

**HO CHI MINH NATIONAL ACADEMY OF POLITICS**

**NGUYEN THI THUC**

**IMPROVING THE LAW ON THE ORGANIZATION  
AND OPERATION OF THE GOVERNMENT TO MEET  
THE REQUIREMENTS OF MODERN NATIONAL  
GOVERNANCE IN VIETNAM**

**SUMMARY OF DOCTORAL THESIS**

**MAJOR: THEORY AND HISTORY OF STATE AND LAW**

**Code: 9 38 01 06**



**HA NOI - 2024**

**HO CHI MINH NATIONAL ACADEMY OF POLITICS**

**NGUYEN THI THUC**

**IMPROVING THE LAW ON THE ORGANIZATION  
AND OPERATION OF THE GOVERNMENT TO MEET  
THE REQUIREMENTS OF MODERN NATIONAL  
GOVERNANCE IN VIETNAM**

**SUMMARY OF DOCTORAL THESIS**

**MAJOR: THEORY AND HISTORY OF STATE AND  
LAW**

**Code: 9 38 01 06**

**HA NOI - 2024**

**This thesis is completed at the  
Ho Chi Minh National Academy of Politics**

***Supervisors:* 1. Associate Professor. Dr. Truong Ho  
Hai**

**2. Dr. Chu Thi Thuy Hang**

***Reviewer 1:*** .....

***Reviewer 2:*** .....

***Reviewer 3:*** .....

**The thesis will be defended in front of the Thesis  
Committee at Academy level, at the Ho Chi Minh  
National Academy of Politics**

*At..... hour..... date ..... month ..... year.....*

**The thesis can be found at the National Library  
and the Library of Ho Chi Minh National Academy of  
Politics**

## INTRODUCTION

### 1. The necessity of the topic

The 13th National Congress of the Communist Party of Vietnam has identified the renewal of state governance as one of the central and breakthrough tasks, clearly reflecting a movement from state management to state governance, which marks a new milestone in the Party and State's thinking on managing social development.

Among the entities implementing state governance, the Government plays an important role. With its position as a state administrative agency, exercising executive power, the Government has a relationship with other state agencies in implementing the mechanism of division of labor, coordination, and control among state agencies in the state power structure and the relationship with other social institutions such as social organizations, enterprises, and people. Through this function of the Government, the tasks and goals of the state are realized, as this is the direct power to build and formulate national policies and organize the implementation of national policies. With the function of being the highest state administrative agency, managing all aspects of social life in terms of state administration, therefore, when performing its tasks and powers, the Government will affect all individual and organizational subjects in society, the entire political system.

With its important position, nature, and functions in state governance and social governance, the organization and operation of the Government is out of the scope of legal regulation, specifically the Constitution, the Law on Government Organization and related legal documents. The law on the organization and operation of the Government meeting the requirements of modern national governance initially reflects the rule of law, the requirement of transparency, establishes a legal framework for accountability; gradually ensures the participation of people and social organizations in government governance to meet the requirements of timeliness, effectiveness, and efficiency. These requirements are manifested through the regulation that the Government exercises executive power, which has affirmed the position of the Government in relation to the agencies in the state apparatus; regulations on the Government's organizational structure have been adjusted in the direction of streamlining, gradually overcoming cumbersome, overlapping, ineffective and inefficient operations and integrating functions; the Government's operating methods have been effectively promoted through Government

meetings and the activities of Government members have timely and effectively adjusted the relationships arising in economic and social life; the clarification of duties and powers has enhanced the proactivity and flexibility in the direction and management of the Government and the Prime Minister.

Despite the achievements, the law on the organization and operation of the Government reveals some limitations such as: unclear positioning, functions, duties, and powers between the Government and other state agencies; the relationship between the Government and other state power institutions lacks specificity; regulations on organizational structure are complicated for Government operation, there are still many focal points, and it is not truly streamlined, which is also a reason for reducing the Government's operational efficiency; unclear delegation, decentralization, and authorization also impact to the definition of functions, duties, and powers in the internal relationship and the relationship with other state agencies, the work within the competence of each agency, each level in the internal state relationship... These limitations have caused a significant impact on the organization and operation of the Government in the context of the initial stage of the state governance model transformation in Vietnam. This impact the improvement of government governance to meet the requirements of modern national governance.

Based on the above analyses, the need to improve the law on the organization and operation of the Government to meet the requirements of modern national governance is highly necessary as it will directly impact the building of a professional, accountable, transparent, efficient, and people-oriented public administration. Therefore, the research topic "Improving the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam" is both fundamental and urgent, meeting the demands of theory and practice, contributing to enhance the role of the Government in building and perfecting the socialist rule of law state and international integration. This doctoral thesis in law aims to comprehensively and systematically clarify the contents related to the chosen topic.

## **2. Objectives and tasks of the research**

### ***2.1. Research objectives***

The overall objective of this thesis is to provide a scientific basis for a set of solutions to further improve the law on the organization and

operation of the Government to meet the requirements of modern national governance.

## **2.2. Research tasks**

Firstly, to provide an overview of domestic and foreign research on the dissertation's topic; to assess the resolved issues that the dissertation can base on and to determine the research open points that the dissertation will further explore and refine.

Secondly, to systematize and clarify the underlying theoretical issues of the law on the Government's organization and operation, as well as the concepts, requirements, criteria, and factors influencing the improvement of the law on the Government's organization and operation to meet the demands of modern national governance.

