

Briefing

Vietnam

Analysis:

White Paper on 'Religion and Policies Regarding Religion in Vietnam'

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Executive Summary

On 1 February 2007, the Vietnamese government announced the release of a white paper on religion, entitled, 'Religion and Policies Regarding Religion in Vietnam' (2006), published by the Central Bureau of Religious Affairs (CBRA), the main government body for the regulation of religion, and designed to present the government's policies on religion and religious freedom. As such, it indicates Vietnam's concern to address her much-vaunted religious freedom record. However, given the concurrent release of an internal training manual by the CBRA, which was leaked by CSW in November 2006 and which ultimately aims to manage, limit and reverse the growth of Protestantism in the north-western highland region, it appears that a gap remains between Vietnam's public and internal policies on religion.

Even as a propaganda document, couched in terms of respect for religious freedom, this paper is highly ambiguous. It contains several promising signs, particularly an acknowledgment of the social and humanitarian contributions of religious organisations, but the underlying approach to religious freedom which it enshrines is wrought with problems. Religious organisations are envisaged as being subordinate to the national interest, and their value is seen in contributing to the enterprise of nation-building. The foreign relations of religious organisations, and particularly human rights defenders within such organisations, are the focus of particular suspicion.

Furthermore, significant loopholes still remain within Vietnam's legislative framework for religion, which allow the arbitrary treatment of different religious groups by local officials in different areas; although a new Law on Belief and Religion is promised, it is not clear that this would address the problem. There is need for Vietnam to invest further in developing an internally coherent framework for religious freedom, which is fully consistent with international standards.

The paper must be read in the context of Vietnam's recent record on religious freedom, including the development and gradual implementation of the cumbersome provisions for registration of religious groups, the slowly-growing acknowledgment of the need for religious freedom and the highly concerning continued crackdown on religiously-affiliated human rights defenders in some parts of the country. Although the positive developments cited in the paper are not evidence of full religious freedom, they nevertheless represent steps in the right direction.

Recommendations

In light of this avowal of respect for religious freedom, CSW calls upon the Vietnamese government:

- To withdraw the provisions in the 2006 'Training Document: Concerning the Task of the Protestant Religion in the Northern Mountainous Region' for forcing renunciations of Protestant faith;
- To protect the freedom to defend human rights within Vietnam;
- To take measures to empower further social and humanitarian action undertaken by religious organisations;
- To withdraw the prohibition of direct links between foreign aid organisations and Vietnamese non-governmental organisations;
- To further expedite the printing of religious literature in ethnic minority languages;
- To return or provide land in lieu of the remaining properties confiscated from the Evangelical Church of Vietnam (South).

CSW requests that the international community calls upon the Vietnamese government:

- To carry out the above recommendations;
- To develop a viable legal framework for religious freedom which is in accord with Vietnam's obligations under international law; and to offer to share experience and to carefully monitor developments in this area.

Introduction and Context

On 1 February 2007, the Vietnamese government announced the release of a white paper on religion, entitled, 'Religion and Policies Regarding Religion in Vietnam' (2006). It was published by the Central Bureau of Religious Affairs (CBRA), the main government body for the regulation of religion.¹ The aim of the white paper is given as being an introduction to the Vietnamese government's policies on religion and religious freedom.

The release of the white paper occurs in the context of Vietnam's heightened sensitivity about her international reputation with regard to religious freedom. A period of substantial and sustained criticism of her religious freedom infringements was followed, in the latter part of 2006, by her removal from the US State Department's religious freedom blacklist of Countries of Particular Concern (CPC) in November, and her subsequent, long-coveted, entry into the World Trade Organisation (WTO). This white paper is, in part, an attempt to demonstrate a long-term commitment to religious freedom, pre-dating the recent credit awarded to Vietnam by several foreign governments. It focuses substantially on Vietnam's legislative framework for religion, claiming that this is fully consistent with international standards on religious freedom.

