

Country Briefing on Freedom of Religion or Belief in the Universal Periodic Review Process - Vietnam

Key points

An examination of the Universal Periodic Review (UPR) of Vietnam across two cycles (2009, 2014) reveals the following:

- While Freedom of Religion or Belief (FoRB) is guaranteed in the Constitution, domestic laws and practices do not conform with international standards,
- Systematic discrimination and persecution was reported against all religious groups, especially ethnic and religious minorities, and
- Bureaucratic and administrative obstacles hinder the full enjoyment of FoRB, especially by non-recognized religious groups.

Key UPR recommendations on FoRB

The following recommendations were made on FoRB across two cycles:

- Review laws to ensure full compliance with requirements of Article 18 of the International Convention on Civil and Political Rights (ICCPR),
- Take better care of religious minorities and to ensure effective protection of their FoRB,
- Eliminate bureaucratic and administrative obstacles, which hinder the activities carried out by religious communities and groups, including non-registered groups, and
- Re-engage with the United Nations Special Rapporteur on FoRB.

Follow-up action for parliamentarians

Whereas the Government of Vietnam has noted its guarantees on FoRB, *Parliamentarians must follow-up in order to:*

- Bring Vietnam's FoRB laws in conformity with international standards,
- Ensure the protection of FoRB of ethnic and minority communities,
- Ensure the proper investigation of violations of FoRB and the persecution of individuals for their religious beliefs and practices, and
- Ensure renewed and sustained interaction with UN special procedures.

The situation of FoRB in Vietnam as revealed in the UPR is outlined hereafter.

Background

What is the UPR?

The UPR of the United Nations Human Rights Council (HRC) is a peer-review process to foster dialogue on human rights and to improve adherence to universal standards and best practices.

It was launched in 2007 through UN General Assembly Resolution 60/251.

Every 4.5 years each Member State's human rights record is examined by peers.

A number of key documents are submitted:

National Reports from Member State concerned,

Information from UN bodies and treaty-based rights mechanisms, and

Information provided by relevant stakeholders, including civil society and think-tanks.

The State under review (SUR) is evaluated on its compliance with the international human rights standards and best practices.

The SUR receives recommendations from other States on how the national human rights practices could be improved.

The SUR may accept, note or reject each

Demographics

1. Vietnam has a population of 95 million people spread over an area of 331,216.6 sq km. The Government recognizes 54 ethnic communities, the majority of which are Kinh (Viet) (85.7%), Tay (1.9%), Thai (1.8%), Muong (1.5%), Khmer (1.5%), Mong (1.2%), Nung (1.1%), Hoa (1%), others. (4.3%) (CIA *World Factbook*, 2017)

Religious Mix

2. The population comprises Buddhists (7.9%), Catholics (6.6%), Hoa Hao (1.7%), Cao Dai (0.9%), Protestants (0.9%), Muslims (0.1%) and no religion affiliation (81.8%) according to 2009 estimates.(CIA *World Factbook*, 2017)

Legal Provisions on FoRB

3. The revised Constitution of Vietnam, adopted in 2014, includes Chapter 2 on “Human Rights, Fundamental Rights and Obligations of Citizens”. It stipulates in Article 24 (1) that “Everyone has the right to freedom of belief and religion, and has the right to follow any religion or to follow no religion. All religions are equal before law.” Article 24(2) goes on to note that the State shall respect and protect the freedom of belief and religion and no one may violate the freedom of belief and religion, nor may anyone take advantage of a belief or religion in order to violate the law. The National Assembly is entrusted, under Article 70, with deciding on state policies on ethnicities and religion.
4. The previous Constitution of 1992, in force at the time of the first cycle of Vietnam’s review under the UPR process, had also fully recognized all human rights under Articles 2 and 50. Equality and non-discrimination (Article 52 of the 1992 Constitution) were guiding principles for all legal documents and an important premise for the guarantee and promotion of people’s rights in specific areas.

