended Constitution of 2013, adopted on the 6<sup>th</sup> session of the 13<sup>th</sup> National Assembly on 28<sup>th</sup> November 2013, stipulates that the structure of the National Assembly of the Socialist Republic of Vietnam consists of: the Chairman and Vice Chairmen of the National Assembly, the Standing Committee of the National Assembly, and the Ethnic Council and Committees of the National Assembly.<sup>(1)</sup> Accordingly, Vietnam's National Assembly takes form of a unicameral legislature and not a bicameral one.

Regarding this issue, when giving feedback on the draft amendments to the 1992 Constitution, many people expressed their opinion that the country's regime should follow a presidential republic system in which: the National Assembly consists of a Lower House and an Upper House; the state apparatus comprises the President and Prime Minister; the National Assembly and

President to be directly elected by the citizens while the Prime Minister is elected by the National Assembly; the President is in charge of directing executive bodies and the Prime Minister supports the President in this task. Others considered that Vietnam should adopt the parliamentary republic regime where the National Assembly also consists of the Lower House and Upper House but the National Assembly elects the President, Prime Minister and ratifies the Cabinet; the President acts as head of state and is a part of the legislative arm; the Prime Minister is directly in charge of executive bodies and is accountable to the National Assembly. The suggestion that Vietnam's National Assembly should have two houses is not a brand new idea. Ever

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(\*) Assoc. Prof. Ph.D., Central Council for Theoretical Studies.

(1) *Nhan dan* Newspaper, 10<sup>th</sup> December 2013 (Paragraph 7, Article 70, Chapter V).

since 1989, it has been suggested that the National Assembly should be bicameral and have the right to make decisions on all matters, big and small. This proposal, however, was rejected at the 7<sup>th</sup> Plenum of the Communist Party Central Committee (6<sup>th</sup> Tenure). Nevertheless, we need to take a closer look at the differences between Vietnam's unicameral National Assembly model and the bicameral models used in other countries of the world.

2. Under the fully presidential republic model, the President assumes the role of the head of state and, at the same time, he has direct and highest executive power; he is independent from the Parliament to a greater extent; and is elected by members of his own government (which does not include the Prime Minister). The United States of America (USA) is currently an exemplary user of such model. In the semi-presidential republic regime used in Russia or France, the government is responsible to both the Parliament and the President. On the other hand, both the President and Prime Minister take part in running the government. Meanwhile, in the parliamentary republic regimes seen in India, Germany, Italy, the Parliament elects the President and also the Prime Minister, however, the former assumes only a symbolic head of state role. It is the Prime Minister who has the actual executive power, is independent of the President and is only accountable to the Parliament.

The issue to be considered here is whether in each of these political regimes,

the system of state bodies and every agency under such power branches are the actual "representatives of the citizens" or not? In the USA, the President is chosen by the "electoral college", not by the citizens or Congress. However, the President is a de facto leader and has the highest executive authority. In South Africa, the President is only elected by the Parliament but also has the highest authority and is head of government, besides being the head of state in practice. In Portugal, on the contrary, the President is directly elected by the citizens but he does not, in practice, have any true powers, neither legislative nor executive, and plays a merely symbolic role as head of state.

The act of voting by citizens, directly or indirectly via members of parliament, is not the decisive factor that constitutes the actual authority of key titles and positions. Because in essence, the capitalists in general and the different groups under them in particular, especially the corresponding political capitalist groups have controlled the entire election process. They establish the roadmap, decide the content, the level of power and limitation of each position, and even decide the division of power within the government apparatus.

In the first round of election, the capitalist election regulations as well as the political, organizational, financial, ideological capacities of capitalist parties campaigning for election, have, in practice, eliminated all non-capitalist parties, even the small and weak ones. In the following rounds remain only the delegates who were not elected by

the people but by few powerful capitalist parties and groups.

Therefore, originating from the economic basis of capitalist private ownership of production means and the corresponding capitalist political – legal regime being multi-ideology, multi-party, freedom of candidacy, when assessing it at the entire social scale, the government apparatus always belongs to the class of capitalists in power and is led by a single capitalist party. Under capitalism, this is a fact to be accepted by all social classes, including the non-capitalist class that is exploited and dependent. Capitalists are not even trying to conceal this reality. The only question remaining is how, under such regime, the state power is divided among the few main capitalist parties that are also the largest political groups within the internal capitalist class.

