



UNIVERSAL PERIODIC REVIEW

Freedom of religion or belief in VIET NAM

World Evangelical Alliance (WEA), an NGO with special consultative status since 1997. WEA is a network of churches in 130 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide. WEA was founded in 1846 in London. www.worldevangelicals.org

Submission date : 12 July 2018

Summary

1. During its second UPR review in February 2014, Viet Nam accepted several recommendations on freedom of religion and belief.¹ Recognized and registered religious groups were able to manifest their beliefs with less governmental interference over the last UPR cycle. In contrast, groups without certificates of registration significantly suffered from more severe limitation. Indeed, current law still allows the government to substantially control a majority of religious practices, with numerous provisions imposing restrictions on religious freedom in the interest of protecting national security and social stability. In November 2016, the National Assembly passed a new Law on Belief and Religion, which came into effect in January 2018. While at first, human rights defenders hoped the new law would be a major step forward, it eventually proved to be a disappointment. Despite some minor adjustments, this law still maintains a large number of restrictive regulations towards religious practices, such as the multi-stage registration process to attain recognition or certificates of registration for specific religious activities. This highly dissuasive, permission-based system seriously infringes the right to religious freedom. Religious leaders and believers continue reporting cases of governmental harassment, physical assault, arbitrary arrest and detention, sometimes even torture, strict surveillance, restriction on free navigation, property confiscation or vandalism, and rejection of various forms of permission.
2. With this report, we draw international attention to Viet Nam's legal, regulatory, and administrative status quo on religion, despite its commitments during previous UPRs. We also hope that the government of Viet Nam will soon reconsider and improve its legislative framework, in order to provide a better environment for human rights to prosper, especially freedom of religion and belief.

Religious demographics

3. According to data published by Viet Nam's Government Committee for Religious Affairs in December 2016, about 27 percent of the Viet Nameese population identify themselves as having a religion or spiritual beliefs.² But the Special Rapporteur on Freedom of Religious or Belief explains "it is difficult to get a clear and comprehensive picture of the religious life beyond those registered religious communities. (...). While some Government experts gave a low estimation of

¹Vietnam accepted 9 recommendations on Freedom of religion and belief, including Italy's request to "adopt further measures aimed at better guaranteeing freedom of religion, particularly by eliminating bureaucratic and administrative obstacles, which hinder the activities carried out by religious communities and groups" (A/HRC/26/6, 143.142) and Canada's recommendation to "reduce administrative obstacles and registration requirements applicable to peaceful religious activities by registered and non-registered religious groups in order to guarantee freedom of religion or belief" (A/HRC/26/6, 143.143).

² Accordingly, the Buddhists account for more than half of the religious believers, among which Mahayana Buddhism is the dominant group, while Theravada Buddhism comprises approximately 1.2 percent. The breakdown in percentage of other faith traditions are as follows: Roman Catholics (7), Cao Dai (2.5-4), Hoa Hao Buddhists (1.5-3), Protestants (1-2), Hindus and Muslims (0.2). Other small religious groups together make up of 1.4 percent are the Bahai Faith, The Church of Jesus Christ of Latter-day Saints (Mormons), traditional cults (Buu Son Ky Huong, Tu An Hieu Nghia, To Tien Chinh Giao). While the majority of Vietnamese do not belong to one of the officially recognized religious communities, they may none the less adhere to traditional rituals such as the veneration of ancestors, protective saints, historical heroes, etc.

the number of followers of unregistered religious communities, the Special Rapporteur also heard conjectures that the number of people practising religions outside of registered communities — or wishing to do so — may be up to several million.”³ In the same report, he also notes that “[o]ne of the most striking features of recent religious developments in Viet Nam is the enormous growth of Protestantism, in particular among some ethnic or religious minorities. At the same time, this has led to some worrisome cases of religious persecution.”⁴