Vietnam government submissions

5. Vietnam considered religion or belief legitimate needs of the people and had made continuous efforts to create better conditions for religious and belief activities. Vietnam’s legal documents have incorporated in full the civil and political rights recognized in the Universal Declaration of Human Rights and other international human rights treaties, especially the ICCPR.
6. The Government called attention to the Constitution of 1992. It noted that human rights were present throughout the chapters and sections of the Constitution and were enumerated in many important legal documents, particularly in relation to civil and political rights. Equality and non-discrimination (Article 52 of the Constitution) were the guiding principles for all legal documents and important premises for the guarantee and promotion of people’s rights in specific areas.

7. The Government noted significant achievements in the development and strengthening of the legal system essential to the protection and promotion of human rights. It noted that since 1986, Vietnam had promulgated and amended around 13,000 laws and by-law documents, in which civil and political rights were elaborated. Among these laws was the Ordinance on Religion and Belief. In November 2012, the Government issued Decree 92/2012/ND-CP (Decree 92) on guidance for the implementation of the Ordinance on Religion and Belief. The Government noted many new features in Decree 92 which create favourable conditions for religious activities. The National Assembly had decided to have the amendment of the Ordinance on Religions and Belief in the programme of the XIII National Assembly
8. Vietnam's diversity and freedom of worship were noted. The government noted in the first cycle that there were around 20 million followers of different religions and that 80 % of the population belonged to a religion or belief. In the second cycle it noted that 95% of all people had some forms of belief, with over 24 million being followers of different religions (compared to about 20 million in 2009). There were about 25 thousand places of worship and 45 dignitary training centres. Religious activities, particularly major annual festivities, are organized solemnly with the participation of hundreds of thousands followers. Vietnam had many religious activities and yearly, there were about 8,500 religious festivals at national and regional levels. Especially, the 2011 Holy Year of the Catholic Church was a great success
9. Religious organisations in Vietnam actively participated in many cultural, social, healthcare and humanitarian activities, contributing to the country's development. The international relations of Vietnamese religious organisations were expanded, with religious leaders participating in many international fora, dialogues among religions and faiths, and exchanges of views on religious beliefs and rules at important fora like Asia-Europe Meeting (ASEM) and Association of Southeast Asian Nations (ASEAN) events.
10. It noted that freedom of religion or belief of people from ethnic minorities were also protected and promoted by the State. The Khmer Nam Tong Buddhist Institute was established and books in Khmer language were imported to facilitate dignitary training and religious practices of the Khmer people. The Cham followers of Muslim and the Brahman have been supported in the establishment of the community representative boards in order to assist the religious practices, as well as preserve and expand the traditional religions. Bilingual bibles (VietBahnar, Viet-Ede, Viet-Jrai) were published to meet the demand of religious practices of ethnic minority followers. It noted the Government's allocation of land for the religions to build places of worship. Religious texts have been printed in ethnic minority languages, such as Bana, Ede, Jrai and Khmer.

11. Nevertheless, it noted that human rights were always linked to the history and traditions, and the level of socio-economic development of a country. There was a need to combine common principles and standards under international law harmoniously with particular historical, political, economic, social conditions, and cultural, religious and belief values, as well as customs of each nation and region. It argued that the protection and exercise of human rights needed to evolve in line with the stage of development of Vietnam and in conjunction with interests and duties of citizens towards society.
12. Vietnam had received the Special Rapporteur on freedom of religion or belief (19 to 28 October 1998) but disengaged with the Special Rapporteur hereafter. After numerous calls in the first cycle to re-engage, it stated that it will consider receiving the Special Rapporteur on freedom of religion or belief in August 2014.

