

32 Session of the Universal Periodic Review

Socialist Republic of Vietnam

Submission by CSW (Christian Solidarity Worldwide)

Introduction

1. CSW is a human rights organisation specialising in freedom of religion or belief (FoRB) for all.
2. This submission seeks to draw attention to particular FoRB concerns in Vietnam. It will consider Vietnam's current commitments and the legal framework relating to FoRB, violations against FoRB and the situation of human rights defenders (HRDs).
3. During the reporting period, CSW continued to receive reports of violations against every major religious community in Vietnam, including Buddhists, Catholics, Cao Daists, Hoa Hao Buddhists, Protestants and Muslims. Violations included harassment, intimidation, forced eviction, intrusive surveillance, disruption of religious services, confiscation of religious materials, arrest, imprisonment, torture and extra-judicial killing. The situation for religious communities varies widely between different parts of Vietnam and individuals who are both ethnic and religious minorities. Those in remote areas and belonging to unregistered groups suffer doubly. FoRB defenders are especially targeted by the authorities.

Commitments relating to freedom of religion or belief (FoRB)

4. In the second Universal Periodic Review (UPR) cycle in 2014, Vietnam accepted nine recommendations directly related to FoRB and noted one.¹
5. Accepted recommendations included calls to comply with international standards (Chile, Belgium), remove administrative obstacles to religious practice (Italy, Canada), promote harmony and tolerance (Singapore, United Arab Emirates), and protect the rights of religious and ethnic minorities (Cape Verde, Mexico). However, a recommendation to issue a standing invitation to all UN Special Procedures (United Kingdom) was rejected.
6. Reports of FoRB violations during the reporting period indicate that the accepted recommendations have not been implemented. Also, changes to the legal framework fall short of meeting international standards on FoRB.
7. In 2014, the UN Special Rapporteur on freedom of religion or belief, Professor Heiner Bielefeldt, visited Vietnam 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

¹ UPR Info's Database of Recommendations for Vietnam, https://www.upr-info.org/database/index.php?limit=0&f_SUR=191&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly, accessed May 2018

violations of freedom of religion or belief are a reality in Vietnam”, and made reference to the “negative attitude towards the rights” of religious minorities.²

Legal framework concerning religion

8. On 18 November 2016 Vietnam’s National Assembly passed the nation’s first ever Law on Belief and Religion. The Law came into effect on 1 January 2018.³
9. Religious communities, lawyers and HRDs have criticised the law for interfering in the internal affairs of religious organisations. They further criticised vague and ambiguous language regarding ‘national unity’ and ‘traditions’, which could be used to reject or hinder registration applications.
10. In June 2017, the President and General Secretary of the Catholic Bishops’ Conference of Vietnam issued a statement criticising the law for continuing the system by which religious communities must inform government authorities about their activities which may or may not be approved, arguing that it allows the government to intervene in religious communities’ internal affairs. The Interfaith Council of Vietnam welcomed the statement.⁴

Freedom of Religion or Belief Violations

Buddhists

11. Thich Quang Do, leader of the Unified Buddhist Church of Vietnam (UBCV), an unregistered independent religious group with a strong focus on advocating for FoRB, has been deprived of liberty in various forms for over 30 years. Currently being held under house arrest without charge in Thanh Minh Zen Monastery in Ho Chi Minh City, his communications are closely monitored and he is under constant police surveillance. Members of the UBCV’s Buddhist Youth Movement have also been harassed, 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.⁵
12. 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.

² 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>

³ CSW, Vietnam: Freedom of religion or belief: current issues & cases, July 2017

⁴ <http://www.ucanews.com/news/support-for-vietnamese-bishops-criticism-of-religious-laws/79574>

⁵ 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-religions-Feb-2016.pdf>, p.

