

briefing

Vietnam

A Submission to the United Nations Human Rights Council Universal Periodic Review

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I. Introduction

Christian Solidarity Worldwide (CSW), a human rights organisation specialising in religious freedom, wishes to draw the attention of the OHCHR to continued infringements of religious freedom in Vietnam, in terms of the limits to freedoms enshrined in legislation, the actual implementation of this legislation, and centrally- and locally-mediated restrictions on religious activities. These infringements should be considered in the context of Vietnam's obligations under international law to respect human rights.

A period of international ascendancy for Vietnam since 2006 has seen some corresponding improvements in the area of religious freedom. However, it is now acknowledged by church leaders that since Vietnam gained entry to the World Trade Organisation (WTO) and joined the UN Security Council, progress has slowed considerably and the registration of local church congregations has almost reached a standstill. Responses to protracted requests from the Roman Catholic Church and South Evangelical Church of Vietnam (ECVN-S) for the return of confiscated properties have been met with no constructive response, and a key Roman Catholic site was demolished on 19 September 2008 following extended peaceful protests by Catholics.

This submission is focused primarily on the experiences of Protestant Christian leaders. Protestants, particularly among ethnic minority groups in the border regions of northern and central Vietnam, have experienced some of the most significant violations of religious freedom, and Protestantism has also been the focus of specific recent legislation introduced by the government.

2. Legislative & Policy Framework for Religious Activities

2.1. Obligations under International Law

Vietnam is a party to the International Covenant on Civil and Political Rights (ICCPR).¹ Article 18 provides that, 'Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.' Article 21 protects the right of 'peaceful assembly', while discrimination based on religion is proscribed and effective protection against discrimination guaranteed in Article 26. Article 27 protects the freedom of ethnic minorities to practise their own religion. Vietnam has also acceded to the International Convention on the Elimination of All Forms of Racial Discrimination, Article 18(d)(vii) of which protects the 'right to freedom of thought, conscience and religion' for all, without distinction as to racial origin, which is also relevant to the religious freedom of ethnic minorities. Additionally, Vietnam has ratified the Convention on the Rights of the Child (CRC).² Article 2 specifies that a state must take measures to ensure that a child faces no discrimination on the basis of beliefs held by his/her parents. Article 14 guarantees the right of a child to 'freedom of thought, conscience and religion', and freedom to manifest his/her religious beliefs. Article 17 requires that a child have access to resources aimed at promoting his/her spiritual wellbeing; Article 27 provides for a standard of living adequate to a child's spiritual development, and Article 30 for a child belonging to an ethnic minority to profess and practise a religion.

¹ Vietnam has acceded to this instrument.

² Date of ratification: 26 January 1990.

2.2. Domestic Framework for Religious Activities

Article 70 of the Constitution of 1992 provides that, 'The citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law. The places of worship of all faiths and religions are protected by the law. No one can violate freedom of belief and of religion; nor can anyone misuse beliefs and religions to contravene the law and State policies.' In addition, Article 69 protects the freedom of opinion and speech, the right to assemble and to 'form associations and hold demonstrations in accordance with the provisions of the law'.

The legislative framework for the religious activities of individuals and organisations in Vietnam is defined specifically in two policy documents introduced since late 2004, which supersede all previous provisions. The 'Ordinance Regarding Religious Beliefs and Religious Organisations' (21/2004/PL-UBTVQH11) came into effect on 15 November 2004. On 1 March 2005, the 'Decree on Religion' (22/2005/ND-CP), known informally as 'Decree 22', was promulgated as a set of guidelines for the implementation of the Ordinance, including the complex and ill-defined process for the registration and recognition of denominations and congregations. Article 1 of the Ordinance guarantees the right to freedom of religion and religious belief, and Article 8(1) prohibits discrimination on the basis of religious beliefs. Chapter 3 (articles 16-25) sets out provisions for religious organisations and their activities, including the system of registration for religious organisations and congregations.

However, the Ordinance also sets out a series of ill-defined caveats to the practice of religion, which go considerably further than the limitations stipulated in international protections for freedom of religion. Article 8(2) prohibits the 'abuse' of religion to undermine national unity, to 'sow division among the people, ethnic groups and religions' or to 'spread superstitious practices'. Article 15 provides that religious activities will be suspended if they 'negatively affect the unity of the people or the nation's fine cultural traditions'. Article 16(1), which provides a definition for the recognition of religious organisations, stipulates that no organisation is permitted to be contrary to 'the nation's fine traditions'. Article 22 sets out stipulations for the character of religious leaders, which must be met for these persons to be recognised by the state, including that they must 'possess the spirit of national unity and national harmony'. Article 35 requires that the international relationships of religious organisations be regulated by the Committee on Religious Affairs (CRA).