Stakeholder submissions across the two cycles

13. Stakeholders noted State imposed barriers to FoRB, constitutional clauses that undermined FoRB, problems with the registration and recognition of some denominations and congregations, discriminatory laws on ethnic and religious grounds, persecution of religious groups and interference in the affairs of religious organizations.
14. Joint Submission (JS) 5 in cycle two noted numerous State-imposed barriers remained on the free practice of religion, including restriction on registration, intervention in religious organizations' internal affairs, State approval of appointments for church leadership, and restrictions on proselytizing.
15. Articles that undermine FoRB. Despite constitutional guarantees of FoRB under Article 70 of the 1992 Constitution, the Institute on Religion and Public Policy (IRPP) called attention to clauses that serve to undermine freedom of religion. It cited Article 30 of the Constitution states: "the State undertakes the overall administration of cultural activities. The propagation of all reactionary and depraved thought and culture is forbidden; superstitions and harmful customs are to be eliminated." IRPP argued that this provided an administrative loophole allowing the authorities to brand certain forms of religious expression as "depraved culture," "superstitions," or "harmful customs.", thus enabling discrimination against religious beliefs or groups without any specific, objective criteria. International PEN expressed similar concerns.
16. Complex and ill-defined process for the registration and recognition of denominations and congregations. Christian Solidarity Worldwide (CSW) noted two policy documents: "Ordinance Regarding Religious Beliefs and Religious Organizations" that came into effect on 15 November 2004 and "Decree on Religion" promulgated on 1 March 2005 as a set of guidelines for the implementation of the Ordinance, included

the complex and ill-defined process for the registration and recognition of denominations and congregations.

17. CSW noted that, while the previously mentioned Ordinance guarantees the right to freedom of religion and religious belief, it 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. These caveats in the Ordinance included Article 8 (2) that prohibits the “abuse” of religion to undermine national unity, to “sow division among the people, ethnic groups and religions” or to “spread superstitious practices”, and Article 15 that provides that religious activities will be suspended if they “negatively affect the unity of the people or the nation’s fine cultural traditions.
18. Discriminatory provisions on ethnic and religious grounds, were noted by the Committee on the Elimination of Racial Discrimination (CERD), in particular Articles 8 and 15 of the Ordinance on Belief and Religion (2004), which forbade religious activities deemed to “violate national security” and “negatively affect the unity of the people or the nation’s fine cultural traditions”.
19. JS 1 specified that the Draft Constitution contained broad and ill-defined restrictions on the “misuse” of religious freedom.
20. Decree 92 according to CSW, added new obstacles to the process of registration for religious organizations and includes vague references to “national unity” which created opportunities for officials to arbitrarily reject applications.
21. Both registered and unregistered religious groups, according Jubilee Campaign, suffered from persecution. They often had their personal items/homes destroyed, property seized and were subjected to beatings, false arrests, sham trials and death.
22. Vietnam’s Interfaith Confederation recommended that Vietnam respect the right of religious organizations to decide on internal matters, including the right to select trainee and train priests and monks, appoint office holders, the right to private property, the right to preach, to provide education, to carry out charity work, the right to liaise with fellow religious institutions overseas. United Caodai Tayninh Holy See Overseas recommended that Vietnam ensure that Caodaist followers are free to produce religious books.
23. JS4 stated that since the last UPR, the authorities had intensified repression against United Buddhist Church of Viet Nam (UBCV) members, subjecting UBCV leaders to beatings, house arrest and surveillance, harassing Buddhists who frequent “reactionary” UBCV Pagodas and smashing Buddha statues.