Current legislative framework: the 2016 Law on Religion and Belief

4. Before 2016, the main legislative framework on religion in Viet Nam included the 2004 Ordinance on Religion and Belief (usually referred to as ND-92 or Decree 92) and later the 2005 Decree on Religion 22/2005/ND-CP.
5. The 2016 Law on Religion and Belief introduces some modest improvements for religious freedom, such as a more simplified procedures for recognized and registered groups to request permissions for religious activities, a new provision allowing individuals in pretrial detention to access religious literature and practice religious beliefs, or new provisions allowing expatriate churches to register their congregations.
6. Also, for the first time, the law mentions the possibility of claiming legal status for recognized religious groups. It also purportedly opens the door for these groups to get involved in educational, health, social protection, charitable, and humanitarian activities in conformity with relevant laws and regulations (Article 55).
7. The pending time for a registered religious group to obtain official recognition has reduced significantly from 23 years to 5 years. It seems however that the 5 years period starts with the entry into force of the new law and is not based on the date of establishment of the community in Viet Nam. Also, it means that a community still has to operate “illegally” for several years before it can claim official recognition, leaving them very vulnerable to government oppression.
8. Other provisions still show a high degree of intrusion of the government in internal affairs of religious organizations. Religious groups must submit to the government an annual list of their religious activities (Article 43). Certain activities need to seek explicit approval from corresponding authorities. For instance, prior to an internal conference, a religious organization must send an application for consideration to relevant authorities, with a detailed description of the purpose of the said conference, number of participants, content, concrete programs, times and venues anticipated, etc. (Article 45) In addition, a religious organization which wishes to modify their charter must also report to and request permission from the government (Article 24).
9. The new law also contains vague provisions, creating broad leeway for substantial restrictions on religious freedom in the interest of national security and public order. Several prohibitions are

³ A/HRC/28/66/Add.2, §8

⁴ Ibidem, §9

listed under art. 6 as reasonable rejections of religious practices and activities, including *“undermining national defense, national security, national sovereignty, public order, public safety, and the environment,” “doing harm to social ethics or others’ health, life, dignity, honor, or property,” “sowing division among the people,”* and *“abusing belief and religious activities to gain personal benefit.”* Without further elaboration and precise explanation, these clauses can easily be abused to regulate, limit, restrict or forbid the exercise of freedom of religion and belief.

Recommendations

10. **Review the 2016 Law on Religion and Belief and ensure that the State’s legislative framework is consistent with international human rights standards. Precisely, provisions related to freedom of religion or belief must be congruent with article 18 of the ICCPR.⁵**
11. **Clarify and provide concrete formulations of limitation clauses touching on religious practices and manifestations, remove and replace vague legal definitions, so that these provisions are not used to disregard legitimate manifestations of religious freedom.**
12. **Provide proper legal education and training to provincial and local-level security and government officials, especially instruction on international human rights standards that protect and promote freedom of religion and belief.**
13. **Establish and solidify an independent judicial system that closely oversees governmental practice on religious freedom, investigate, prosecute, and punish any violations of freedom of religion or belief and other human rights. Create appropriate independent mechanisms to report possible violations by local police and security officials.**
14. **Extend a standing invitation to UN thematic special procedures. Invite the Special Rapporteur on Freedom of Religion or Belief for a follow-up visit.**

Compulsory registration of religious communities

15. Although the new law has simplified the process for unrecognized religious groups to obtain certificates of registration, as well as significantly reduced the pending time, many communities still experience unreasonable burden and non-transparent rejection from the government. Churches also report that they often simply receive no answer to their request to be officially registered.
16. Freedom of religion or belief is an inherent and fundamental right of every human being. It cannot depend upon registration, which can merely give legal personality. Thus, registration should be a legal instrument serving and advancing this human right, not a compulsory requirement. In reality, unregistered religious groups reportedly continue suffering from severe governmental restrictions and intimidation. Their rights to freedom of religion or belief are grossly violated.
17. Congregations affiliated with the registered Evangelical Church of Viet Nam – South who have a

⁵ ICCPR : International Covenant on Civil and Political Rights

relatively small number of congregants reported that they were forced by provincial authorities to merge with larger churches in order to receive official status. Lead pastors of these congregations denounced these demands which have no legal basis. Merging distant churches weakens these communities as the longer distances make it difficult for the members to attend church service.

