



HUMAN RIGHTS SITUATION IN THE SOCIALIST REPUBLIC OF VIET NAM

Submission to Human Rights Committee by CSW (Christian Solidarity Worldwide)

Introduction

1. CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in the right to freedom of religion or belief (FoRB). CSW wishes to bring the following concerns and recommendations to the Committee's attention, in reference to the Socialist Republic of Viet Nam (hereafter Viet Nam). This submission draws on CSW's research and detailed witness testimonies and considers Viet Nam's current commitments to the International Covenant on Civil and Political Rights (ICCPR) in relation to FoRB and the situation of human rights defenders (HRDs).

Background

2. During the reporting period, CSW received reports of violations against every major religious community in Viet Nam, including Buddhists, Catholics, Cao Daists, Hoa Hao Buddhists, Protestants and Muslims. Severe FoRB violations continue to undermine the limited positive developments in Viet Nam, mostly at central government level; for example the addition of a chapter on human rights in the amended constitution (2013), and the official recognition of additional religious groups.
3. In a statement on 28 July 2017, the Office of the UN High Commissioner for Human Rights (OHCHR) expressed concern over 'the intensifying crackdown in Viet Nam against human rights defenders who have questioned or criticised the government and its policies,' stating that 'human rights defenders should never be treated as criminals who are a threat to national security.'¹ Many human rights defenders risk their safety to stand up for victims of FoRB violations.

Arbitrary detentions and the use of torture, cruel, inhuman and degrading treatment

4. Articles 9 and 14 of the ICCPR state that "no one shall be subjected to arbitrary arrest or detention" and that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law", respectively. Moreover, Article 26 of the ICCPR further states that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground", including religion or belief.
5. Viet Nam's Constitution (2013) states that all citizens have "the right not to be subject to torture, violence, coercion, degrading punishment or otherwise any form of treatment harming his or her body and health and offence against honor and dignity" (Article 20) and "the right to fair and

¹ Press briefing notes on Vietnam and Venezuela, 28 July 2017

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21921&>

public trials and to be presumed innocent until proven guilty in accordance with legal procedure and the sentence of the court takes effect” (Article 31).

6. Despite these legal provisions, CSW has continued to receive reports of violent arbitrary detentions in Viet Nam. In February 2017, Pastor Nguyen Trung Ton, a Protestant pastor and human rights defender, was kidnapped by state agents, stripped naked, tied, beaten and abandoned in a remote mountainous location in the middle of the night, leaving him with serious injuries. Pastor Ton was tried on 5 April 2018 and sentenced to 12 years in prison. Following an appeal hearing in June 2018, his sentence was upheld.
7. Hoa Hao Buddhist, Nguyen Bac Truyen, a legal expert who has provided pro bono legal assistance to families of political prisoners, victims of land grabs, and persecuted religious communities was forcibly disappeared on 30 July 2017. Truyen’s family were not formally notified of his detention at the time. Prior to his detention, Truyen and his wife were physically attacked by unknown assailants on several occasions during the reporting period. Truyen was tried on 5 April 2018 and sentenced to 11 years in prison. Following an appeal hearing in June 2018 his sentence was upheld.
8. On 5 February 2015, Viet Nam ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, CSW and other human rights organisations have received reports which suggest that the Convention has not been adequately implemented. In addition, Viet Nam has not ratified the Optional Protocol of the Convention against Torture nor the Convention for the Protection of All Persons from Enforced Disappearances, or the Second Optional Protocol to the ICCPR aiming for the abolition of the death penalty.
9. CSW remains concerned by reports of deaths in police custody. Deaths that occur from mistreatment in detention could amount to extra-judicial killings in contravention to the ICCPR, which states, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” (Article 6) and Viet Nam’s Law on Enforcement of Custody and Temporary Detention.²
10. In May 2017, Hoa Hao Buddhist Nguyen Huu Tan died within ten hours of being taken into custody at a police detention facility in Vinh Long Province. Tan was detained under Article 88 of Viet Nam’s Penal Code, which prohibits conducting anti-state propaganda, a charge often levelled at petitioners and activists. Despite inconsistent and contradictory claims by authorities that he had committed suicide using a letter opener, his injuries suggest he was tortured in custody.³ Family members who requested an investigation into his death have been harassed and threatened with arrest, and have been subject to ongoing harassment and surveillance in connection with their affiliation with an independent Hoa Hao Buddhist religious group.