The white paper appears to have been forecast in an article published by Vietnamese newspaper, *Nhan Dan* on 19 January 2007, entitled, 'Vietnam increases external religious activities in 2007'. This article, reviewing past activities and setting out new priorities for the CBRA, stated, 'in 2007, Vietnam will boost external religious activities, together with intensifying the fight against the abuse of religion to undermine national unity'. This white paper appears to have been driven by a foreign 'public relations' agenda, the first of these two priorities; this is suggested by the fact that the number of English-language copies produced is double the number of Vietnamese-language copies. The second priority stated in the *Nhan Dan* article appears to have driven another, very different document, also published by the CBRA in 2006. In November, CSW released a leaked internal government manual, entitled, 'Training Document: Concerning the Task of the Protestant Religion in the Northern Mountainous Region'². Among its core provisions, this document empowered local authorities in the north-western highland region, to 'resolutely subdue the abnormally rapid and spontaneous development of the Protestant religion in the region'.

The existence of an internal document of this sort undermines the claim in the white paper that 'religious policies in Vietnam are open and transparent' (p. 41); and the divergence between the white paper and the more repressive provisions of the training manual suggests that the public image of Vietnam's policy on religion is at odds with the internal policy.³ The white paper contains an oblique reference to the training manual, describing it in an entirely positive light: 'local governments

¹ The text of the document is available at:

<http://www.vietnamembassy.us/docs/Vietnam%20White%20Paper%20on%20Religion.pdf>

² An unofficial translation of this document is available at:

<http://www.csw.org.uk/Countries/Vietnam/Resources/InternalTrainingDocument2006.pdf>. CSW has produced an analysis, which is available at:

<http://www.csw.org.uk/Countries/Vietnam/Resources/AnalysisInternalTrainingDocumentNov2006.pdf>.

³ This so-called 'double-policy phenomenon' has been widely debated, including by the Religious Liberty Commission of the Evangelical Fellowship of Canada, which published a paper, 'Distinct and Conflicting Policies: Religious Human Rights in Vietnam – the Protestant Experience', in January 2003.

have created favourable conditions for Protestants to practice their religion at home and have developed guidelines for religious assembly groups to register their activities with local authorities' (p. 34). However, the fact of its unmentioned repressive provisions demonstrates a different, hidden agenda to Vietnamese government policy on religion.

This dichotomy may also reflect the tension between traditional authoritarian and more progressive attitudes towards religion within the Communist Party of Vietnam itself. There is greater openness within the Vietnamese government to deal with the rule of law as regards religious freedom, as indicated by its participation in international conferences on this issue. The policy gap may be narrowing, as suggested by the recognition in both the white paper and the internal training manual that religion is 'a spiritual need' within Vietnam; however, while it clearly still exists, this is a matter of particular concern.

Structure and Summary of Content

The rationale for the white paper is given in its introduction: 'because of inadequate information and certain prejudices, there are those who do not yet have a complete understanding of the situation of religion and the State's policies on religion in Vietnam', and this document has been published 'to help readers, researchers, and those interested inside and outside of the country so that they have a clearer understanding about the situation of religion in Vietnam and about the Vietnamese State's policies on religion' (p. 5).

The first chapter is entitled, 'Beliefs and Religions in Vietnam', and provides an historical overview of six main religions or denominations in Vietnam: Buddhism, Catholicism, Islam, Protestantism, Cao daism and Hoa Hao Buddhism.

The second chapter is entitled, 'Policies of the State of Vietnam Regarding Belief and Religion'. An outline of the perspective of Ho Chi Minh, is followed by a summary of the core policies of the Communist Party on religion, 'sound and appropriate for each stage of the revolution'. The third section of this chapter outlines in further detail these policies, under the heading, 'The State of Vietnam Consistently Guarantees and Respects its Citizens' Right to Freedom of Belief and Religion'; this culminates with a detailed outline of the current legislative framework on religion. The next section documents the purported 'results' of these policies, and recognise aspects of the positive contributions which religious groups have made to Vietnamese society.

The third, and shortest chapter outlines the 'International Relations of Vietnamese Religious Organisations', presenting this as an international norm but with dangerous potential for 'undermin[ing] social stability and national unity'.

The paper concludes with an appendix providing statistics on the adherents, leaders and places of worship of eight religious groups. This gives a figure of 22 million religious adherents in Vietnam, which is thought to be a large underestimation.