Thirdly, to evaluate the current state of law regarding the organization and operation of the Government in accordance with the requirements of modern national governance in Vietnam, in order to affirm the advancements and strengths to be promoted, while identifying the limitations and underlying causes

Fourthly, to determine the perspective on continuing to improve the law on the organization and operation of the Government in the context of modern national governance. Based on this, to recommend solutions for continuing to improve the law on the organization and operation of the Government in accordance with the requirements of modern national governance in Vietnam

## **3. Subjects and scope of research**

### **3.1. Research subjects**

- The theory of modern national governance and the role of the Government in modern national governance; The criteria for evaluating the level of legal completion regarding the organization and operation of the Government to meet the requirements of modern national governance

The history of the development of the law on the organization and operation of the Vietnamese Government

- The current state of law on the organization and operation of the Government in accordance with the criteria of modern national governance in Vietnam to propose a set of solutions to improve the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam today.

### **3.2. Research scope**

- In term of the content:

To study the law on the organization and operation of the Government, which are manifested through fundamental normative groups: position, function; duties, powers; organizational structure, and methods of operation of the Government.

The criteria for improving the law on organization and operation of Government primarily focus on requirements of modern national governance, including: the rule of law, transparency, accountability, public participation, timeliness, effectiveness, and efficiency. Other criteria such as consistency, coherence, and legislative technique are integrated into the core criteria to ensure a reasonable length and in-depth content of thesis.

- In term of space: The study on the law on the organization and operation of the Government according to the criteria of modern national governance, linked with public administration in Vietnam today.

- In term of time: Since the 2013 Constitution was promulgated. However, the thesis will focus on analyzing and evaluating the current state of law on the organization and operation of the Government since the promulgation of the 2013 Constitution, especially from the 13th National Party Congress onwards (this is the time when the first Party document of the Communist Party of Vietnam officially recognized the concept of modern national governance).

## **4. Methodology and research methods**

### ***4.1. Methodology***

To ensure the scientific and political nature of the research results, the thesis is based on the methodology of dialectical and historical materialism on the state and law; the Party's viewpoint and Ho Chi Minh's thought on the state and law.

### ***4.2. Research methods***

Based on the theoretical foundation, the thesis is conducted on the basis of combining the following specific scientific research methods: analysis and synthesis; system structuring; comparative law; statistics; history; and document analysis.

## **5. New contributions of the thesis**

*Firstly*, the thesis systematizes scientific perspectives on modern national governance and the role of the Government in modern national governance. Based on that, the thesis defines the concept and criteria for improving the law on the organization and operation of the Vietnamese Government; identifies and argues about the factors affecting the improving of the law on the organization and operation of

the Government to meet the requirements of modern national governance.

*Secondly*, the thesis provides a full and comprehensive description of the development process of the law on the organization and operation of the Vietnamese Government, and assesses the current state of the law on the organization and operation of the Government according to criteria that meet the requirements of modern national governance.

*Thirdly*, the thesis identifies the guiding viewpoints and proposes a set of comprehensive and feasible solutions to improve the law on the organization and operation of the Vietnamese Government to meet the requirements of modern national governance in Vietnam today.

## **6. Theoretical and practical significance of the thesis**

### ***6.1. Theoretical significance of the thesis***

This thesis is a direct and comprehensive research on the issue of improving the law on the organization and operation of the Government to meet the requirements of modern national governance with the aim of providing scientific arguments and theoretical as well as practical viewpoints and solutions to improve the law on the organization and operation of the Government. The research results of the thesis will contribute to supplementing and improving the legal theory on the organization and operation of the Government.

### ***6.2. Practical significance of the thesis***

-The research results of the thesis can be used as a reference material for research, teaching, and learning activities related to the law on the organization and operation of the Government - one of the contents of legal science at training institutions and specialized training in Law and related fields.

The study results of the thesis can be used for the development and promulgation of laws on the organization and operation of the Government in accordance with the criteria for modern national governance modernization as defined in the 13th National Party Congress.

## **7. Structure of the thesis**

In addition to the Introduction, Conclusion, List of scientific works related to the dissertation topic published by the author, Appendix, List of references, the thesis consists of four chapters:

Chapter 1. Literature review of the researches related to the thesis topic and the arising issues need to further study



Chapter 2. Theoretical background of improving the law on the organization and operation of the Government to meet the requirements of modern national governance

Chapter 3. Historical development and current status of the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam.

Chapter 4. Perspectives and solutions for further improving the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam.

## **CHAPTER 1.**

### **LITERATURE REVIEW OF THE RESEARCHES RELATED TO THE THESIS TOPIC AND THE ARISING ISSUES NEED TO FURTHER STUDY**

#### **1.1. LITERATURE REVIEW OF THE RESEARCHES RELATED TO THE THESIS TOPIC**

##### **1.1.1 Domestic researches**

The research situation related to the topic is summarized according to the structure, starting from the research on the theoretical basis, the current situation and solutions related to improving the law on organization and operation to meet the requirements of modern national governance. Notably, there are in-depth theoretical studies on the law of the Government by authors Pham Hong Thai, Nguyen Dang Dung, Dao Tri Uc, Vo Khanh Vinh, Le Minh Thong, Luong Thanh Cuong, Tao Thi Quyen...; Outstanding research on modern national governance by authors Vu Cong Giao, Nguyen Ba Chien, Nguyen Hoang Anh, Truong Ho Hai, Nguyen Van Quan, Doan Van Dung... Besides, there are studies by authors Nguyen Phuoc Tho, Dinh Dung Si... that provide an assessment of the current state of law in some contents on organizational structure; tasks, powers of the Government...

