

The Working Group on Religion

REPORT:

Assessment of the 2016 Law on Belief and Religion in relation to the Exercise of the Right to Freedom of Religion and Belief in Vietnam

October 2017

EXECUTIVE SUMMARY

This report consists of two parts: (1) the current state of religious freedom in Vietnam, and (2) an assessment of the 2016 Law on Belief and Religion.

Regarding the current state of religious freedom in Vietnam, the report shows that though some progress has been achieved since 1975, this basic right to freedom of religion is still severely restricted by the authorities in Vietnam. Restriction measures are diverse but can be categorized into four main groups, namely: 1. using legal and administrative regulations; 2. using the propaganda apparatus; 3. dividing to rule; and 4. using physical violence.

The first group of measures is using legal documents. From 1945 to the present day, the Vietnamese government has issued a variety of laws, decrees, ordinances and circulars to regulate religious affairs but the common aim is to serve the regulatory purpose, never to protect the right to freedom of religion. The two most widely used legal documents are Ordinance No. 21/2004/PL-UBTVQH11 on beliefs and religions and Decree No. 92/2012/NĐ-CP. This report focuses on analyzing the loopholes of these above-mentioned legal documents—which are used as the foundation for the 2016 Law on Belief and Religion—to demonstrate that it is in fact a measure used by the State to tighten their control over religious affairs.

The second group of measures, i.e. using the propaganda apparatus—seems to be particularly effective in the Internet era. The government mobilizes not only government-controlled press but also public opinion shapers (who include “state-sponsored” facebookers and bloggers, security officers disguised as “the outrageous masses”, and anti-religion extremists) to attack advocates of democracy and human rights, including religious communities.

The third group of measures is “dividing to rule”, which means establishing state-run religious organizations after 1975 – these are replicas of religious organizations that are not ruled by the government – to drive a wedge between state-run religious groups and independent religious groups. In addition, another method used within this group of measures by the government is planting secret agents in the religious communities for better monitoring.

The fourth group of measures is to use physical violence: beating, arrest and imprisonment. The research report emphasizes that the number of religious followers, especially those belong to various ethnic minorities, makes up more than half of prisoners of conscience in Vietnam. The number of violence cases targeting unrecognized religious communities is also very high, especially in remote countryside and mountainous areas.

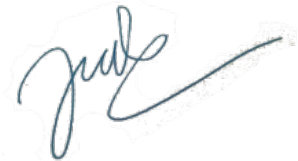
With regard to the 2016 Law on Belief and Religion, the group of authors takes the view that this law does not meet practical needs or reflect reality as it ignores the role of the specialized religious police force and other governmental agencies established by the Communist Party to tighten and control religious activities; as it continues to impose

limitations on religious followers' participation in social activities such as education, communication (including publishing), charity work, etc.

The last part of the research report compares the exercise of the right to freedom of religion in Vietnam against international standards of human rights. The Vietnamese government applies some restrictions of the international human rights law, while purposefully obscures these restrictions to cover up its sophisticated control and suppression over religious practitioners. Furthermore, the lack of regulations on the state's duty to enforce and protect the right to freedom of religion is another issue worth paying attention. From there, the group proposes some recommendations concerning the right to freedom of religion in the current situation of Vietnam.

The report is composed of four main parts. However, it is also divided into numbered paragraphs for the sake of clarity.

Hanoi, October 31, 2017

A handwritten signature in blue ink, appearing to read 'Pham Doan Trang', with a long horizontal stroke extending to the right.

Pham Doan Trang

on behalf of the group of authors

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I. INTRODUCTION

The Working Group on Religion (the Working Group hereafter) is a group of three authors who prepare this research-report. The group comprises a lawyer, a journalist and a human rights activist, who are currently living and working in Vietnam. The group was established in early 2016 with the initial aim of timely reviewing drafts of the Vietnamese Law on Belief and Religion (the Draft Law hereafter), scheduled to be approved by the Vietnamese National Assembly during the second working session of the 14th National Assembly in October and November of 2016. The responsibilities of the group are to assess the current situation of freedom of religion and belief in Vietnam, study the content of the Draft Law, review current applicable regulations related to the right to religious freedom. Our ultimate purpose is to advocate for the right to freedom of religion and beliefs in Vietnam, ensuring that Vietnam meets international standards in this aspect.