Areas of Concern

This white paper is an exercise in propaganda, designed specifically to present a sanguine picture of religious freedom within Vietnam. It provides a relatively positive appraisal to religious groups, in part recognising their contributions to Vietnamese society, and it specifically acknowledges that 'belief and religion are spiritual needs of a segment of the population' (p. 24).

The paper was received by some as demonstrating complete openness towards religion. The *Singapore Straits Times* reported on 2 February 2007 that, '[t]o be religious is now officially welcome

in Vietnam', which must now 'overcome the *perception* ... that Vietnam repressed religious believers' (emphasis added).

However, some of its claims are clearly inconsistent with the reality reported by religious groups. This applies, for example, to the assertion that 'in Vietnam, there is no discrimination based on belief or religion; followers of different religions live harmoniously in the national community of Vietnam' (p. 5), which is discordant with the long and well-documented history of state-sponsored discrimination, harassment and persecution of adherents to different religions.

Beyond this, however, the ostensibly liberal approach to religion only thinly disguises numerous elements of a traditional communist-authoritarian mindset, which provide the foundations for a repressive approach to be taken in practice. The paper rests upon a residually utilitarian view of religion, which has driven repressive policies in the past. This hints at the continued concern that religions represent alternative organising principles, and therefore constitute a threat to the authority of the Communist Party.

Although numerous norms protecting religious freedom are cited throughout the white paper, its core premise and several corollary points give rise to specific concerns.

Subordination of religious freedom to nationalist agenda

Religious freedom is conceived as subject to the foundational principle of national unity, and necessarily subordinate to the enterprise of nation-building. The white paper states that, 'the Communist Party of Vietnam has paid consistent attention to religion and has adopted policies on belief and religion that have been sound and appropriate for each stage of the revolution' (pp. 23-24). The value of religious groups is therefore seen chiefly in terms of their service of the revolution; this is the chief criterion by which they are judged. The positive appraisal given to religious worship and devotion is closely tied with allegiance to the state: '[t]he love of God is closely connected to the love of one's country, and worshipping God is closely associated with serving one's country ... Ho Chi Minh consistently looked at religion and the nation in the spirit of the great national unity' (p. 23). State approval of religion is therefore dependent upon their contributions in this area of nation-building: '[r]eligions can only be affirmed when they exist within the heart of a nation' (p. 23). Furthermore, '[r]eligious activities and affairs should ... strengthen the unity among followers of different religions within the context of great national unity ... [and] contribute to successful implementation of the country's industrialisation and modernisation' (p. 24). This indicates a perception that the legitimacy of religious groups is conditional upon their usefulness to extra-religious nation-building activities.

This reflects a dualist view of religions: they may either contribute to the process of nation-building, or 'undermine social stability and national unity' (p. 41), especially through their links with foreign organisations. Consequently, the attempt to portray religious groups positively rests heavily upon a recollection of their respective constitutional pledges to serve the nation,⁴ while the chief criticism of some religious activities relates to alleged anti-national activities.

Suspicion of foreign relations and human rights defenders

This continued suspicion of the foreign relations of religious organisations is a corollary of the attempt to synergise the interests of religion and nation. The paper is guarded in its criticism of purported collusion between Vietnamese religious groups and foreign organisations, even acknowledging that, 'international exchanges between religious leaders are an indispensable need and an international practice' (p. 40). However, this is significantly tempered by the allegation that 'some international relations conducted by religious organisations have been influenced by unfriendly forces

⁴ See pp. 10 (Buddhism), 13 (Catholicism), 16-17 (Protestantism), 19-20 (Cao Daim), 21 (Hoa Hao Buddhism).

consistently looking for ways to take advantage of and undermine Vietnam's Reform and Renewal' (p. 41). The language used in the paper still reflects a high level of suspicion of these international links, including allegations that they are mechanisms for 'disseminating erroneous information and untruthful stories about the situation of religion' (p. 41).