##### **1.1.2. International researches**

The research works related to the theoretical basis, the current situation of the organization and operation of the Government in the state; modern national governance and law, improving the law on the organization and operation of the Government according to the requirements of modern national governance of foreign authors. Recently, the works of authors Asaduzzaman, Mohammed & Virtanen, Petri; in National Regional, and Global Governance: One Phenomenon or Many; Elke Krahnemann, Global Governance Vol. 9, No. 3... The prominent view of the authors affirms that for effective state

governance, a strong state sector with sufficient capacity to create institutions for development is necessary. The impact of modern national governance on the organization and operation of the state has changed the functions of the Government, leading to the renewal and improvement of institutions and laws on the tasks and powers of the Government.

## **1.2. OVERALL EVALUATION OF RESEARCH RESULTS RELATED TO THE THESIS AND ARISING ISSUES NEED TO FURTHER STUDY**

### **1.2.1. Overall assessment of research results related to the topic**

In terms of the theoretical basis, the research results related to the thesis topic have opened up, provided information, and scientific documents for reference and inheritance in the process of implementing the thesis topic and the contents that are still being debated. It can be said that this is a valuable source of documents for the thesis to inherit and continue in-depth research on some contents related to the theoretical aspect, the scientific basis of the thesis.

In terms of practical aspects, research works on improving the law on the organization and operation of the Government have mentioned different research perspectives on the current situation of the organization and operation of the Government. Besides, many evaluation results, sociological surveys of state agencies, international organizations... bring reference value with related data and surveys for the topic.

Về đề xuất hoàn thiện pháp luật, một số ý tưởng trong các công trình nghiên cứu trên đã được kế thừa, nghiên cứu bổ sung hoàn thiện để đưa vào nội dung của luận án.

Regarding the proposal for legal improvement, some ideas in the research works have been inherited, supplemented, and improved to be included in the content of the thesis.

### **1.2.2. The problems that the thesis further study**

1. In terms of clarifying the theoretical basis, the thesis systematically and comprehensively generalizes the theoretical problems of law and the improvement of the law on the organization and operation of the Government to meet the requirements of state governance in Vietnam today.

2. In terms of the legal situation, based on the established criteria for legal improving, the thesis deeply and comprehensively assesses the strengths and weaknesses of the law on the organization and

operation of the Government in meeting the requirements of state governance.

3. Regarding the proposed solutions, among all the published works to date, no study has comprehensively and deeply presented viewpoints and comprehensive solutions to improve the law on the Government to meet the requirements of modern national governance. To overcome this research gap, the thesis has presented viewpoints, proposed comprehensive, in-depth, feasible, and applicable solutions to improve the law on the organization and operation of the Government today according to the criteria of modern national governance to promote the Government's position in exercising executive power, operating strongly, dynamically, effectively ensuring the rule of law, transparency, accountability, the participation of subjects in state management, timeliness, effectiveness, and efficiency on the basis of the principle of unity of power organization. Besides that, improving the law on operation, tasks, and powers must be consistent with the improvement of the law on organizational structure to ensure the establishment of the necessary institutions for the Government to have a lean, dynamic, effective, and efficient operating apparatus.

### **1.3. ASSUMPTIONS, RESEARCH QUESTIONS AND THEORETICAL FOUNDATION**

#### **1.3.1. Assumptions**

The legal framework governing the organization and operation of the Vietnamese Government has traditionally been characterized by a command-and-control approach to governance. Since the Doi Moi reforms of 1986, Vietnam has gradually incorporated principles of modern governance into its legal system, leading to significant changes in the organization and operation of the government. However, to fully meet the demands of modern governance and international integration, further reforms are needed to enhance the rule of law, transparency, accountability, public participation, and the overall efficiency and effectiveness of government operations.

#### **1.3.2. Research questions**

From the above study assumptions, the thesis raises the following specific study questions:

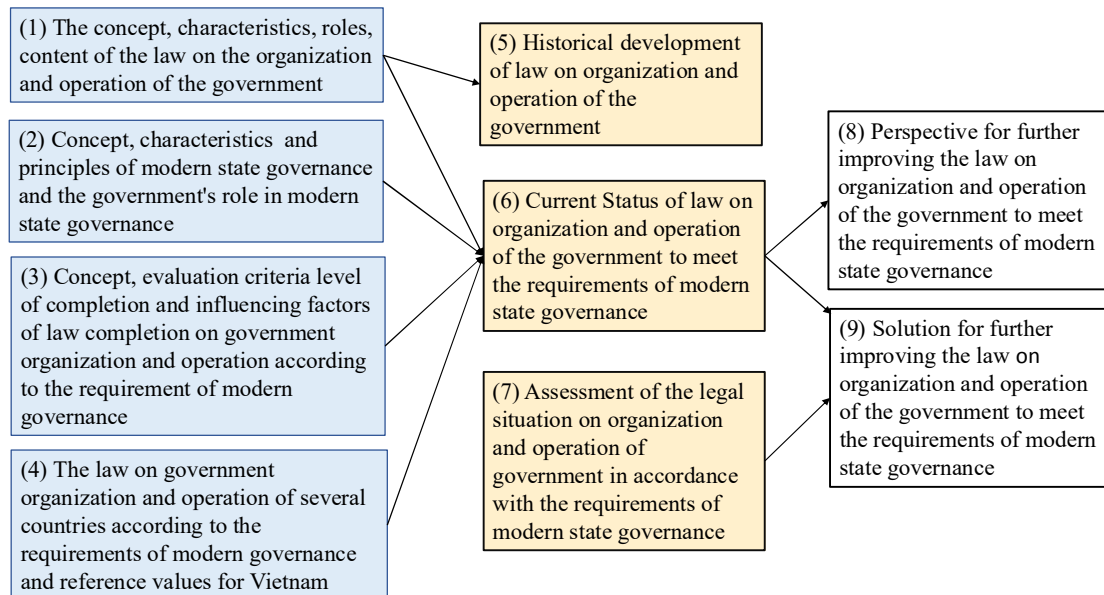
1. What are the requirements of modern national governance for improving the law on the organization and operation of the Vietnamese Government?

2. To what extent has the current law on the organization and operation of the Government met the requirements of modern national governance?
3. What are the solutions to improve the law on the organization and operation of the Vietnamese Government to meet the requirements of modern national governance?

### 1.3.3. Theoretical Foundation

The research employs theories of Marxist-Leninist state and law, the rule of law, rights, sociology of law, comparative law, and good governance.

Combining theoretical foundations, the thesis is structured as follows:



### Summary of chapter 1

Overview of the research situation related to the topic according to groups of issues from the theoretical foundation research work, current situation and solutions related to improving the law on organization and operation to meet the requirements of modern national governance. Through the overview, the author affirms that the new approach to modern national governance is a major trend, affecting the improving of the legal basis on the organization and operation of the state apparatus in general and the organization and operation of the Government in particular. Researching the works shows that there is currently no work or thesis that comprehensively and fully researches the content of improving the law on organization and operation of the Government to meet the requirements of modern

national governance in Vietnam. This is an independent topic and does not overlap with the published works. In addition to inheriting the content from the research works related to the topic, the author has identified research gaps that need to continue to focus on clarifying in the thesis.

## **CHAPTER 2. THEORETICAL BACKGROUND OF IMPROVING THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE**

### **2.1. THE CONCEPT, CHARACTERISTICS, ROLE, AND CONTENT OF THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT.**

#### **2.1.1. The concept, characteristics of the law on the organization and operation of the government**

##### ***Firstly, the concept of the Government***

From the perspective of power and state organization, government is understood as an institution that holds one branch of power to execute the laws of a nation, regardless of whether it is called a government, cabinet, council of ministers, federal council, or other similar terms. The specific organization and operation of a government will depend on the form of government of each country

***Secondly, the concept of the law on government organization and operation.*** The law on government organization and operation is a system of legal norms enacted by the state to regulate social relations arising from the organization and operation of the government, including its position, functions, duties, powers, organizational structure, and modes of operation.

***Thirdly, the characteristics of the law on the organization and operation of the government consists of:***

Firstly, the law on government organization and operation possesses the general characteristics of law.

Secondly, the law on government organization and operation regulates social relations arising from the organization and operation of the government.

Thirdly, the law on government organization and operation is a branch of law governing the central state organization and interacts

with other institutions, based on the power structure of the state organization.

Fourthly, the law on government organization and operation stipulates the government's operations in accordance with the requirements of modern national governance and must be compatible with the government's function and legal status as a relatively independent branch of power.

Fifthly, the content of the law on government organization and operation is reflected in legal documents, including important legal documents at the constitutional level, specialized laws such as the Law on Government Organization, and related laws...

### **2.1.2. The role of the law on government organization and operation**

The law on government organization and operation, in meeting the requirements of modern governance, plays crucial roles as follows:

(i) legal foundation for the organization and operation of the government, defining the government's powers and responsibilities.

(ii) It encourages citizens and social groups to participate in government activities, a crucial requirement of modern governance.

(iii) It is one of the primary tools for the government to organize and manage all aspects of society.

(iv) It is a tool for controlling power through the regulation and organization of the exercise of state power.

### **2.1.3. The law on government organization and operation**

The law on government organization and operation covers the following areas:

The groups of legal norms related to the government can be categorized as follows:

(i) The group of legal norms governing the position and functions of the Government.

(ii) The group of legal norms governing the organizational structure of the Government.

(iii) The group of legal norms governing the duties and powers of the Government.

(iv) The group of legal norms governing the operating procedures of the Government.

## **2.2. Concepts, characteristics, principles of modern governance, and the government's role in modern national governance**

### **2.2.1. Concept of modern governance**

Modern governance is a multi-actor activity in which the State plays a central role, making decisions and organizing their implementation to address national problems in the most effective manner, based on universal norms and principles aimed at modernizing the nation.

### **2.2.2. Characteristics of modern governance**

*Firstly*, modern governance is characterized by multi-actor participation with the state playing a central role.

*Secondly*, modern governance is oriented towards a public service model, shifting from a governing administration to a serving administration. It emphasizes cooperation and consensus with various stakeholders in society and aims for effective governance.