The three main criticisms of the framework set out in the Ordinance and Decree are the approach of regulating and managing religious activities, the level of conditionality which is set upon the practice of religion, and the lack of clarity and consistency in the provisions for the registration of organisations and congregations.

2.3. Implementation & training

The lack of consistency in the implementation of the registration system has been widely criticised since the promulgation of the Ordinance and Decree in 2004-05. Measures to train party officials in the policy on religion have also been exposed as deficient.

Of particular concern was the emergence of a leaked internal training manual for officials in the northern highlands in 2006, promulgated by the CRA, which outlined a plan to 'resolutely subdue the abnormally rapid and spontaneous development of the Protestant religion in the region'.³ Following international criticism, a revised edition of the manual was made available to foreign diplomatic officials in 2007. Although the new edition involved a lessening of the inflammatory language which was more characteristic of the 2006 manual, and removed some of its more overtly repressive provisions, it retained both the core objective to 'solve the Protestant problem' by

³ For further information, see the CSW briefing, 'Analysis: Internal Training Manual' (November 2006).

subduing its development and the suspicious tone about the politically nefarious nature of religion. The revised edition also failed to provide a full and unconditional prohibition on forcing renunciations of faith, and continued to leave judgements about the legitimacy of congregations to the arbitration of local officials.⁴

Anecdotal but consistent evidence of an arbitrary approach to the implementation of the registration system has also emerged in the central highlands, with a bifurcation between the approaches taken in training religious leaders and party representatives about the same policy. This has resulted in church leaders being informed that certain aspects of the policy do not apply in the central highlands.

2.4. Status of registrations for Protestant congregations

The Protestant Church in Vietnam is fragmented and comprises a large number of denominations. As of October 2008, five Protestant bodies had completed the process of being granted full denominational recognition, the highest level of registration, and three were in the latter stages of this process. Denominations with this status have been required to abolish all levels of administration between the headquarters and local congregations, which generates significant administrative obstacles for their operation. Two further groups had received denominational registration, which is the intermediate level.

The rate at which individual congregations have been registered has decreased to a standstill, leaving those which are unregistered in an indeterminate legal condition, vulnerable to harassment and aware of the threat of possible closure. This is a consequence largely of government delays or refusals to register congregations which have applied: one coalition of Protestant churches reports that of 1,498 of its affiliated congregations which have applied for registration, only 334 applications have been successful to date. It is also a consequence of the inconsistent and arbitrary approaches taken by officials around the country, and of continued reluctance on the part of some congregations to apply for registration. Congregations without clear denominational affiliation are the most likely to encounter problems with registration, although new churches and those with ethnic minority congregations are also liable to face particular difficulties. There exists in some areas a tendency on the part of the authorities to request a list of names of members of the congregation. This is required neither by the Decree 22, which establishes the process for registration, nor by the CRA in its training for church leaders: the application forms for registration require only the number of attendees to be provided. The request for lists is interpreted by some as being a government safeguard against figures inflated by some church pastors, but it fuels suspicion of the registration system on the part of the affected house church leaders.

3. Restrictions on Religious Freedom

3.1. Government possession of church property

A continuing area of concern is that of government possession of properties confiscated from the Roman Catholic Church and the ECVN-S. A Vatican delegation which visited Vietnam in June 2008 raised the issue of land confiscated from the Catholic Church. Catholics held a series of high-profile vigils in Hanoi from December 2007 to call for the return of confiscated property, primarily a site in central Hanoi, which was subsequently razed by the government on 19 September 2008. The ECVN-S released an open letter on 28 March 2008, which aired three main grievances, including the continued government possession of 265 confiscated properties and the destruction of two churches in November-December 2007.

⁴ For further information, see the joint CSW-ISHR briefing, 'Analysis: 2007 Revision of Internal Training Manual' (February 2008).

3.2. Experiences of restrictions by Protestants

Protestantism is treated with continued suspicion by the government and local party leaders, resulting in several forms of repression and discrimination.

The trend of forcible renunciations of faith is widely acknowledged as having lessened substantially in Vietnam, although there is evidence that this approach has not been abandoned uniformly, particularly in the northern and central highlands. However, a more persistent threat facing Protestants across Vietnam is the cutting of their access to funding and benefits originating with the government and NGOs, which are mediated through the village-level authorities. This trend has been reported repeatedly in numerous provinces in the northern and central highlands. Owing to the decentralised mediation of such funds and benefits, any expression of hostility from the village-level authorities renders the Christian population to be vulnerable in this regard. The threats are carried through in some cases, but not in all. However, church leaders have identified this as a major concern, because even the threatened imposition of economic penalties functions as a disincentive to adoption of Christian faith, and a means of persuading existing Christians to renounce their faith.