Cao Dai

13. The government only recognises Cao Dai groups operating under the government-approved Cao Dao Administrative Council. During the reporting period, the authorities 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.
14. 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.⁶

Catholics and Protestants

15. Catholic leaders and activists have been beaten, denounced by officials, and imprisoned for organising peaceful protests following the Formosa company steel plant disaster in April 2016, which left many families with no means of livelihood. The heavy police crackdown on protesters prompted the Office of the UN High Commissioner for Human Rights (OHCHR) to issue a statement of concern.⁷ In April 2018, Catholic activist Tran Thi Xuan was sentenced to nine years in prison and five years house arrest for ‘attempting to overthrow the people's government’. State media accused her of organising protests against Formosa company at the local government headquarters.
16. Montagnard ethnic minority Catholics and Protestants in the Central Highlands of Vietnam are subject to serious ongoing human rights violations, including pressure to recant; forced eviction⁸; 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; denial of access to education; and damage to properties used for religious services. According to the Montagnard Human Rights Organization and the Campaign to Abolish Torture in Vietnam, the government “targets independent religious communities of Montagnards in the Central Highlands for systematic persecution or eradication”.⁹

⁶ Report on Religious Freedom in Vietnam Period: 1st Quarter of 2018 <https://www.facebook.com/notes/h%E1%BB%99i-b%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-in-vietnam-period-1st-quarter-of-2018/798943186961845/>

⁷ Press briefing note, Spokesperson for the UN High Commissioner for Human Rights, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19961&LangID=E>

⁸ Some villages also have “village rules” which state that no-one in the village may convert to Christianity and that converts will be evicted, contradicting domestic and international law

⁹ Vietnam’s relentless representation of Montagnards, May 2018, http://www.stoptorture-vn.org/uploads/2/5/9/2/25923947/montagnard_rights_abuses_2018-5.pdf

17. 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 Vietnam, 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 United Nations (UN).
18. 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 and were warned not to contact human rights organisations or talk about human rights issues to people outside Vietnam.
19. 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. In November 2014, hammers and metal cutters were used to attack the same centre. Nine Christians at the centre were arrested and charged with not having identification cards and temporary residence papers, despite these documents reportedly being confiscated by police. Church members reported that hired thugs and police harassed Christians onsite, including during religious meetings, by pelting them with rotten eggs and using bricks and stones to damage the building.

Hoa Hao Buddhists

20. 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.
21. In April 2016, 14 Hoa Hao Buddhists in Vietnam were assaulted by security agents as they marked the anniversary of the disappearance of Hoa Hao Buddhism founder Huynh Phu So. One victim lost consciousness and security agents prevented a disabled victim, who suffered a seizure as a result of the assault, from accessing hospital treatment.
22. 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).¹⁰

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

Other religious minorities

23. 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 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.
24. According to the Khmer Kampuchea-Krom Federation, the state-sponsored Patriotic United Buddhist Association and the Party-affiliated Vietnam Buddhist Sangha (VBS) interfere heavily with religious activities and ensure that monks who advocate for greater religious freedom are removed and even imprisoned. One monk, the Venerable Thach Thuol, has been imprisoned since 2013 for peacefully exercising his right to teach Khmer in his temple school.¹¹
25. In January 2017, authorities in Thai Nguyen Province destroyed funeral sheds belonging to Hmong followers of the Duong Van Minh (DVM) religion/belief, a group not recognised by the government (since 2015, at least nine funeral sheds have been destroyed in one village alone). Anti-riot police, public security agents and local government officials also arrested and tortured seven people for two days. At a meeting with provincial authorities on 7 January 2017, high ranking officials accused DVM followers of 'opposing the party and the state', stating that the building of the funeral sheds is illegal, without reference to any legal provision.