*Thirdly*, modern governance requires autonomy for entities involved in governance activities.

*Fourthly*, governance modernizes the legal regulation of the relationship between the state (state agencies) and citizens, transforming the functions and operating methods of state agencies in the new context.

### **2.2.3. Principles of modern governance**

The most universal principles include: *First, the rule of law; second, transparency; third, accountability; fourth, public participation; fifth, timeliness, effectiveness, and efficiency; sixth, consensus; and seventh, equality and inclusivity.* Modern governance, with its characteristics and principles, will directly impact the organization and operation of the government. Moreover, modern governance is primarily an institutional matter. Law, the fundamental tool of state governance, is always a formal institution with the greatest power among modern institutions. It is directly related to the actors involved in governance. Therefore, improving government-related laws to meet the criteria of modern governance is the need and trend of governments worldwide, including Vietnam.

### **2.2.4. The role of government on modern governance**

*Firstly*, the government is an entity that holds a crucial branch of power: the executive power. Through this function, the state's tasks and objectives are realized. The government has a significant impact on governance in the decision-making and implementation processes.

*Secondly*, the government is the highest administrative body of the state, managing all aspects of social life in terms of state administration. It will affect all individuals, organizations in society and the entire political system. The government needs to ensure the

rule of law, transparency, accountability, public participation, timeliness, effectiveness, and efficiency in order to manage and develop society.

*Thirdly*, the government heads the executive branch of power, therefore, it must have relationships with other state agencies in implementing the mechanism of division, coordination, and control among state agencies within the state power structure. The combined requirements of modern governance form the foundation for optimal decision-making. Social justice and the law are regulatory tools to ensure these elements in the organization and operation of the government.

*Fourthly*, modern governance has an impact on innovating the legal adjustment of the relationship between the state and citizens, changing the operating methods of the government.

### **2.3. THE CONCEPT, EVALUATION CRITERIA, LEVEL OF COMPLETION, AND INFLUENCING FACTORS OF LAW COMPLETION ON GOVERNMENT ORGANIZATION AND OPERATION ACCORDING TO THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE**

#### **2.3.1. Concept of improving the law on organization and operation of the government according to the requirements of modern national governance**

The concept of improving the law on organization and operation of the government to meet the requirements of modern governance is the process of establishing, amending, supplementing, and replacing legal norms according to specified criteria, conducted by competent state agencies following the procedures prescribed by law, with the aim of making the law best meet the most direct requirements of modern governance

#### **2.3.2. The evaluation criteria of improving the law on organization and operation of the government according to the requirements of modern national governance**

*The criteria consists of:*

*- Improving the law on government organization and operation to meet the requirements of modern governance, particularly in terms of the rule of law*

*- Improving the law on government organization and operation to enhance transparency on government activities*



- *Improving the law in government organization and operation to meet the requirements of modern governance, particularly in terms of accountability*

- *Improving the law on government organization and operation to meet the requirements of modern governance, particularly in terms of public participation*

- *Improving the law on government organization and operation to meet the requirements of modern governance, particularly in terms of timeliness, effectiveness, and efficiency*

### **2.3.3. The factors impacting to improving law on government organization and operation according to the requirements of modern national governance**

Influencing factors include: cognitive factors, political factors, socio-economic factors, regional and international integration, and legislative and regulatory capacity

## **2.4. THE LAW ON GOVERNMENT ORGANIZATION AND OPERATION OF SEVERAL COUNTRIES ACCORDING TO THE REQUIREMENTS OF MODERN GOVERNANCE AND REFERENCE VALUES FOR VIETNAM**

### **2.4.1. The law on government organization and operation of several countries**

The thesis studies the laws on government organization and operation in several countries including the UK, US, France, South Korea, China, and Japan. Based on the findings, the study will draw lessons for Vietnam to improve its laws on government organization and operation in accordance with the requirements of modern governance

### **2.4.2. Reference values for Vietnam**

*Firstly*, to ensure the rule of law, constitutions of various countries clearly define the position and functions of the government, both to prevent abuse of power and to ensure that the government can effectively carry out its executive functions

*Secondly*, the laws governing government organization and operation recognize and promote consensus-building, accountability, public participation, responsiveness, transparency, efficiency, equity, and inclusiveness.

*Thirdly*, the trend in modern governments is to reform government organization through legislation

*Fourthly, enhancing government accountability and transparency is a requirement of a rule-of-law state.*

*Fifthly, it is necessary to improve the laws related to government organization and operation, focusing on administrative institutional reform, concentrating on administrative procedure reform, implementing informatization to make government organization and operation more transparent; decentralization, de-concentration, and delegation of authority to make the government more streamlined, focusing on macroeconomic management and empowering localities to be autonomous and creative.*

### **Summary of Chapter 2**

The content of Chapter 2 has solved the research question: What requirements are posed, what are the contents and criteria for improving the law on the organization and operation of the Government to meet the requirements of modern national governance? The author has scientifically discussed the theoretical issues on the concept, characteristics, role and content of the law on the organization and operation of the Government. Clarifying the general concept of modern national governance and distinguishing it from traditional management, at the same time clearly identifying the requirements of modern national governance for improving the law on the organization and operation of the Government. At the same time, focusing on clarifying the concept, characteristics and principles of modern national governance as well as the role of the Government in modern national governance; the concept and criteria for improving the law on the organization and operation of the Government from the perspective of modern national governance. The thesis identifies and analyzes the factors affecting the improving the law on the organization and operation of the Government. In addition, the thesis studies the laws on the organization and operation of the Government of some countries, drawing lessons for Vietnam in the process of improving the laws on the organization and operation of the Government according to the requirements of modern national governance.