The legal rights of ethnic minority Protestants in northern Vietnam have been impaired by the refusal of the competent authorities to issue them with identity cards that recognise their religious affiliation. CSW received reports of this phenomenon in 2007-08 in Tuyen Quang, Dien Bien, Ha Giang and Lai Chau provinces. Typically, authorities have either refused to receive applications where the religion is listed as 'Protestant', or have issued identity cards with the religion listed as 'none' irrespectively. Without proper recognition of their Protestant status, they are left in an indeterminate and vulnerable position: either they have no identity card, or the fact that they are identified as subscribing to no religion may be used to prevent their attendance of churches.

In the context of the central highlands, there continues to emerge evidence of a residual conflation of Protestantism with the Degar political movement by government officials, indicative of a continued distrust of Protestant activity on political grounds. Although there exists and has historically existed some degree of overlap between the Degar movement and its predecessors, and adherents to Protestantism, the attendance of the protests in 2001 by some Protestants was portrayed by the authorities in some contexts as indicative that all Protestants were being sympathetic to Degar political ambitions. Radio propaganda in the central highland region continues to disseminate the notion that Protestants belong to the Degar movement, in what appears to be an attempt to discredit Protestantism on the basis of its supposed nefarious political agenda. Some congregations continue to exist under suspicion of Degar links.

There continues to exist a particular intolerance of the propagation of Christian faith, and new Christians are subject to particular restrictions. In the context of the northern provinces, measures against evangelism are symptomatic of the known concern about Protestant expansion in the area. This is the given *raison d'être* for the internal training manual 'Concerning the Task of the Protestant Religion in the Northern Mountainous Region', in its original 2006 and revised 2007 editions: to 'resolutely subdue the abnormally rapid and spontaneous development of the Protestant religion in the region'. In the revised edition, the growth of Protestantism is the subject of repeated references, showing this to be an area of concern for the government.

Instances of forced evictions, restrictions on freedom of movement and restrictions on access to theological training are occasionally reported. The use of torture against religious adherents has generally declined, although it has not disappeared entirely.

3.3. Infringements on rights of the child

Of particular concern are reports that minors have been excluded from attending house churches in some northern provinces since 2007, with the threat of registration papers being revoked for any infringements, and similar reports the previous year. Although these restrictions have been lifted in Lai Chau and Lao Cai provinces, evidence has emerged from Dien Bien province to show that it has not been eradicated altogether. Such restrictions are incongruous with the provisions in the CRC, which has been ratified by Vietnam: Article 14 guarantees the right of a child to 'freedom of thought, conscience and religion' and the freedom to manifest his/her religious beliefs, while Article 30 specifically guarantees the right of a child belonging to an ethnic minority to profess and practise a religion.

4. Societal Opposition

The Chau Pha movement (transliterations vary) is made up of a number of disparate and disunited Hmong insurgent groups, primarily based in and focused on Laos, involving a quasi-religious dimension. It is believed to be supported primarily by Hmong diaspora, especially from the USA. Chau Pha members have been active in attempting to recruit Hmong, including Protestants, in Dien Bien province, using a promise of full religious freedom. However, some Christian leaders have opposed the recruitment of Protestants, concerned about the seditious and cultic nature of the local expression of the Chau Pha movement, and have actively engaged in dissuading Hmong Protestants from joining it, but have faced death threats as a result, and at least one has been shot and injured. Such anecdotal evidence reinforces notions that the Chau Pha movement represents a threat to peaceful activities, including the freedom to practise Protestantism, among the Hmong in north-western Vietnam. Hmong Protestants in the region risk being caught between violent hostility from Chau Pha activists, and government suspicion that they are sympathetic to the Chau Pha movement.

5. Religious Prisoners of Conscience

In the present context in Vietnam, it is difficult to determine cases which warrant the designation of 'religious prisoners of conscience'. Three Christian activists were among those imprisoned on charges of dissident political activity in high-profile cases between March and May 2007: Catholic priest, Fr Nguyen Van Ly and Protestant lawyers Nguyen Van Dai and Le Thi Cong Nhan. Protestants are believed to be among those imprisoned in the central highlands on charges relating to ostensible support of the Degar political movement.

6. Recommendations

During this Universal Periodic Review, the OHCHR should pay particular attention to religious freedom, as one of the areas of human rights in which Vietnam has claimed substantial improvements. The OHCHR should assess the religious freedom situation in Vietnam with an appreciation of deficiencies within the legislative framework, the training given for the implementation thereof, and the considerable level of arbitrariness in the implementation process.

In light of the significant changes in the religious freedom situation since 1998, the UN Special Rapporteur on Freedom of Religion or Belief should give serious consideration to requesting a visit to Vietnam.