² UN Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Viet Nam, 14 November 2018 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/340/13/PDF/G1834013.pdf?OpenElement>

³ CSW June 2017, Vietnam: Hoa Hao Buddhist death in police custody, <http://www.csw.org.uk/2017/06/21/report/3595/article.htm>

Violations of the right to freedom of religion or belief (FoRB)

11. Article 18 of the ICCPR and Article 18 of the Universal Declaration Human Rights (UDHR) state 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 private, to manifest his religion or belief in worship, observance, practice and teaching.”
12. In 2014, the UN Special Rapporteur on freedom of religion or belief, Professor Heiner Bielefeldt, visited Viet Nam to assess the situation in the country. However, scheduled visits to An Giang, Gia Lai and Kon Tum were interrupted when some individuals Professor Bielefeldt planned to meet were “intimidated, harassed or prevented from travelling by the police”. The Special Rapporteur subsequently asserted that “serious violations of freedom of religion or belief are a reality in Viet Nam”, and made reference to the “negative attitude towards the rights” of religious minorities.⁴
13. CSW continues to receive reports of violations against every major religious community in Viet Nam, including Buddhists, Catholics, Cao Daists, Hoa Hao Buddhists, Protestants and Muslims. Violations included harassment, intimidation, forced eviction, intrusive surveillance, the disruption of religious services, the confiscation of religious materials, arrest, imprisonment, torture and extra-judicial killing. The situation for religious communities varies widely between different parts of Viet Nam, and those in remote areas belonging to ethnic minorities, as well as unregistered religious groups, are particularly at risk of violations.
14. On 1 January 2018 the nation’s first Law on Belief and Religion came into effect. The new law continues the system of mandatory registration of religious organisations and activities. Religious communities, lawyers and activists have criticised the law for interfering in the internal affairs of religious organisations, and using vague and ambiguous language regarding ‘national unity’ and ‘traditions’, which could be used to arbitrarily reject or hinder registration applications. The continued actions of the government remain in direct contravention to Article 18 of the ICCPR as evidenced below.

Buddhists

15. Thich Quang Do, leader of the Unified Buddhist Church of Viet Nam (UBCV), an unregistered independent religious group with a strong focus on advocating for FoRB, was deprived of liberty in various forms for over 30 years, including several periods of imprisonment and house arrest. In November 2018 it was reported that Thich Quang Do had arrived safely at a temple belonging to the UBCV in Ho Chi Minh City.⁵ However, the UBCV continues to suffer ongoing harassment and intimidation from the authorities. Members of the UBCV’s Buddhist Youth Movement have

⁴ United Nations, Press Statement on the visit to the Socialist Republic of Viet Nam by the Special Rapporteur on freedom of religion or belief, 31 July 2014

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14914>

⁵ Vietnam Committee for Human Rights, UBCV Leader Thich Quang returns safely to Saigon, 28 November 2018, <https://queme.org/en/ubcv-leader-thich-quang-returns-safely-saigon/?v=79cba1185463>

also been harassed. Their right to freedom of assembly has been violated because they have been prevented from meeting, and placed under travel bans. Despite the peaceful nature of their activities, UBCV members have been subject to intimidation, police interrogation, public ‘denunciation sessions’, assault, vandalism, threats and harassment.⁶

16. Do Thi Hong, a leader of the Buddhist sect An Dan Dai Dao, is suffering from poor health in prison, having been sentenced to 13 years in prison and five years house arrest in 2012 on the charge of ‘plotting to overthrow the government’. In a closed trial in 2013, the group’s founder Phan Van Thu was given a life sentence, and 21 other leaders were sentenced to a collective total of 299 years in prison and 105 years of house arrest. ‘Incriminating’ evidence included excerpts from a sermon by the founder which referenced human rights, protection of the environment, and international law.

Cao Dai

17. In 2014, the then UN Special Rapporteur on freedom of religion or belief, in a visit report, proposed that a ‘litmus test’ for the development of religious freedom in Viet Nam is the condition of ‘independent or unregistered religious communities’. Religious groups which choose not to register with the authorities for reasons of conscience, or have had their application for registration rejected or ignored are subject to various levels of harassment, intimidation and violence.
18. For example, the government only recognises Cao Dao groups operating under the government-approved Cao Dao Administrative Council. The authorities have harassed independent Cao Dao groups and destroyed homes used for meetings; members have been prevented from engaging in peaceful religious activities and some have been stopped from travelling abroad to meet with religious freedom advocates.
19. According to a report by the Association to Protect Freedom of Religion, in January 2018, Cao Dai Church leader Hua Phi suffered severe health issues after being interrogated by police for several days in Lam Dong Province, regarding his interviews with foreign media and meetings with international delegations on FoRB, among other things. After he collapsed on 29 January 2018, authorities blocked his access to medical treatment and visits from representatives of the Inter-faith Council. His left leg is paralysed following his collapse.⁷

Catholic and Protestants

20. Montagnard ethnic minority Catholics and Protestants in the Central Highlands of Viet Nam are subject to serious ongoing human rights violations, including pressure to recant; forced eviction⁸;

⁶ Vietnam Commission for Human Rights (VCHR) Freedom of Religion or Belief State Management of Religions in Vietnam, <http://queme.org/app/uploads/2016/02/Report-VCHR-FoRB-in-Vietnam-State-management-of-religionsFeb-2016.pdf>, p. 23, February 2016

⁷ Hội Đồng Liên Tôn Việt Nam, Report on Religious Freedom in Vietnam Period: 1st Quarter of 2018, 18 April 2018. <https://www.facebook.com/notes/h%E1%BB%99ib%E1%BA%A3o-v%E1%BB%87-quy%E1%BB%81n-t%E1%BB%B1-do-t%C3%B4n-gi%C3%A1o/report-on-religious-freedom-invietnam-period-1st-quarter-of-2018/798943186961845/>

⁸ Some villages also have “village rules” which state that no-one in the village may convert to Christianity and that

denial of access to public services and grants following conversion to Christianity; beatings, torture and sexual abuse; arbitrary detention, sometimes followed by a trial and imprisonment; threats and intimidation; disruption of religious services; being physically prevented from attending religious services; confiscation of religious materials; and denial of access to education.