24. According to Bloc 8406, religious activities deemed to threaten the authority of the Communist Party of Vietnam (CPV) are banned or carefully monitored and controlled.
25. Discrimination and persecution of minority ethnic and religious groups. Despite improvements in religious freedom, the European Centre for Law and Justice (ECLJ) noted that the majority religion continues to benefit from a preferential treatment while signs of hostilities remain concerning minority religions and non-authorized religions, notably Christians. The Christians are closely monitored and be subjected to discrimination, even to violence when they belong to a particular ethnic group.
26. The IRPP called attention to systematic discrimination and persecution against every religious group within the country, from Buddhists to Catholics to Protestants. Persecution is exacerbated by the fact that many of these religious communities are found among Viet Nam's ethnic minorities.
27. The Independent Expert on Minority Issues remained concerned by continuous reports that legitimate religious practices and peaceful protests by religious minorities – including ethnic minority Protestants, H'mong Christians and Khmer Buddhists – had resulted in restrictions on the freedoms of movement, expression and assembly, harassment and imprisonment. She urged the Government to respect fully the rights of religious minorities and refrain from imposing unjustified restrictions or penalties on individuals and communities exercising their right to peaceful protest. In 2002 the Human Rights Committee had expressed serious concern that the practice of the State does not meet the requirements of article 18 of the ICCPR. In 2001, the CERD expressed concern about reports of discrimination in the exercise of religious freedom by minority ethnic groups
28. Violations against Montagnards, an ethnic minority in the Central Highlands was highlighted. These included restrictions on movement and forcing Christians belonging to unauthorized "house churches" to renounce their religion. An unknown number of Montagnards from among the more than 250 who were sentenced to lengthy prison terms in connection with the large-scale protests in 2001 and 2004 around land ownership and religious freedom, are believed to remain in prison. The International Federation for Human Rights (FIDH) and the Vietnam Committee on Human Rights (VCHR) noted that the Montagnards in the Central and Northern Highlands of Vietnam suffer discrimination, including social exclusion, confiscation of ancestral lands, state-sponsored migration of ethnic Vietnamese into highland areas and the undermining of traditional culture. Religious persecution is also a key issue, since many Montagnards have converted to Protestantism. In cycle two the Council Of Indigenous Peoples in Today's Vietnam and others stated in joint submission that the Government continued to arrest, torture and jail Montagnard Christians. There were then over 400 Montagnard Christians in prison for their religious or political beliefs. Between 2001 and 2004, over 400 Montagnard house churches were

destroyed, and hundreds of Montagnards were arrested and imprisoned for their participation in demonstrations that objected to the policy of land confiscation and religious rights. Most of these house churches remained closed and practically all Montagnard prisoners remained in detention to date. Montagnard Christians were often forced to renounce their faith, and they were beaten. Many suffered solitary confinement and torture. Unrepresented Nations and Peoples Organisation (UNPO) recommended that Vietnam allow full, impartial and transparent investigations into reports of violence against indigenous and minority communities, and ensure that perpetrators of such violence are brought to justice.

29. The case of the Khmer Krom was also highlighted. Association Tourner la Page (ATLP) noted that the issue of religion is related not only to freedom of worship but also to the preservation and transmission of cultural heritage. In a context in which Vietnamese is the language of education and the language used by the administration, Buddhist temples are the main venue in which Khmer is taught and used (majority of Khmer Kroms practise Theravada Buddhism, unlike the majority of Vietnamese, who practise Mahayana Buddhism). As a result, restrictions on the practice of Theravada Buddhism not only have a direct impact on the freedom of worship of the Khmer peoples of Vietnam but also on the transmission of the Khmer language and culture.
30. Minorities were affected by discrimination in the household registration system (*hộ khẩu*), which affected ethnic minorities belonging to “unrecognized” religious groups in employment, social security, health services, education and the right to freedom of movement.
31. Double discrimination against unrecognized religious groups and the need to ensure their rights to freely practice religion was noted. CERD called attention to restrictions on religious practices faced by some Christian and Buddhist among Khmer Krom, Degar (Montagnard) and Hmong, recommending that Vietnam address the double discrimination faced by ethnic minorities.
32. Intolerance of the Christian faith was also raised. The Special Rapporteur on freedom of religion or belief transmitted allegations concerning arrest and detention of church followers (i.e. Mennonite Christian Church, Unified Buddhist Church of Vietnam, and Christians belonging to the Degar/Montagnard ethnic group), other religious adherents, including allegations of torturing to death, and arbitrary killings by security forces.
33. Intolerance of the propagation of Christian faith and new Christians continued according to CSW. They faced restrictions such as forced evictions, restrictions on freedom of movement and restrictions on access to theological training are occasionally reported. CSW noted that the decreased rate of registration of protestant congregations have been leaving those which are unregistered in an indeterminate legal condition, vulnerable to harassment and aware of the threat of possible closure. Congregations without clear denominational affiliation were likely to encounter

problems with registration. New churches and those with ethnic minority congregations were also liable to face particular difficulties. Authorities tended to request a list of names of members of the congregation.