Deaths in police custody

26. Protestant church elder Hoang Van Ngai died in police custody on 17 March 2013. Ngai defended his church – which belongs to the legally recognised Evangelical Church of Vietnam (South) – when the authorities tried to force it to close. On 15 March 2013, he and his brother Hoang Van Pa were arrested without formal documentation. Detained in an adjacent room, Mr. Pa heard the sound of violent beating just before his brother's limp body was removed from the cell on 17 March. Photographs of Ngai's corpse show severe bruising which was not there before his detention. Ngai's family rejected the police's explanation of suicide.¹²
27. 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, having been detained under Article 88 of Vietnam'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. Family members who requested an

¹¹ Khmer-Krom, subsection: Religious freedom and freedom of association, <http://unpo.org/members/7887>, accessed May 2018

¹² CSW, April 2013, Vietnam: Death in custody of Hmong Christian, Central Highlands, <http://dvov.org/wp-content/uploads/2014/07/vietnamese-christian-death-in-custody.pdf>

investigation into his death have been harassed and threatened with arrest, and subject to ongoing harassment and surveillance in connection with their affiliation with an independent Hoa Hao Buddhist religious group.¹³

Recommendations

- 28. Honour commitments made during the previous UPR to safeguard FoRB;**
- 29. 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;**
- 30. Ensure that any form of registration system is optional, not mandatory, and is not used as a tool to control religious activities;**
- 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 extra-judicial 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 Vietnam is party;**

Protect ethnic and religious minorities from all forms of social hostility, as well as discrimination by state agents; 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.

The detention of individuals promoting FoRB¹⁴

33. On 5 April 2018 human rights lawyer Nguyen Van Dai was tried and sentenced to 15 years in prison followed by five years house arrest for ‘carrying out activities aimed at overthrowing the government’ under Article 79 of the Vietnamese penal code. Dai, a Protestant Christian, has been repeatedly harassed and attacked by the authorities. On 16 December 2015 Dai and his colleague, Le Thu Ha, were arrested as they prepared to meet European Union (EU) representatives for the annual EU-Vietnam human rights dialogue. Dai and Ha were released into exile in June 2018.
34. Pastor Nguyen Trung Ton was tried on 5 April 2018 and sentenced to 12 years in prison. Ton is a Protestant pastor and HRD. Pastor Ton, his family and church members were repeatedly and violently attacked by local authorities and police. In February 2017 Pastor Ton 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. Following an appeal hearing in June 2018, Ton’s sentence was upheld.

¹³ CSW June 2017, Vietnam: Hoa Hao Buddhist death in police custody, <http://www.csw.org.uk/2017/06/21/report/3595/article.htm>

¹⁴ See also: CSW, Human rights lawyer sentenced to 15 years, 5 Apr 2018 <http://www.csw.org.uk/2018/04/05/press/3899/article.htm>

35. Also tried on 5 April 2018 was 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. He has been sentenced to 11 years in prison. Truyen was forcibly disappeared on 30 July 2017; his 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. Following an appeal hearing in June 2018, Truyen's sentence was upheld.

Recommendations

- 36. Provide a safe environment for human rights lawyers, civil society actors and HRDs, enabling them to carry out their work;**
- 37. Consult with genuine, independent civil society groups in Vietnam and strongly encourage their participation in preparations for human rights related reporting, including the UN UPR process;**
- 38. Immediately release HRDs detained or imprisoned in connection with their peaceful defence of the rights of others;**
- 39. 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.**

International legal obligations and commitments

- 40. On 5 February 2015, Vietnam ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, CSW and other human rights organisations have recorded numerous reports which suggest that the Convention has not been adequately implemented.
- 41. In addition, Vietnam 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 to the abolition of the death penalty.

Recommendation

- 42. Ratify the treaties cited above and revise national laws and relevant policies to ensure that they are in line with the international conventions to which Vietnam is a party, including CAT and the ICCPR.**

Conclusions

- 43. During the reporting period there have been numerous violations of the right to FoRB in Vietnam, which contravene Vietnam's domestic law and international human rights treaties. Furthermore, those who defend the right to freedom of religion or belief and

other universal human rights have been subject to harassment, assault, arrest, torture, imprisonment, and even extra-judicial killings.

44. CSW calls on Vietnam to uphold commitments it made at the second UPR review, and to implement the recommendations made in this submission.