

Vietnam

**Freedom of religion or belief
since the January 2018
Law on Belief and Religion**

June 2022

CSW everyone
free to believe



Introduction

On 1 January 2018, Vietnam implemented a new Law on Belief and Religion. Article 3.1 of the law says that ‘the State shall respect and protect the right to freedom of belief and religion of everyone’.¹ Four years have passed since this law came into effect, and violations of the right to freedom of religion or belief (FoRB) against communities from major religions or beliefs in Vietnam continue to be reported.

For certain groups already registered with the government, the Law has provided greater clarity and freedom in some areas, such as charity work and social welfare events. Registered religious organisations are also granted legal personhood.² The groups already registered with the government before the Law came into effect are usually larger and well-established, with good relations with the authorities, and some of these groups have been able to organise new activities under the Law. For many other groups, however, there is evidence to suggest that the law has not been effective in protecting the right to FoRB, and in preventing or reducing FoRB violations. Some even argue that the authorities have been able to use the Law ‘to target and silence certain groups or dissidents’.³

The law imposes several restrictive requirements upon religious groups. All religious groups are required to register with the government for recognition as a legal organisation and for authorisation for a range of activities. In practice, this registration process is open to abuse by state officials, with some applications ignored or rejected without explanation. Unregistered groups – including those whose applications have been unsuccessful or who have chosen not to register for reasons of conscience – are more vulnerable to harassment, arrest, imprisonment, physical violence and other abuses. In general, indigenous peoples and ethnic minorities in remote areas often suffer the most severe FoRB violations.

Registration of religious groups

‘An organization that fully meets the conditions prescribed in Article 21 of this Law shall send a dossier of request for recognition [to] a competent state agency.’

- 2018 Law on Belief and Religion, Article 22.1

The registration process under the 2018 Law on Belief and Religion is lengthy, complex and open to abuse. All religious groups are required to register with the government to be recognised as a religious organisation. Religious groups must have operated for at least five years with a religious activity registration certificate in order to start the registration process.

The application process for state recognition as a religious organisation (Article 22) requires religious groups to provide a detailed and extensive level of information to the authorities, including ‘the name of the requesting organization, [...] number of believers and geographical area of its operation at the time of request; its organizational structure and head office; a written summary of its operation since the organization is [sic] granted a religious activity registration certificate; a list, resumes, judicial record cards, summaries of religious activities of its expected representative and leaders’ and ‘a summary of its tenets, canon laws and rites’, as well as ‘a written declaration of its lawful property’, and ‘papers proving the possession of a lawful head office location’.⁴

Religious groups awaiting application approval are legally entitled to hear back from the authorities within 60 days, with a clearly stated reason if recognition is refused. However, there are several reports of religious groups who have not received a response within 60 days of submission, and some have even been left waiting for years without a clearly stated reason.⁵

Serious concerns have been raised over the mandatory nature of this registration process. In their concluding observations on Vietnam’s 2019 third periodic report on the implementation of the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee expressed concern that the Law on Belief and Religion ‘unduly restricts the freedom of religion and belief, [...] through the mandatory registration and recognition process for religious organizations’.⁶

Indeed even before the Law came into effect, after his 2014 visit to Vietnam the then-UN Special Rapporteur on freedom of religion or belief stated: ‘It should be clear that the right of an individual or group to their freedom of religion or belief can never be “created” by any administrative procedures. Rather, it is the other way around: registration should serve this human right, which itself must be respected as preceding any registration. On the basis of this general understanding, registration

1 Legal Normative Documents, ‘Law on Belief and Religion’, 18 November 2016 <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11093&Keyword=religion>

2 United States Commission on International Religious Freedom (USCIRF), ‘Country Update: An Assessment of Vietnam’s Law on Belief and Religion’, November 2019 www.uscifr.gov/sites/default/files/2019%20Vietnam%20Country%20Update_2.pdf

3 Unrepresented Nations and Peoples Organization (UNPO), ‘Denied Recognition: Vietnam’s refusal to recognize the indigenous and religious rights of the Khmer Krom’, September 2021, p.14

4 Legal Normative Documents, *ibid.*

5 For example, ‘several pastors reported that their applications had been pending with no formal decision for months or even years’. United States Commission on International Religious Freedom (USCIRF), *ibid.*