21. Often attacks are carried out by ‘thugs’ believed to be hired by local authorities to pressure unregistered groups to stop their religious activities. In June 2014, 76 Christians at a Mennonite Christian Centre in Binh Duong Province were kicked, punched and detained by a crowd of 300 to 500 people, led by the local police chief.
22. In August 2016, authorities in Kontum and Dak Lak began interrogating leaders and members of the Evangelical Church of Christ (ECC), demanding that they stop religious activities and cease all contact with overseas ‘foreign reactionaries’. On 18 August 2016, public security officers arrested Pastor A Dao, a Ha Lang ethnic minority Protestant belonging to the ECC, while he was traveling to visit church members in Gia Lai Province. They confiscated his mobile phone, checked its contents and accused him of violating government policy on ‘unifying all people’ and of acting against the government. On 28 April 2017 he was sentenced to five years in prison for helping people illegally leave Viet Nam, a charge he denies. Other church members have been detained, strip searched and questioned about Pastor A Dao and their connections with overseas groups and the UN.
23. Between 18 and 27 April 2018, members of the ECC in Dak Lak reported being threatened by local police with imprisonment “as what happened to Pastor A Dao [sic]” and “like lawyer Nguyen Van Dai” if they did not give up their religious activities. They were warned not to contact human rights organisations or talk about human rights issues to people outside Viet Nam.

Hoa Hao Buddhists

24. Independent Hoa Hao Buddhist groups not affiliated with the state-sponsored Hoa Hao Administrative Council suffer ongoing harassment from the authorities, including confiscation of property used for religious worship, intrusive surveillance and disruption of religious activities.
25. In February 2018, authorities in An Giang Province sentenced six Hoa Hao Buddhists to between two and six years in prison for holding a peaceful demonstration against the suppression of FoRB after police prevented them commemorating the death of another community member. All six were charged with ‘disrupting public order’ under Article 245 of the penal code; one person was also charged with ‘resisting officials performing their duty’ (Article 257).⁹

Other Religious Minorities

26. Muslims from the Cham ethnic group have reported restrictions on women’s religious dress in schools and workplaces. Others avoid wearing religious dress to avoid discrimination. Cham

converts will be evicted, contradicting domestic and international law.

⁹ 10 CSW, ‘Six Vietnamese Hoa Hao Buddhists sentenced’, 12 Feb 2018, <http://www.csw.org.uk/2018/2/12/press/3839/article.htm>

Muslim organisations must be registered with the government: however, many Cham people do not accept the legitimacy of the Administrative Council as their official representative body. There are also reports that Muslim and Hindu Cham places of worship have been used as tourist attractions, at times disrupting legitimate religious activities, while land and buildings of religious significance have been confiscated by developers with support from the authorities.

27. In January 2017, authorities in Thai Nguyen Province destroyed funeral sheds belonging to Hmong followers of Duong Van Minh (DVM), a group not recognised by the government (since 2015, at least nine funeral sheds have been destroyed in one village alone).

Recommendations

28. Revise all regulations and legislation pertaining to religion to ensure they align with international standards as set out in Article 18 of the ICCPR, in consultation with religious communities and legal experts;
29. Ensure that any form of registration system is optional, not mandatory, and is not used as a tool to control religious activities;
30. Immediately release HRDs detained or imprisoned in connection with their peaceful defence of the rights of others;
31. Immediately release all prisoners of conscience detained in connection with their religion or belief, and investigate cases of wrongful imprisonment;
32. Ensure that all forms of torture and ill-treatment cease immediately. The State Party must guarantee that perpetrators of torture and ill-treatment, including extrajudicial killing, are held to account. Where necessary, legal provisions should be revised or revoked in order to comply with the Convention against Torture (CAT), to which Viet Nam is party;
33. Cases of abuse of power by authorities should be subject to thorough, impartial investigations, and mechanisms established to deal with complaints by religious communities and individuals.
34. Consult with genuine, independent civil society groups in Viet Nam and strongly encourage their participation in preparations for human rights related reporting, including the UN UPR process;
35. Ensure that no citizen is detained incommunicado and that family members of detainees are informed of their whereabouts and the charges against them in good time, in accordance with international standards and ensure that they receive adequate legal representation.
36. Revise national laws and relevant policies to ensure that they are in line with the international conventions to which Viet Nam is a party, including CAT and the ICCPR.