On the other hand, from within itself, capitalists are not a group of completely unified individuals but rather a class of capitalists (or capitalist groups) which are independent, separated and which compete against one another on the market and political arena. Therefore, whichever party wins will obviously take charge and rule over the nation in all three areas: legislative, executive, judiciary. This "party element" along with its general political authority has a very special and typical power. That is, it can and has always been running through the entire political system. Once in charge, the party can invalidate the "separation of powers" initially in force. The "trias

politica" principle, which was thought to ensure the utmost separation, counterpoise and control of state power, has been formalized and disabled at a significant level under the impact of the ruling party.

In short, the capitalist state has always belonged to the capitalist class in general and to one capitalist party in particular. On the other hand, with each election and each office term, the state belongs to an individual, distinct capitalist party that won its ruling power by election. This fact inevitably leads to the governance of a party that is arbitrary, monopolistic and abusive. This, in turns, weakens the entire capitalist political system, endangering the interests of all capitalist groups and the entire class in general.

**3.** Ideologists of the capitalist class understand very clearly those hidden dangers. During the hundreds of years of capitalism history, from 16<sup>th</sup>-17<sup>th</sup> century until now, they have researched and applied different political – legislative means, methods, structures and mechanisms to restrain and improve the situation where only one single capitalist party is in charge, controlling the entire state power and government apparatus.

First of all, following some elective and voting principles, the upper house has been created as a more objective, just and fair institution, less party-dominated than the lower house. It is actually the official, legitimate "counterpoised" body that is always present to prevent the lower house from colluding with the executive and

judicial arms when running the country, which happens on a regular basis as the subjects originate from the same ruling party. The upper house will then raise proposals that are seemingly closer to the will of minority opposing political parties and groups; it will consider their interests and force the lower house, the government, the court of justice to revise, amend their decisions. Thus, in this case, the upper house has actually fulfilled the role of a general capitalist party, rising over individual capitalist parties in order to protect and maintain the interests of the entire capitalist class, at the same time, strengthen capitalism.

There can be circumstances where serious conflict arises from within the ruling party, between the "public member" group in the legislative branch and the "leadership member" group in the executive branch, or clashes between delegates of the majority ruling party and those of the minority opposing party in the lower house. These incidents lead to a risk of national crisis, freezing up the operations of both the government and parliament. If that happens, the upper house will play a crucial role in mediating and balancing the interests of all sides involved. In case this falls through, the upper house along with other institutions will bear the responsibility to restructure the government apparatus.

In the case where the parliament follows the model of a multi-party house, there can also be two scenarios where its operation is distorted and departs from the

usual function. First, that is when the parliament and government lay both under the supervision of the ruling party, they will possibly collide with each other in their actions, ignoring any opinion and desire of the opposing minority party, compromising its fundamental interests. In extreme cases, such collusions may even turn the parliament into the "tail" of the executive body whose sole mission is to accept and formalize all decisions made by the government.

In the second case, on the contrary, there is a serious conflict between the parliament and the government due to clashes between political groups or between different parts within the same ruling party. This can lead to a political crisis of the entire state system, for instance, the government may pass a no-confidence motion against the parliament, or the parliament itself can be so severely split that it has to be dissolved.

In order to prevent and resolve such extreme circumstances, a few remedies have been put forward. That is, instead of setting up an entire upper house, they can establish a partyless or "super-party" president (who is in fact representative of a common party of the entire ruling capitalist class) acting as the head of state. This position can be elected by the parliament or even by the citizens, however, it does not have de facto executive or legislative authority but mainly serves as a mediator in case of political crisis. In countries with a constitutional monarchy such as the United Kingdom, the King or Queen undertakes this role.

Another solution is to give the opposing minority group in the parliament the special right to appeal against legal acts and policies which are not agreed upon by a certain minimum level. One other remedy is to establish a constitutional body bearing different names such as the constitutional court, constitutional house, constitutional council... Such institutions, particularly the constitutional court, can be authorized to judge whether any legal act, policy or decision made by the legislative, executive or judicial branch is constitutional or not. With such authority, the constitutional body is, in fact, the fourth power branch that is independent and can even outrank the other three traditional powers. Nevertheless, in practice, it does not override or surpass the interests and power limit of the common capitalist class, the common capitalist party, common capitalist state, common political system and capitalist regime.

In the case of a unicameral parliament where only one party takes leadership and rules, in principle and also in practice, the possibility of a crisis from within the parliament or between the parliament and the government is very small. However, similar to a general unicameral parliament model, a one-party unicameral parliament may fall into a situation where it cannot maintain a necessary impartial position; but instead, it unilaterally agrees with the government and becomes dependent on the government. In that case, the legislative branch will formalize and legalize any policy and decision made by the executive branch which has a purely

administrative role, implementing, executing legal and constitutional acts enforced by the judicial branch.