6 United Nations Human Rights Committee, Concluding observations on the third periodic report of Viet Nam, 29 August 2019, CCPR/C/VNM/3, para 43 <https://uhri.ohchr.org/Document/File/07477f9f-db88-4be7-9277-ceb344a24356/8147B2A7-6F78-4EB9-AA75-F2F3203C9AE5>

should be an offer by the State but not a compulsory legal requirement.⁷

Approval for religious activities

'At least 30 days before starting belief activities, the representative or management board of a belief establishment shall send a written registration to the commune-level People's Committee...'

- 2018 Law on Belief and Religion, Article 12.2

The 2018 Law on Belief and Religion requires all religious organisations to apply for approval before carrying out a range of activities or events. Much like organisation registration, this process is complex and burdensome, requiring religious groups to submit information on the religious establishment and the activity's scope, contents, time and location(s). Authorities have the right to refuse an application with a clearly stated reason, rendering the event illegal should it take place, and therefore vulnerable to interference or disruption by police authorities, sometimes including violence and detention.

Concerns have been raised by several institutions, including the United Nations Human Rights Committee, that 'restrictions on religious activities based on vague and broadly interpreted legal provisions related to national security and social unity' unduly restrict freedom of religion or belief.⁸

Harassment of religion or belief communities

The law has not been effective in protecting the right to FoRB and in preventing FoRB violations since its implementation in 2018.

The non-profit organisation Legal Initiatives for Vietnam (LIV), co-founded by journalist and activist Pham Doan Trang,⁹ maintains a database of religious freedom cases in Vietnam. The data collected by LIV suggests that 2019, 2020 and 2021, the three years following the law's implementation, had the three highest total annual incidents since their records began.¹⁰ It is not clear whether these figures solely reflect an increase in the number of incidents, or whether an increase in reporting or availability of data also played a role. In addition, the dataset is relatively small, possibly due to the difficulty of safely obtaining reliable data from sources inside the country. However, even allowing for these factors, it is striking that the three highest totals come

in three consecutive years following the introduction of Vietnam's Law on Belief and Religion. These totals are markedly higher than previous years. In 2019, 2020 and 2021, LIV recorded 6, 13 and 9 incidents respectively, far higher than the totals of 2016, 2017 and 2018 (1, 3 and 1 incidents).

The NOW! Campaign, a partnership campaign formed of 12 international human rights organisations, records the names and details of men and women arrested for peacefully exercising their human rights in Vietnam. According to their database, as of 1 April 2019 there were 98 prisoners of conscience (POCs) in Vietnam who belonged to a religion or belief community, making up over 40% of the total 243 prisoners of conscience recorded at the time. The database records 14 POCs from faith communities imprisoned in 2018, the third highest annual figure since 2004, with Protestant Christians being the most targeted religious group across the data spread, followed by An Dan Dai Dao Buddhists.¹¹ Although there is not sufficient data to confirm that the individual's religion or belief was a factor in all cases, it is striking that religious groups such as Protestants are disproportionately represented in the database, compared to their overall numbers in Vietnam.

Case study: Pastor Y Cuon Nie and the Montagnard Evangelical Church of Christ, Ea Lam village, Phu Yen province¹²

On 22 December 2021 Y Cuon Nie, a pastor of the Montagnard Evangelical Church of Christ, was assaulted and detained by police in a printing shop. The shop was making a celebratory Christmas banner for his church, which the police confiscated. Nie was arrested and released five hours later.

On Christmas Eve, 24 December 2021, police entered Nie's home where a service was being held and ordered the church members to end their meeting. Nie was once again threatened by the police and taken away for questioning at the Song Hinh district station.

Speaking to Radio Free Asia, Nie said that his congregation had sought to meet the requirements for registration under the 2018 Law on Belief and Religion, but that during the past few years he has received no responses from authorities. The group has therefore been vulnerable to harassment, pressure to renounce their faith, and arbitrary arrests like those which took place in December 2021.