It is particularly concerning that a clear assault is made on human rights defenders, in the context of their relations with foreign organisations: 'some individuals within the country have used the mantle of "religious freedom" to realise their own ambitions, to undermine social stability and national unity' (p. 41). This appears to have fuelled the highly concerning arrests of high-profile human rights defenders Nguyen Van Dai, Le Thi Cong Nhan and Father Nguyen Van Ly, among others, in February and March 2007.

View of religion as a peripheral interest

The paper recognises that, '[b]elief and religion are spiritual needs of a *segment* of the population' (p. 24, emphasis added). Although this statement is partially positive, it reflects the Communist Party's view of religion as a peripheral interest, while material needs are primary, which results in a paternalist approach towards religions. Ho Chi Minh is cited as calling upon his 'compatriots' to 'care for and look after the material and spiritual life of religious compatriots. It is expected that production will continue to develop so that, as the material life becomes better, the spiritual life of citizens will also become more secure and peaceful' (p. 23). A good material life is therefore seen as a prerequisite for the spiritual dimension of life.

A similar approach is taken in the recognition of social and humanitarian contributions of religions, which falls short of fully acknowledging that religious belief may provide a motivation for instigating social change. The achievements of religious groups in these areas are attributed as much to 'the movement, "Repay a kindness", which in itself arose from the nation's tradition of unity, affection, and mutual assistance' (p. 36) as to religious conviction.

Without an unambiguous recognition of the transcendental nature of religions, which motivates religious believers to social and political activism, there will remain here a fundamental disagreement between the Party and religious groups about the proper spheres of activity for each. This provides conceptual space for the harassment of religious groups perceived to interfere improperly in the socio-political sphere.

Provisions for continued arbitrary treatment of religious groups

The rationale for religious freedom is based overall upon the value of religions in promoting national unity. It is not, therefore, grounded primarily in a recognition of the inalienable right to freedom of religion, without which there remains conceptual space within Vietnam for the arbitrary treatment of religious groups, judged according to the criterion of whether they are contributing positively to the state.

The paper describes the development of the policy on religion in successive constitutions, and Order 234/SL in 1955, Resolution No. 297/CP in 1977, Decree 69/HDBT in 1991 and Decree 26/ND-CP (pp. 25-28). The elaborations in the provisions for freedom of religion contained in consecutive constitutions are presented as progressive; however, they develop into an ever more restrictive mode, creating the basis for Vietnam's history of repressive policies towards religion. While the first constitution in 1946 affirmed 'the right to freedom of belief' as one of five major rights, the 1980 constitution added a new clause: 'No one is allowed to take advantage of religion in order to act against the laws and policies of the State'. The 1992 constitution rephrased this stipulation: 'no one is allowed ... to take advantage of belief or religion in order to abuse the laws and policies of the State'.

The additional decrees and resolutions cited, enshrine growing restrictions on purported 'illegal activities', culminating in 1991 and 1999 with a clause forbidding any activity 'that takes advantage of belief or religion to oppose the State of the Socialist Republic of Vietnam; that hinders believers in their duties as citizens; that undermines the cause of national unity of all the people; that weakens the nation's wholesome culture; as well as any activities that are superstitious' (p. 28).

These loosely-defined caveats have been used to justify severe repression of a wide range of religious activities. Although these decrees have since been superseded by the Ordinance on Belief and Religion, which provides for a complex system of registration, the white paper asserts the principle that 'any actions that take advantage of religion for destructive purposes' is prohibited and will be punished; the lack of specificity continues to create ample potential for the arbitrary treatment of religious organisations.

The outcome of discussions on religious freedom at the Party's 10th National Congress in 2006 are given in summary. Its measures for the implementation of policy on religion (p. 25) contain specific potential for further repression of religious activities:

- 'Training and upgrading of cadre dealing with religious affairs should be enhanced'. This recommendation has potential to address the consistent problem of the arbitrary treatment of religious groups by local officials. However, it is also important to note that the internal training CBRA document which emerged in 2006, 'Training Document: Concerning the Task of the Protestant Religion in the Northern Mountainous Region', authorised local cadre to 'mobilise and persuade [Protestant congregations] to return to their traditional beliefs', in direct contravention of their religious freedom. The training of local cadre only represents a positive step, if it is in accordance with international standards on religious freedom.
- 'Superstitious activities and behaviours that take advantage of belief and religion in order to harm the common welfare of the country ... should be prevented'. Without a clear definition of terms, this statement creates a loophole for the repression of religious activities deemed as 'superstitious', and permits arbitrary decisions to be made, presumably by local enforcement agents, about the legitimacy of religious activities. A similar concern arose in connection with the 2006 CBRA training document, which effectively empowered local officials to decide whether adherents of Protestantism should be supported or forced to abandon their religious beliefs. This provision is highly inconsistent with the claim made in the white paper, that, 'in the Northern Highlands of Vietnam, local governments have created favourable conditions for Protestants to practice their religion at home' (p. 34).

The weak enforcement of legislative provisions for religious freedom is a proven concern. In particular, the provisions for registration, lauded as successful in chapter 2.4 (pp. 31-35), have resulted in experiences of greater restrictions and control for some religious groups. In the north-west highlands, some Protestant congregations reported in 2005-06 that their attempts to register led to fresh waves of harassment and persecution, or that the registration initially proved to be a means of administrative control.

The paucity of the implementation of the registration system is exemplified in the recollection of the 'registration of religious activities for Protestant followers belonging to 27 assembly groups in nine provinces [in the northern highlands], all with good results' (p. 34). Some Protestant groups estimate that as many as 1,200 congregations exist in this region, of whom fewer than 2.5% have therefore been registered. Across the whole country, it was recently estimated by the Religious Liberty Commission of the Evangelical Fellowship of Canada that around 18% of Vietnam 4,500 Protestant congregations have been registered in various ways, although no new Protestant organizations have yet been given national legal recognition.⁵

⁵ 'Gaining Traction? An Update on Religious Liberty Progress for Protestants in Vietnam', published by the Religious Liberty Commission of the Evangelical Fellowship of Vietnam, February 2007.

Problematic legislative basis for religious freedom

The paper asserts a number of the principles enshrined in Resolution No. 25-NQ/TW of the Party Central Committee, some of which give rise to specific concerns. The notion that '[r]eligious affairs are the responsibility of the entire political system' (p. 24) has given rise to a considerable and intrusive bureaucracy for the management of religion, and to the potential for conflicting claims of authority over religious activities, resulting in over-regulation and arbitrary treatment thereof.

The principle is also given, that '[l]awful religious organisations must abide by the law and are protected by the law' (p. 25). Although this principle is, *prima facie*, entirely acceptable, the reality is that Vietnam's legislative framework for religion is complicated and legally ambiguous, with the result that it is unevenly implemented in different areas of the country with respect to different religious groups. This principle therefore requires substantial clarifications on the legal framework for religion, in line with international standards on religious freedom. A specific Law on Belief and Religion is promised (p. 31); this might either result in a greater legal protection of religious freedom, or formalise a heavily bureaucratic burden upon religious organisations.

Inherent religious prejudice

The paper singles out the particular religious practice of ancestor worship for praise, affirming that '[t]he positive values in the tradition of worshipping ancestors and honouring those who have made great contributions to the nation and the people should be maintained and developed' (p. 24).⁶ In the context of the overarching concern that religions should contribute to the enterprise of nation-building, this appears to indicate a preference for this tradition. It therefore potentially interferes with 'the right to follow or not to follow any religion', guaranteed in the same section.

A similar preference for a particular religious position was apparent in the 2006 'Training Document: Concerning the Task of the Protestant Religion in the Northern Mountainous Region', in which local authorities were instructed to 'upgrade the work of propagandising' to encourage ethnic minorities to develop their 'good traditional beliefs' and, under certain circumstances, to 'mobilise and persuade [Protestant congregations] to return to their traditional beliefs'.

Specific signs of progress

Alongside the areas of concern, a number of specific signs of progress and promise may be singled out; these represent areas on which the Vietnamese government may be engaged and challenged to develop further.