We cannot pull out an effective and definitive solution only based on the limited framework of the government apparatus. In fact, this fully and directly depends upon the ruling party's orientation towards which type of political regime and state system, the principles that it values and the audience whose interests it serves. Therefore, the crucial and most practical problem becomes: which social class is the party representative of and whether it represents the interests of the working class, the people and the country.

4. In Vietnam, ever since the victory of the August Revolution 1945, the Vietnam's Communist Party has become the only party in power. Under the leadership of the Party, a peasant-worker State was established on the principle of uniting the power of the state, but at the same time, there is a clear division, coordination and control of power among state agencies when exercising the legislative right, executive right and judicial right. In the state apparatus, the National Assembly is determined as the highest representative authority of the citizens, the most powerful state body, with the structure of one single and unified house.

Starting from such fundamental principles in the entire political system, in the actual operations of Vietnam's National Assembly, there is no political division or contradiction between social classes, groups or parties as seen in capitalist parliaments. Across the

entire government apparatus, there is also no conflict or crisis between legislative, executive and judicial arms. The crucial element ensuring this stability and unity is the leadership role of the Party. Thus, Vietnam's National Assembly following a unicameral model is the reasonable and right choice. The bicameral regime would be unsuitable and ineffective. Establishing an authority similar to an upper house in the specific context of Vietnam's political system would be unnecessary.

From the perspective of political science, legal science, organizational science, we can and need to study, consult and apply appropriately mechanisms and solutions that foster equal distribution of power in order to prevent, alleviate corruptive and abusive behaviours, contributing to the reform and improvement of the country's socialist political system nowadays. They are, nevertheless, only a narrow viewpoint to a much more complex issue, of a more practical significance, bearing deep and direct socio-political meaning. The important thing to do is to ensure the sole, unified and right leadership of the Party to the state, under the context that the Party itself is also the authority in power. That is, an important part of the Party and the collection of Party members are directly involved in the state apparatus and become the major force of the apparatus.

The leadership of the Party is the most fundamental, important and comprehensive orientation, method and solution that keeps the state unified, stable, transparent, strong,

effective and really belongs to the people, made by the people and run for the people. This leadership makes the trias politica model, the multi-party model or the capitalist upper house model, which are inherently a formality, totally unnecessary in Vietnam's contexts.

In the relationship with the most fundamental, decisive and crucial factor being the supreme, unified and common interests of the entire capitalist class and capitalism regime, the capitalist political – legal mechanisms and institutions are not “principles” that are absolutely independent and impartial. In this aspect, they are in essence secondary effects, dependent on and working for such interests. They are mostly a formality with a relative importance, mainly the organizational – legal “technical” aspect in line with capitalist criteria. Particularly, all such mechanisms and institutions are governed and determined indirectly by a leading capitalist party in general and directly by the specific ruling capitalist parties.

Those who consider that Vietnam should establish a bicameral National Assembly with the emphasis of having an upper house, who mean to bring along with the upper house the creation of a multi-party regime, opposing political parties, the freedom to adhere to any party and freedom to candidacy. The inevitable consequence of setting up an upper house is that, when the institution is created, obviously the monopolistic leadership role of the Party will be split and challenged. Implementing

such suggestion will create the legal and constitutional framework, the political – legal mechanism in favour of the intention to lower and even to eliminate the leadership role of the Communist Party of Vietnam.

Ever since its establishment in 1946, under the leadership of the Party and President Ho Chi Minh, Vietnam's National Assembly has been structured under a consistent model, suitable with the country's conditions. The model shares similarities and also differences with the parliamentary models of capitalist countries, and even with that of Russia and other Eastern Europe former communist countries. Vietnam's National Assembly is directly elected by the citizens and is unicameral, i.e., formed with one united house. After it is set up, the National Assembly will then elect the President and Prime Minister.

With only the Communist Party of Vietnam in power and ruling, inside the National Assembly there cannot be a division into opposing parties or groups. Therefore, the National Assembly is not required to harmonize the activities of the parties. Coordinating all activities and solving all legislative and judicial matters are the responsibility of the Standing Committee and the National Assembly's other committees.

For the National Assembly to be the supreme state authority above all other state bodies, in order for its legislative (and constitutional) power to be higher than its executive and judicial power, the National Assembly itself has to improve its role and

quality, efficiency of its operations. At the same time, the National Assembly together with the government, the court of justice, the procuracy, have to respect the principle that the state power is unified, as well as the distribution, coordination and control of legislative, executive and judicial powers.

Also, for the National Assembly as well as for all other state bodies and the entire political system, the fundamental task is to ensure, maintain and strengthen the leadership role of the Communist Party of Vietnam, the only political party that represents with loyalty the interests of the working class, the working people and the nation.

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