## **CHAPTER 3. HISTORICAL DEVELOPMENT AND CURRENT STATUS OF THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE IN VIETNAM**

### **3.1. HISTORICAL DEVELOPMENT OF THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT**

### **3.1.1. The law on the organization and operation of the government from 1946 to 2013**

From 1946 to the year before 2013, the Government underwent many changes, reflected in its position, functions, duties, powers, organizational structure, and operating methods. These contents have been inherited and developed.

### **3.1.2. The law on the organization and operation of the government from 2013 to now**

The 2013 Constitution, as specified in specialized laws, has recognized the position and functions of the Government in the state power structure. It stipulates the principle of division of state power among state agencies within the state power structure and marks the beginning of the Government's executive power to oversee the implementation of legislative power by the National Assembly and the judicial power by the People's Courts. Based on the fundamental foundations of the Constitution, the Law on Government Organization and other specialized laws provide the legal framework for the organization and operation of the Government, affirming the Government's role in modern national governance.

## **3.2. CURRENT STATUS OF THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE**

*3.2.1. Regulations on the position and functions of the Government to meet the requirements of modern national governance.*

*3.2.2. Regulations organization of the Government to meet the requirements of modern national governance*

*3.2.3. Regulations on the duties and powers of the Government to meet the requirements of modern national governance*

*3.2.4. Regulations on the operational methods of the Government to meet the requirements of modern national governance*

## **3.3. ASSESSMENT OF THE LEGAL SITUATION ON ORGANIZATION AND OPERATION OF GOVERNMENT IN ACCORDANCE WITH THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE.**

### **3.2.1. Strengths**

(i) The law on government organization and operation has initially demonstrated the rule of law..

(ii) The law on government organization and operation has begun to ensure transparency.

(iii) The law on government organization and operation has established a legal framework for accountability.

(iv) The law on government organization and operation has gradually ensured public and social organization participation, enhancing consensus in government governance

(v) The law on government organization and operation has fundamentally met the requirements of timeliness, effectiveness, and efficiency.

### **3.2.2. Limitations**

*(i) The law on government organization and operation still has some limitations in terms of the rule of law.*

*(ii) The law on government organization and operation has not fully met the requirements for transparency.*

*(iii) The law on government organization and operation, in terms of accountability, remains formalistic with unclear provisions regarding powers, responsibilities, functions, duties, and there are still legal gaps in sanctions for violations.*

*(iv) The law on government organization and operation has not fully met the requirements for public and organizational participation in governance.*

*(v) The law on government organization and operation has limitedly met the requirements of timeliness, effectiveness, and efficiency.*

### **3.2.3. Reasons for strengths and limitation**

#### **3.2.3.1. Reasons for strengths**

*Firstly*, the Party and the State have issued timely policies and guidelines for directing the work of law-making and enforcement in general, and for laws on government organization and operation in particular, to meet the requirements of modern national governance. *Secondly*, the laws on the organization and operation of the Government, the Prime Minister, Ministers, and heads of ministerial-level agencies have considered law-making and enforcement as a top priority and invested resources in this work. *Thirdly*, the Government has been decisive in directing and managing law-making activities, organizing numerous specialized meetings on law-making, and issuing many directives from the Prime Minister requiring Ministers and heads of sectors to directly oversee law-making work. *Fourthly*, the

organizational structure of the Government, ministries, and ministerial-level agencies has been increasingly reorganized and improved. *Fifthly*, the development of the socio-economic conditions has created more favorable conditions for the timely and effective construction and implementation of laws on government organization and operation.

### **3.2.3.2. Reasons for limitations**

*Firstly*, the content of executive power has not been clearly defined, leading to unclear provisions regarding the position, functions, duties, and powers of the Government. There are also gaps in regulations regarding the coordination relationship and mechanism for controlling power between the Government and other state agencies within the state organization. *Secondly*, the understanding of modern national governance among the public and managers is still limited. *Thirdly*, the team of civil servants with expertise in policymaking at ministries and sectors still has certain limitations. Some officials have not yet achieved the ability to analyze, forecast, develop policies, and draft normative legal documents. *Fourthly*, the funding for law-making activities, especially during the proposal stage, is still untimely, insufficient, and inconsistent. *Fifthly*, the process of law enforcement is limited.

### **Summary of Chapter 3**

Chapter 3 of the thesis has resolved the following basic contents: (i) generalizing the process of legal development on the organization and operation of the Government in stages through 05 promulgated Constitutions; (ii) presenting, analyzing the legal situation and assessing the current legal status on the organization and operation of the Government according to the criteria for assessing the level of legal improvement that have been determined on the basis of arguments, evidence, charts, and illustrative data on the contents of modern national governance requirements through groups of regulations on position, functions; tasks and powers; organizational structure; and methods of government operation. The results of the law on the organization and operation of the Government basically meet the requirements of modern national governance. However, besides the achieved results, there are still limitations in the law on the organization and operation of the Government. The thesis points out the reasons for success and limitations of the law on the organization and operation of the Government compared to the criteria to meet the requirements of modern national governance. This is the theoretical and practical basis to determine viewpoints and propose solutions to

contribute to further improving the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam.