18. Catholic bishops claimed that local governments have applied additional and unnecessary hardship upon parishes in rural regions which applied for recognition. This burdensome enforcement was to discourage them from registering and was inconsistent with the promised national framework. The most problematic areas reportedly included the Central Highlands (Provinces of Gia Lai, Dak Lak, Dak Nong, Kon Tum, and Lam Dong), the Northwest Highlands, and Hoa Binh Province.

Recommendations:

19. **Remove any administrative challenges to registration process of religious groups under consideration. Develop a uniform and transparent registration procedure. Provide clear and satisfactory reasons for rejection of any applications.**
20. **Allow all unregistered religious groups to freely exercise their freedom of religion or belief. Take all measures to stop any forms of restrictions and harassment against these communities.**
21. **Recognize the legal personality of religious groups, allow them access to justice when they request to challenge government decisions.**
22. **Halt State and media propaganda against religious minorities and unrecognized religious groups. Promote a spirit of respect and tolerance in public media and official literature and integrate unbiased information about religions and beliefs as part of school education.**

Physical harassment, arbitrary arrests, detention and torture

23. Although some Hmong Protestant groups have been granted certificates of registration, they continue to be victims of violence and slander. Hmongs are an indigenous people living in the mountains in the North. Several Hmong Protestants have been extrajudicially arrested, interrogated, beaten in police custody, imprisoned and pressured to denounce their faith. In some villages, eviction has been established as a punishment for converts. Possessing Bibles or reciting worship services in their indigenous Hmong language is considered illegal. Even though they represent possibly 400'000 Evangelicals, the government does not accept the publishing of their religious material in Hmong language.
24. Pastor Nguyen Cong Chinh who has been ministering ethnic minority communities in the central highlands and is a long time pro-democracy activist, suffered from inhumane treatment while serving his 11-year prison sentence for *"impeding national unity."* At the An Phuoc prison in Binh

Duong province, he was reportedly put in solitary confinement and endured torture.⁶ Local police in Pleiku, Gia Lai province also frequently threatened, arrested, and detained his wife Tran Thi Hong. Particularly, on March 30 2016, public security officials detained Hong and her son and seized their personal belongings while they were en route to a meeting with the U.S. Ambassador at Large for International Religious Freedom. Pastor Chinh was released and exiled with his wife and 5 children to the US on July 28, 2017.

Recommendations:

25. **Appoint an independent commission to investigate suspected cases of torture, degrading treatments and obscure deaths in police custody and detention.**

Right to property and land issues

26. In Viet Nam, all lands are State's possession and no individual or group can claim an ultimate ownership of the land. This fact creates a legal hardship for religious communities, as technically the State can take back land whenever it seems propitious. For the sake of economic development, urbanization and modernization projects, certain religious groups, unregistered and registered alike, have lost or are facing risks of losing large portions of their land and property. In fact, land conflict is one of the major sources of tension between the government and religious communities in Viet Nam.
27. In January 2016, a group of approximately 200 security officials and plainclothes police bursted into the Thien An Catholic Monastery, Thua Thien Hue Province. They reportedly intimidated and physically assaulted the residents and cut down trees within the property. The attack was allegedly to threaten and pressure the monastery's leaders to give up their land for a local tourism project.
28. In April 2016, Phu Phong Church in Binh Dinh province, a member of the Evangelical Church of Viet Nam-South, reported provincial officials ordered security forces to confiscate a plot of 1,000 m², which originally belonged to the church, for the formation of a public garden. While still under dispute, local authorities mobilized loaders and excavators to forcibly start the construction process.

Recommendation:

29. **Handle land conflicts with religious groups in a fair and transparent manner. Respect right to property, stop authoritarian seizure of lands under dispute and cease oppression of dissidents.**

⁶ See also USCIRF, *Prisoners of Conscience*, <http://www.uscirf.gov/pastor-nguyen-cong-chinh-and-tran-thi-hong-released>