34. Protestantism was targeted and treated with continued suspicion by the Government and local party leaders, resulting in several forms of repression and discrimination, some forcible renunciations as there is still evidence that this approach has not been abandoned uniformly, particularly in the northern and central highlands, and cutting of their access to funding and benefits originating with the government and NGOs, which are mediated through the village-level authorities.
35. 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 recognize their religious affiliation. 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.
36. In the context of the central highlands, CSW noted that there continued to emerge evidence of a conflation of Protestantism with the Degar political movement by government officials, indicative of a continued distrust of Protestant activity on political grounds. Although there 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 Degars' political ambitions.
37. The situation of the UBCV, adhered to by the majority of the Vietnamese population, was of concern to FIDH and VCHR. UBVC was banned in 1981 following the creation of the State-sponsored Vietnam Buddhist Church and its leaders and members were subjected to detention, intimidation and constant harassment. Despite repeated appeals from the international community, Vietnam has not re-established its legal status.
38. Detention and imprisonment of persons attending religious vigils was noted by FIDH and VCHR further noted that in 2007 the authorities arrested 20 Khmer Krom Buddhist monks for participating in a peaceful protest calling for religious freedom. Five received prison sentences. Excessive force has been used against Khmer Krom farmers petitioning for resolution of land conflicts. Amnesty International (AI) noted that in September 2008 police carried out a violent crackdown on peaceful mass protests in Ha Noi. Since December 2007, members of the Catholic Church were engaged in peaceful mass protests and prayer vigils to support the church's claims to ownership of two pieces of land. AI further noted that the authorities continued to threaten and otherwise intimidate Catholics who supported the church's claims.

39. Reports by CSW note 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 are present for the previous year.
40. Chau Pha members have been active in attempting to recruit Hmong, including Protestants, in Dien Bien province, using a promise of full religious freedom. Hmong Protestants in the region risk being caught between violent hostility from Chau Pha activists, and the Government's suspicion that they are sympathetic to the Chau Pha movement.
41. Arrest and arbitrary detention of citizens – religious dissidents - who are sent to mental hospitals or rehabilitation camps without due process of law. FIDH and VCHR noted Ordinance 44 on “Regulating Administrative Violations”, was particularly used against political and religious dissidents, and legalizes the arbitrary practice of detention without trial. CIVICUS noted that dozens of human rights defenders, including civil society activists, land rights activists and religious advocates remained in prison and subjected to extrajudicial forms of detention for their political or religious views.
42. Indefinite detention of political and religious prisoners *after their release*. Persons under 2004 Criminal Procedures Code (Article 120), regarded as suspected “national security” offenders may be held in custody pending investigation for four months. This period may be extended four times by the Chairman of the Supreme People’s Procuracy, after which the authorities must either release detainees or “if deeming it necessary, apply other deterrent measures”. FIDH and VCHR stated that *Quan che*, or “probationary detention” (Article 30 of the Penal Code) is a second punishment inflicted on former political prisoners. It enables the State to place “national security” offenders “under the supervision and re-education of the local authority” for a period of 1-5 years’ probation after their release. During this time, they are forbidden to leave their homes, deprived of their civic rights and maintained under constant police surveillance. In theory, quan che cannot be applied without a court decision, but in practice it is automatically applied to political and religious prisoners after their release for many years.
43. Torture was alleged by Human Rights Watch which stated that it had compiled compelling evidence of torture and ill-treatment of political and religious prisoners. Boat People SOS (BPSOS) noted use of torture to dissuade from independent religious activity.
44. Calls were made by AI on the Government to end restrictions on the right to practice one’s religion of choice without discrimination, in accordance the Constitution as well as international human rights law; and to ensure that relevant authorities are aware of their duty to protect individuals’ right to freedom of religion

45. Non-cooperation with special procedures. Vietnam has not allowed visits since 1998, when the Special Rapporteur on FoRB raised concerns on abuses of the same. It announced then that it would never again “accept any individuals or organizations coming to investigate religious freedom or human rights”.