#### **CHAPTER 4. VIEWPOINTS AND SOLUTIONS FOR FURTHER IMPROVING THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE IN VIETNAM.**

##### **4.1. VIEWPOINTS FOR FURTHER IMPROVING THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE**

**4.1.1. Improving the law on the organization and operation of the Government in accordance with the Party's viewpoints and policies on building a rule of law state and modernizing national governance.**

**4.1.2. The improvement of the law on the organization and operation of the Government must ensure the constitutionality, legality, consistency, comprehensiveness, and unity of the legal system.**

**4.1.3. Improving the law on the organization and operation of the Government on the basis of inheriting and developing the law on the organization and operation of the Government in accordance with the next development stage of the country.**

**4.1.4. Improving the law on the organization and operation of the Government based on referring to international experience.**

##### **4.2. SOLUTIONS FOR FURTHER IMPROVING THE LAW ON THE ORGANIZATION AND OPERATION OF THE GOVERNMENT TO MEET THE REQUIREMENTS OF MODERN NATIONAL GOVERNANCE**

**4.2.1. Solutions to enhance awareness of modern national governance and the role of improving the law on government organization and operation.**

*Firstly*, there is a need for a clear and comprehensive understanding of modern national governance and the role of the Government in exercising executive power.

*Secondly*, senior leaders and policy-making bodies must recognize the importance of improving the law on the organization and operation of the Government.

*Thirdly*, it is necessary to enhance the role and responsibility of entities involved in the development and improvement of the law on the organization and operation of the Government.

#### **4.2.2. To continue to improve the legal content on the organization and operation of the Government to meet the requirements of modern national governance**

*Firstly*, expand the Government's role and authority within the state's power structure by amending relevant laws.

*Secondly*, clearly define the functions of political executive and public administration in the organization and operation of the Government to clearly define the duties and powers of the Government and its members.

*Thirdly*, perfect the provisions on decentralization and deconcentration in the direction of clearly defining the specific mechanisms, methods of implementation, and sanctions for violations of the law.

*Fourthly*, improve the provisions on the organizational structure of the Government

*Fifthly*, modernize the government's operating procedures.

#### **4.2.3. Enhance public transparency, accountability, and the participation of the public as well as those affected by the law on government organization and operation.**

*Firstly*, the consultation mechanism needs to be more effective, with the participation of relevant stakeholders in the process of developing and improving the law on government organization and operation.

*Secondly*, it is necessary to innovate the ways and methods of mobilizing public participation in the process of policy and lawmaking.

#### **4.2.4. To innovate the process of developing and improving laws on government organization and operation.**

Firstly, enhance the publicity and transparency in the process of developing and issuing normative legal documents.

Secondly, stipulate the participation in providing comments on the development of normative legal documents by relevant agencies, departments, and especially by those who are the subjects of application and those who are affected.

*Thirdly*, it is necessary to strengthen the development of laws with specific content and direct effect to overcome the situation of

laws lacking stability, slow issuance of detailed regulations, and guidance on implementation.

*Fourthly*, strengthen the inspection, supervision, and handling of illegal documents.

*Fifthly*, gradually limit the delegation of legislative authority, foster a mindset of directly applying the Constitution and laws, and reduce the issuance of detailed implementing regulations.

#### **4.2.5. To enhance the quality of examination in the development and promulgation of laws on government organization and operation.**

*Firstly*, there must be a concrete plan from the very beginning of drafting the normative legal document. Which agency or individual is primarily responsible for drafting, which agencies will cooperate in drafting; the reasons for drafting or supplementing, amending until the law on government organization and operation is passed and implemented... to ensure that the law on government organization and operation is carried out according to the correct process and to ensure quality and feasibility;

*Secondly*, it is necessary to strengthen the control of power, prevent and combat corruption, negativity, and group interests in the development and improvement of laws on government organization and operation.

#### **4.2.6. To enhance the quality of human resources directly involved in developing and improving laws on government organization and operation.**

*Firstly*, it is necessary to objectively survey, investigate, and assess the current quality of this workforce in terms of standards, conditions, professional qualifications, experience, age, and length of service.

Based on the survey, it is necessary to enhance the responsibility of ministries and sectors in training, fostering, and allocating human resources directly involved in developing laws on government organization and operation, ensuring both quantity and quality.

*Secondly*, it is necessary to effectively carry out training and development activities to ensure a qualified workforce directly involved in developing laws on government organization and operation.

*Thirdly*, it is necessary to modernize the methods and means of lawmaking, with a focus on utilizing digital databases and organizing the implementation of laws.



*Fourthly*, it is necessary to develop the research and training of legal science, focusing on quality, strict management, and accurate evaluation of outputs.

*Fifthly*, it is necessary to effectively invest resources, allocate resources reasonably and correctly, and use them efficiently for the development and improvement of laws at all stages of the lawmaking process, from planning and promulgation to dissemination and enforcement.

*Sixthly*, special attention should be paid to the training and development of officer, especially young officer and civil servants who have the ability, ethics, knowledge of law, modern national governance, science and technology, and a sense of public service.

#### **4.2.7. To ensure resources and facilities**

*Firstly*, invest in and enhance information technology capacity, simplify administrative procedures, and promote the transparency and publicity of government operations.