During the research phase, the group undertook many field trips from April to May 2016 to gather information about religious communities in Ha Noi, Ha Tinh province, Ho Chi Minh City and South Western provinces. We conducted 10 in-depth interviews with dignitaries and clergy people from various religions such as: Buddhism, Catholicism, Hoa Hao Buddhism and CaoDaism. The group would like to thank the dignitaries and clergy people for providing useful information, which contributes significantly to this research report.

This research report can be considered as an extension of the report published by the Special Rapporteur on freedom of religion or belief – Dr. Heiner Bielefeldt in July 2014 on the current situation of religious affairs in Vietnam. The research report will provide updated information about new developments taking place after his visit to Vietnam and further clarify some issues regarding the management system and the ways in which the government exercises control over religious activities, even though the two reports are totally independent from each other.

II. CURRENT SITUATION OF FREEDOM OF RELIGION AND BELIEF IN VIETNAM

1. The Socialist Republic of Vietnam is a secular state and has no official religion (state religion). In 1998, the government of Vietnam invited Mr. Abdelfattah Amor – the UN Special Rapporteur on Freedom of Religion or Belief to conduct a country visit. Almost all of the reports and documents about this visit carried out by the late Abdelfattah Amor were not widely disseminated in the Vietnamese language in the country, except an excerpt translated by the Law Department – Vietnam National University, Hanoi.

In 2014, the successor of Mr. Abdelfattah Amor, Dr. Heiner Bielefeldt, conducted a visit to Vietnam from 21st to 31st July and organized a press conference to publicize a report of the visit and a general evaluation of the situation of freedom of religion/belief in Vietnam.

Consequently the submitted report by Dr. Heiner Bielefeldt stirred up public opinion and attracted the attention of domestic audience¹.

2. In his report, the Sepcial Rapporteur Dr. Heiner Bielefeldt cited the information published by the Government Committee on Religious Affairs, claiming that up to 2014, there were 37 registered religious organizations and about 24 million of religious followers (of recognized religious communities) out of a population of 90 million. The 24 million of religious followers included 11 million Buddhists, 6.2 million Catholics, 1.4 million Protestants, 4.4 million Cao Dai followers, 1.3 million Hoa Hao Buddhists as well as 75,000 Muslims, 7000 Baha'is, 1500 Hindus and followers of other religions. The Government Committee on Religious Affairs provided Dr. Heiner Bielefeldt the figures at his request. Independent researchers could hardly access these data.

3. Dr. Heiner Bielefeldt also clearly stated that there are also people practicing religions outside of the officially recognized religious communities in Vietnam. It is impossible to estimate this number. The government does not recognize such religious communities and no statistics about them are available. Dr. Heiner Bielefeldt obtained information from sources claiming that the number of people belonging to those unregistered and unrecognized religious groups might be up to millions.

4. Based on the Working Group's findings, the right to freedom of religion/belief in Vietnam is restricted by the government in many different ways, but mostly with four main methods: **1) Using legal documents and other administrative regulations; 2) Using the propaganda apparatus; 3) Dividing to rule; 4) Using physical violence (beating, incarceration, imprisonment).**

A. Using legal documents and other administrative regulations

5. According to Dr. Heiner Bielefeldt, "the internal dimension of a person's religious, moral or philosophical conviction" – usually termed the "forum internum" (faith, or the innermost feelings) – must be respected unconditionally and can never be exposed to any restrictions or interferences for whatever reasons, even in situations of a serious crisis or an emergency". On the social aspects, imposing restrictions is possible, but there should be specific conditions under which (the government) is permitted to place such restrictions. Such conditions must be clear and predictable, and the party applying the regulations – i.e. the government – is obliged to prove that those restrictions are necessary. From Dr. Heiner Bielefeldt's analysis, in his role as the UN Special Rapporteur on Freedom of Religion or Belief, we can see that freedom of religion or belief is a fundamental and absolute right on a personal level. And in terms of social aspects, state management of this right must be truly

¹ See the full report prepared by Dr. Heiner Bielefeldt at:
www.ohchr.org/EN/HRBodies/HRC/.../A_HRC_28_66_Add.2_E.doc

necessary, clear and predictable and the State must bear the responsibility to account for its necessity.