Observations by other states

46. States urged Vietnam to continue efforts and keep improving on FoRB, (Cambodia, Lebanon, Republic of Korea) and noted progress (Singapore, Kazakhstan).
47. States also urged the Government to take a number of steps to improve the situation of FoRB in Vietnam including:
- a. To review its laws to ensure full compliance with requirements of Article 18 of the ICCPR. Its implementation of legislation on FoRB remains patchy (Belgium, Chile, Italy, United Kingdom, Poland).
 - b. To take necessary steps to ensure that citizens can fully enjoy the rights to freedom of expression and freedom of religion (Argentina).
 - c. To take care of religious minorities to ensure without delay effective protection of the rights of ethnic and religious minorities (Cabo Verde, Pakistan, Poland).
 - d. To respect the rights of ethnic and religious minorities and take the necessary measures to prevent and halt persecution, forced eviction and confiscation of their property (Mexico).
 - e. To strengthen efforts in the areas of civil and political freedoms, including freedom of expression and the press and freedom of religion (Republic of Korea).
 - f. To eliminate bureaucratic and administrative obstacles, which hinder the activities carried out by religious communities and groups, including non-registered groups (Canada, Italy, USA).
 - g. To recognize the UBCV and allow it to function independently of the Vietnamese Buddhist Sangha as well as allow multiple branches of the Hao Hao and Cao Dai faiths (USA).
 - h. To re-engage with the United Nations Special Rapporteur on religion (Italy United Kingdom, New Zealand, Argentina).

References

General Reference

CIA World Factbook 2017

References on the UPR of Vietnam

Documents on the UPR of Southeast Asian States are available on the websites of UPR Info and of the OCHR. They consist of National Reports, Stakeholder Submissions and Recommendations by Peers. For Indonesia all documents are available as follows:

UPR Info: <https://www.upr-info.org/en/review>

OHCHR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDIndex.aspx>

UPR First Cycle 2009

1. National Report Submitted In Accordance With Paragraph 15 (A) Of The Annex To Human Rights Council Resolution 5/1. A/HRC/WG.6/5/VNM/1. 16 February 2009
2. Compilation Prepared By The Office Of The High Commissioner For Human Rights, In Accordance With Paragraph 15 (B) Of The Annex To Human Rights Council Resolution 5/1. A/HRC/WG.6/5/VNM/2 16 March 2009.
3. Summary Prepared By The Office Of The High Commissioner For Human Rights, In Accordance With Paragraph 15 (C) Of The Annex To Human Rights Council Resolution 5/1. A/HRC/WG.6/5/VNM/3. 23 February 2009.
4. Draft Report Of The Working Group On The Universal Periodic Review. A/HRC/WG.6/5/L.10 12 May 2009.
5. Universal Periodic Review Report of the Working Group on the Universal Periodic Review. A/HRC/12/11 17. September 2009.

UPR Second Cycle 2014

6. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. A/HRC/WG.6/18/VNM/1. 8 November 2013.
7. Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21. A/HRC/WG.6/18/VNM/2. 7 November 2013.

8. Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21. A/HRC/WG.6/18/VNM/3. 4 November 2013.
9. Draft report of the Working Group on the Universal Periodic Review. A/HRC/WG.6/14/L.14. 7 February 2014.
10. Report of the Working Group on the Universal Periodic Review. A/HRC/26/6. 2 April 2014