*Secondly*, the informatization and transparency in the performance of public duties by the governing entity will help citizens and businesses to understand the process of handling affairs with government agencies, as well as their rights and obligations, thereby reducing the favoritism and information monopoly.

### **Summary of Chapter 4**

Chapter 4 of the thesis presents viewpoints and solutions to improve the law on the organization and operation of the Government according to the requirements of modern national governance. The viewpoints guiding the improving the law on the organization and operation of the Government are specifically: (i) Improving the law on the organization and operation of the Government in accordance with the viewpoints, policies and guidelines of the Party and the State on the rule of law state and innovation of modern national governance; (ii) Ensuring the constitutionality, legality, consistency and unity of the legal system; (iii) Inheriting and developing the law on organization and operation in accordance with the conditions of the current period; (iv) Referring to international experience suitable for Vietnam. The author of the thesis proposes 07 solutions to continue improving the law on the organization and operation of the Government. These solutions contribute to raising awareness of many competent authorities as well as people about modern national governance and accountability of the Government. At the same time, the thesis's solutions aim to improve legal regulations on the organization and

operation of the Government; to enhance accountability and participation in contributing opinions of the people; to improve the quality of human resources as well as the quality of appraisal and examination activities in the development and promulgation of laws on the organization and operation of the Government.

### **CONCLUSION**

1. Given the urgent need to build a strong government in the current context, the top priority is to continue improving the legal framework to create a legal corridor for the organization and operation of the Government to meet the requirements of modern national governance. This is an objective necessity in modern society. According to each stage of the country's development, the law on the organization and operation of the Government has been increasingly improved and will continue to be improved.

2. Based on the study of some works of previous authors related to the study topic, the thesis has sought the inheritable values to serve the research purpose of the thesis, which is to propose solutions to continue improving the law on the organization and operation of the Government to meet the requirements of modern national governance in Vietnam today..

3. Theoretically, the thesis has systematically, deeply and clarified the following specific issues: (i) the content of the law on the organization and operation of the Government in terms of position, function; duties, powers, organizational structure and operating methods; (ii) Clarifying the connotation of the concept of modern national governance, the principles of modern national governance and analyzing the role of the Government in modern national governance; (iii) Building the concept of improving the law on the organization and operation of the Government as well as the criteria for improvement such as the rule of law, transparency, accountability, public participation, timeliness, effectiveness, efficiency; analyzing the factors affecting the improvement of the law on the organization and operation of the Government according to the requirements of modern national governance.

4. In terms of practice, the thesis evaluates the current state of improvement of the law on the organization and operation of the Government by pointing out the strengths as well as the limitations and causes of the strengths and limitations.

5. Based on theoretical analysis and practical assessment, the thesis has presented 04 viewpoints on improving the law, emphasizing

the viewpoint consistent with the Party's view on the rule of law and modern national governance reform. The thesis proposes 07 groups of solutions to improve the law on the organization and operation of the Government in accordance with the requirements of modern national governance. These solutions must be implemented simultaneously to meet the requirements of modern national governance and build a proactive and developmental government in the new situation.

## **LIST OF PUBLISHED WORKS BY AUTHOR RELATED TO THE THESIS**

1. Nguyen Thi Thuc (2021). “State governance of business charitable activities - Some theoretical and practical issues in Vietnam today”. *Journal of Law and Political Sciences, Scientific and Academy journal*. Print ISSN 2222-7288, Online ISSN 2518-5551, Quality Impact Value 1,731. Volume 32 Year Eleventh Nov., 2021 - Special edition, pp. 185-215.
2. Nguyen Thi Thuc (2021), Good governance in public policy making, *Journal of State Management*, No. 4/2021, pp. 28-32.
3. Nguyen Thi Thuc (2021), Administrative reform and transparency of administrative procedures in Vietnam today, *Journal of State Organization*, ISSN 2588-137X, No. 7/2021, pp. 21-24.
4. Nguyen Thi Thuc (2022), “Building e-government toward digital government in Viet Nam now”, *Proceedings of the international workshop “Public governance of digital transformation- digital governance policy: international experience and implications for digital governance in Viet Nam”*, OECD Korea Policy Center and National Academy of Public Administration, Ha Noi, pp. 837-847.
5. Nguyen Thi Thuc (2022), “Improving governance in digital transformation in Vietnam today”, *Proceedings of International conference: “Governance in digital transformation”*, National Political Publishing House, ISBN 978-604-57-7650-6, Ha Noi, pp. 664-675.
6. Nguyen Thi Thuc (2023), “Laws and mechanisms for exercising the rights of persons with disabilities toward modern national governance in Viet Nam today”, *The International Conference Proceedings “Ensuring the rights of persons with disabilities in the sustainable development of Viet Nam and other countries of the world*, UNPRPD and Binh Duong University and UNPD, Ha Noi, pp. 100-111.
7. Nguyen Thi Thuc (2023), “Discussing administrative procedure reform - from the perspective of modern state governance”. *Journal of State Management*, No. 333 (10/2023), pp. 37-41.
8. Nguyen Thi Thuc (2024), “Improving the law on decentralization and delegation of power between the Government and local authorities to meet the requirements of modern national governance”. *Journal of Legislative Studies*, No. 17(496) Issue 1 - 9/2024), pp. 41-48.