⁷ United Nations Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, 30 January 2015, para. 32 www.ohchr.org/en/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_66_Add.2_E.doc

⁸ United Nations Human Rights Committee, *ibid.*

⁹ CSW, 'Vietnamese activist sentenced to nine years in prison', 15 December 2021 www.csw.org.uk/2021/12/15/press/5510/article.htm

¹⁰ The NOW! Campaign, 'List of POCs', 1 April 2019 www.vietnampocs.com/list-pocs

¹¹ *ibid.*

¹² Radio Free Asia, 'Vietnamese police disrupt Christmas celebration of Montagnard Christians', 29 December 2021 www.rfa.org/english/news/vietnam/montagnard-christians-12292021155717.html

The intersecting vulnerabilities of this community – as an ethnic minority and a religious group – mark it as particularly at risk of multiple forms of discrimination and persistent state harassment. This case is consistent with patterns of human rights abuses against ethnic and religious minorities, including Montagnard Protestants, seen in information collected by CSW both before and after the implementation of the Law. Although it is difficult to assess the situation for all unregistered groups across the country, according to some observers these vulnerabilities have been exacerbated by the 2018 Law on Belief and Religion, which draws a clear line between registered and unregistered religious groups.

Further case studies

A report by the International Federation for Human Rights (FIDH) and the Vietnam Committee on Human Rights (VCHR) says that members of non-registered religious groups and communities – such as the Unified Buddhist Church of Vietnam (UBCV), Khmer Krom Buddhists, various Protestant house churches, and Hoa Hao and Cao Dai followers – have suffered increased repression since the law has come into force.¹³ Several instances of FoRB violations against non-registered groups and their adherents support this. According to information compiled by BPSOS, Trần Ngọc Sương and Nguyễn Anh Phụng, adherents of the ‘independent authentic Cao Dai Church’, were attacked by Vietnamese state media in December 2019 and April 2020 respectively, vilified particularly for their engagement with individuals and groups advocating religious freedom.¹⁴ The 2018 Law on Belief and Religion – most notably the vague wording which prohibits religious activities that ‘infringe upon national defense, security and sovereignty, social order and safety’ – did not protect

Sương and Phụng from FoRB violations but rather was used against them.¹⁵ Vietnam also continues to refuse Khmer Krom Buddhism recognition as a religion. A report by the Unrepresented Nations and Peoples Organization (UNPO) and Khmers Kampuchea-Krom Federation details several violations against Khmer Krom Buddhists, including that ‘celebration of Khmer-Krom cultural and religious holidays are [sic] prohibited in schools’ and the government has ‘forcibly defrocked dozens of Khmer-Krom Buddhist monks, including the Venerable Tim Sakhorn, who was disrobed and disappeared in 2007’.¹⁶

Recommendations

To the government of Vietnam

- Repeal the 2018 Law on Belief and Religion and review all other laws, policies and regulations relevant to freedom of religion or belief, ensuring the legislative framework is consistent with international human rights standards, in consultation with religious communities and legal experts.
- Ensure that any form of registration system is optional, not mandatory, and is not used as a tool to control religious activities.
- Recognise the rights of religious groups under international law, as in the International Covenant on Civil and Political Rights (ICCPR), and allow them access to justice through an independent complaints mechanism.
- Release immediately and without condition all those detained in connection with their peaceful religious activities or with activities advocating for the right to freedom of religion or belief.

¹³ International Federation for Human Rights (FIDH) and Vietnam Committee on Human Rights (VCHR), ‘Joint Submission to the Universal Periodic Review of Vietnam’, 12 July 2018, paragraph 38 www.upr-info.org/sites/default/files/document/viet_nam/session_32_-_january_2019/js12_upr32_vnm_e_main.pdf

¹⁴ Democratic Voice of Vietnam, ‘Cao Dai Sect’s gross violations of religious freedom’, 14 July 2020 <https://dvov.org/wp-content/uploads/2020/07/CaoDai-TranSuong-NgPhung-En-Event-2020April.pdf>

¹⁵ Legal Normative Documents, Article 5.4, *ibid.*

¹⁶ Unrepresented Nations and Peoples Organization (UNPO), *ibid.*, p.15

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CSW is a human rights organisation advocating for freedom of religion or belief, and as Christians we stand with everyone facing injustice because of their religion or belief.

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