6. In reality, the Vietnamese government maintains a completely opposite viewpoint, i.e. religion/belief must be subject to the government's control; the right to freedom of religion/belief can always be restricted in order to facilitate easier State management. This attitude is clearly evident considering the fact that in Vietnam, there is a sector called "State management of religion" and a special day called "traditional day of State management of religion" (August 2) – pursuant to Decision No. 445/QĐ-TTg issued on 27/5/2005 by the Prime Minister on a day reserved for annually celebrating the state management of religious affairs.

7. Throughout history, the Vietnamese government has issued many legal documents and by-law (sub-law) documents to regulate religious affairs (never to protect the right to freedom of religion and belief):

- Directive No. 234 on religious affairs (dated June 14, 1955) by President Ho Chi Minh;²
- Resolution No. 297/NQ-CP on "one policy regarding religion" by the Government (dated November 11, 1977);
- Decree No. 69/HĐBT by Council of Ministers on "Regulations of religious activities" (dated March 21, 1991), which replaced Resolution No. 297/NQ-CP;
- Resolution No. 25-NQ/TW by the 9th Central Party Committee on religious affairs (dated March 12, 2003);
- **Ordinance No. 21/2004/PL-UBTVQH/QH11** by the Standing Committee of National Assembly on regulations of belief and religious activities (dated June 18, 2004);
- Decree No. 22/2005/NĐ-CP by the Government providing instruction on the implementation of Ordinance No. 21 on beliefs and religions (dated March 1, 2005);
- Directive No. 01/2005/CT-TTg by the Prime Minister on a number of issues regarding Protestantism (dated February 04, 2005);
- Directive No. 1940/2008/CT-TTg by the Prime Minister on housing and land concerning religious affairs (dated December 31, 2008);
- **Decree No. 92/2012/NĐ-CP** by the Government specifying regulations and measures to implement Ordinance No. 21 on religious activities (dated November 08, 2012);
- Circular No. 01/2013/TT-BNV by the Ministry of Home Affairs providing instructions on how to use forms of administrative procedures for religious affairs (dated March 25, 2013);
- Decision No. 1119/QĐ-BNV by the Ministry of Home Affairs on administrative procedures for religious affairs (dated October 10, 2013).

² Available at:

http://btgcp.gov.vn/Plus.aspx/vi/News/38/0/159/0/1064/Noi_dung_Sac_lenh_234_SL_Ngay_14_thang_6_nam_1955_cua_Chủ_tịch_Nuoc_Viet_Nam_Dan_chu_Cong_hoa

Among these above-mentioned legal documents, Directive No. 234 on religious affairs by President Ho Chi Minh was the first to be promulgated. In spite of its very rudimentary contents (containing only 16 provisions), which reflected Vietnam's weak legislative technique at that time; at least, Article 13 in this document clearly stated that "the government shall not interfere in internal affairs of religious communities," and "Regarding Catholicism, the relations between Vietnam Catholic Church and the Roman Holy See is the internal affair of the Catholic Church."

Article 9: "Religious organizations are allowed to open private schools. Those private schools must follow curriculums of the government. Besides hours dedicated to these curriculums, religious doctrines can be taught to students who want to learn." With this article, the Directive issued by President Ho Chi Minh seems to be more liberal than even the legal documents governing religious affairs currently in effect.

Before 2003, the government had consistently seen religion as the enemy; all the textbooks taught in schools considered religion as "the opium of the people". Until 2003, by Resolution 25-NQ/TW dated March 12 on religious affairs, the 9th Central Committee of the Vietnamese Communist Party accepted that "religion is the spiritual needs of a majority of people; it is and will survive with the nation in the process of building socialism", after having identified that "religion is the problem which exists for a long time." It is noted that this is a major step forward but it only reflects the thinking of "accepting the existence" to govern religious affairs. It can be affirmed that so far, the relevant laws and policies in Vietnam have never showed the thinking of protecting the right to freedom of religion.

8. Among the above-mentioned legal documents, **Ordinance No. 21/2004/PL-UBTVQH/QH11** (dated June 18, 2004) regulating activities related to belief and religion and **Decree No. 92/2012/NĐ-CP** specifying details and providing measures for the implementation of the Ordinance No. 21 issued by the government (dated November 08, 2012), are the two most widely used legal documents to regulate religious affairs in Vietnam. They will be referred to as Ordinance No. 21 and Decree No. 92 hereafter.