Recognition of social contributions of religion

The paper provides a positive appraisal of the humanitarian and social contributions of religious organisations: '[h]umanitarian activities of religious organisations are encouraged and have been effective' (p. 34) and '[f]ollowers of different religions have significantly contributed to the struggle for independence and the unity of the entire Homeland' (p. 35). In the context of the overall emphasis on the need for religious groups to engage in the task of nation-building, this represents a significant reversal of the approach which propelled the post-1975 confiscation of social, educational and medical institutions run by religious organisations, accompanied by a propaganda campaign to the effect that religions were useless to society.

⁶ Additionally, the practice of a form of polytheism is described as a default religious position on pp. 6-7.

The factors underlying this volte-face are difficult to determine, but may include an implicit recognition of the shortcomings of the state in combating poverty, social ills and corruption, or a growing awareness of the need for civil society activity in these areas, particularly in Vietnam's ongoing transition to a market economy.

However, this new acknowledgment represents a positive step and provides the opportunity for the further engagement of religious groups in the area of humanitarian and charitable work. The leitmotiv of the white paper is an appeal to religions to serve the state, and this new recognition of their capacity for doing so may create further opportunities for them to contribute to society, provided they remain free from harassment.

Acknowledgment of Protestant Christians in northern highlands

The overt recognition of the existence of a Protestant Christian community among the ethnic minorities in the northern highlands is a positive development. In 2005, government officials publicly denied the existence of any Christians in the region. In 2000, a secret document was uncovered, mandating the so-called Task Force 184 to arrest the spread of Christianity in Dien Bien province. The following years saw a wave of heavy persecution against the Christians in this, and the wider area. At present, this repression appears to have subsided.

Gradual extension of specific freedoms

The papers reports clear progress in a small number of particular areas (pp. 31-35), including, for example, the training of clergy, the printing of Bibles and the provision of land in lieu of churches confiscated from the Evangelical Church of Vietnam (South) in the central highlands.

There is considerable scope for these areas to be extended further. The acknowledgment of Bible printing in minority languages runs counter to the prevalent approach, with possession of Christian literature having been viewed as punishable. As recently as January 2007, four Hmong men were arrested in Ha Giang province, temporarily detained, physically abused and fined 4 million VND (approximately £130/€190/\$250) for being in possession of Christian literature in their vernacular language, which had been obtained from China. Although the largest contingent of ethnic minority Christians is among the Hmong, Bibles and other Christian literature remain unavailable in Hmong languages; this is an area to be addressed. Additionally, although the Evangelical Church of Vietnam (South) received land from the government in Dak Lak province, over 170 claims for the return of confiscated land are yet to be addressed.

Note on Translation and Language

The official English translation of the document is broadly accurate, although one discrepancy has been noted in section 2.4, describing the history of Protestantism in Vietnam. Discussing the international links of Protestant organisations, a historically contentious issue, the English version reads, '[i]n forming a new organizational structure, the "2001 Charter" aimed at framing a religious organisation with its own base independent of, though relating to the foreign Protestant organisations' (p. 17). However, the phrase, 'though relating to', does not appear in the Vietnamese edition, which suggests this may have been added as an appeasement of Western readers.

Appendix: Inconsistencies of current legislative framework with international law

Religious freedom obligations under international law

Vietnam is a party to the International Covenant on Civil and Political Rights (ICCPR). Article 18, which closely mirrors the same article of the Universal Declaration of Human Rights, 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.

Additionally, Vietnam has ratified the Convention on the Rights of the Child. 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 religious beliefs. Article 17 requires that a child have access to resources aimed at promoting his/her spiritual well-being; 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.

Domestic legislative framework

The legal framework for the religious activities of individuals and organisations in Vietnam is defined in two 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, and was complemented by the Decree on Religion (22/2005/ND-CP), entitled 'Guidelines for implementing some parts of the Ordinance on Religion', which was promulgated on 1 March 2005.

In addition, on 4 February 2005, the Prime Minister issued a document of lesser legal status, entitled, 'Special Instructions Concerning the Protestant Religion' (01/2005/CT-TTg). When introduced, this document was thought to contain some promise for real progress in religious freedom in Vietnam. It explicitly prohibits the forced renunciation of Christian faith, and enjoins local authorities to create favourable conditions for Protestantism. It also provides for Christian congregations to obtain official permission from local authorities to carry out religious activities, even when the larger church organisations to which they belong have not yet acquired legal recognition from the State. Furthermore, the Instructions opened the way for the registration of Protestant bodies that had been active since 1975, and pledged to 'continue to register' churches in the central highlands. Making specific mention of the Protestant movement among the ethnic minorities in the north-west of the country, the document promised registration for these groups, but only 'if real religious need is demonstrated'.

Ambiguities & difficulties

The Ordinance and Decree, which carry a higher legal status than the Instructions and therefore supersede its more generous provisions, contain a number of ambiguities and difficulties which limit their potential to improve the religious freedom situation in Vietnam. Among the central concerns are the conditionality they set on the exercise of fundamental rights, their lack of precision and clarity (particularly in describing the process for official registration), and the effective exclusion of many ethnic minority Protestant churches from eligibility for official recognition.

The Ordinance has been criticised for the limited scope of the freedoms it offers to religious organisations, because many prior rights are applicable only once permission has been granted for their exercise. Article 1 affirms the protection of religious freedom by the State, while many of the subsequent articles qualify or offer substantial limitations to these general rights. Most importantly, Article 19(1) states that religious congregations may operate only after being registered with the competent State authority. The Ordinance was originally greeted by strong protests from some religious leaders, on the grounds that it provided no more than the freedom to ask permission for a myriad of religious matters, while little obligation was laid on the State to respond to these requests. Religious groups feared that it provides a more substantial legal basis for the limiting of religious liberties in Vietnam.

This problem is compounded by the ill-defined terminology used in the limitations imposed on religious organisations. Among the conditions for registration contained in Article 16 of the Ordinance, the tenets and rites of a religious organisation must not 'go against the nation's fine traditions and customs, and the common benefit of the people'. Similarly, Article 15(2) stipulates that '[r]eligious beliefs and religion activities will be suspended' if '[t]hey negatively affect the unity of the people of the nation's fine cultural traditions'. This phraseology might easily admit a wide range of interpretations, and has little usefulness in legal definitions. An organisation must also maintain 'stable operations', according to Article 16 of the Ordinance and Article 8(2)(e) of the Decree; this is another term with no clear meaning in law.

There also exists a number of ambiguities and tensions between the Ordinance and the Decree, which appear to create conditions in which harassment of Christian groups may continue to take place. Some commentators on Vietnam have suggested that the contradictions between the various documents provide legal justification for a variety of methods of dealing with religious groups.

This lack of clarity and consistency is particularly evident in the requirements imposed on religious groups to register their activities and subsequently to seek legal recognition as religious organisations. For example, a loophole exists whereby the relevant authorities are not obliged to facilitate the registration of Protestant churches. The Ordinance and the Decree both identify the Government Bureau of Religious Affairs and its regional offices as the competent registration authorities; however, Article 7 of the Instructions requires local officials to 'carefully examine to see if there is really a need for religious belief' before assisting the process of registration. Furthermore, the process for registration is itself unclear from the stipulations of the Ordinance and Decree. For example, Article 6(2)(a) of the Decree requires that a religious organisation must specify its 'number of believers' in its application to register. This is discordant with the definitions given in the Article 3 of the Ordinance: clause (8) defines a 'believer' as 'a person who believes in a religion and is acknowledged as a believer by that religion', while clause (3) defines a religious organisation as 'an assembly of believers ... [with] a clear organisational structure recognised by the State'. When the provision of Article 6(2)(a) of the Decree is taken in context of the Ordinance, it appears that state recognition is required by a religious organisation before it may apply for registration.

Finally, Article 8(2)(e) of the Decree effectively denies eligibility to many house church organisations in Vietnam to gain legal recognition, stipulating that religious organisations must have been in 'stable operation' for twenty years prior to the effective date of the Ordinance. Alternatively, an organisation must carry out religious activities for twenty years; yet, during this period, it may be charged with illegal religious activity. As the house church movement, and the widespread embrace of Christianity by minority ethnic groups in the north-west provinces, began in the late 1980s, these Protestant Christians are effectively excluded from official recognition.