9. On October 4, 2013, a group of religious leaders in Vietnam submitted a letter of protest to the Government and the National Assembly concerning Ordinance No. 21 and Decree No. 92. The letter stated, *"Religions are by nature civil society organizations and religious believers are equal citizens. They have rights and duties like other civil society organizations and citizens. Such rights and duties – in principle – are defined in the Constitution and other by-law documents, established in accordance with free and democratic principles, as well as international human rights treaties. Therefore, imposing law on religion is impossible and there is no need for such a law. That's persecution and discrimination! We do not think that we have a duty to obey such laws."* The letter of protest did not receive any response from the government and the National Assembly of Vietnam. The government-controlled press did not publish anything related this statement. This incident was only mentioned in unofficial media – blogs (political blogs outside of State

control), which are considered anti-state organizations by the government, typically Dan Lam Bao or “Citizen Journalism”.³

10. The “management of religious affairs” mindset of the government and its discrimination between religious followers and non-religious followers is discernible through a section called “Religion”, which has been included in identification cards and CVs resume for decades. Every Vietnamese (including students under age of 18, who are under age, legally speaking) must clearly declare which religion he/she follows, or none when registering for identification papers. This implies that freedom of religion/belief, even in a personal dimension such as spiritual life, is not an absolute, fundamental and universal right; this right still must be “declared” to the authorities. This kind of “declaration” causes difficulties for people who wish to change their religious belief, especially when they re-register for identity cards or household registration book.

By mid-2012, the Ministry of Public Security issued a circular prescribing a new identification card form (Circular No. 27/2012/TT-BCA),⁴ whereby, citizens no longer have to list their religion, however, they are now required to list their parents’ names. Certain public opinions (including the Ministry of Justice) strongly objected to this new form of identity card; then in September 2013, the Government abandoned the requirement to list one’s parents’ names in the new identity card. So, after decades of enduring discrimination, Vietnamese citizens, including religious adherents finally can have identity cards that are more respectful to their human rights.

11. In addition to declaring “religious status” to the authorities in formal identity documents, individuals must register their religious activities in order to obtain permission to gather and practice their religion collectively (Article 5 of Decree No. 92). It is worth noting that while individuals are responsible for registration the authorities are entitled to consider their requests but not required to approve them.

³ Available at: <http://danlambaovn.blogspot.com/2013/10/ban-len-tieng-cac-chuc-sac-ton-giao.html>

⁴ http://moj.gov.vn/vbpq/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=27798

12. All religious communities must register and meet certain mandatory conditions before being officially recognized as religious organizations (Article 16 of Ordinance No. 21). Among these conditions, some are quite vague such as “to maintain dogmas, canon laws and rites which are not contrary to the fine customs, interests and habits of the nation”, yet there is no regulation on or even a definition of “the fine customs, interests and habits of the nation.” Again, religious communities are responsible for registration, but the authorities are entitled for considering their requests but not required to approve them.

13. Religious organizations are allowed to conduct religious activities only if they have registered their religious activities (Article 6 of Decree No. 92). Similarly, for a successful registration, religious organizations must satisfy a series of conditions which are quite vague such as “to maintain dogmas, canon laws, rituals, religious path and activities that are compatible with the nation and not contrary to fine customs, habits and laws.” Religious communities are responsible for registration, but the authorities are entitled for considering their requests but not required to approve them.

The Working Group gathered from independent Hoa Hao Buddhists – a religious community that is outside of the state-sponsored religious groups – that the authorities interfered in their charter drafting process during the approval phase. For example, the authorities refused to recognize their important ceremonies such as the Great Ceremony dated on the 25th day of the Second Month of the Lunar calendar, the “Day of Prophet Huynh Being Out”⁵ and attempted to shape religious tenets by removing 80% of their Founder’s teachings. Religious leaders whom the authorities discriminate against due to their “ideology/thought” will not be approved, or their appointment will be deliberately delayed or prevented.

14. All religious communities and groups, if not recognized (either because they have not registered or because their registration is unsuccessful), are outlawed. This paves the way for severe discrimination against them; they may be prevented from practicing their religions, even persecuted and suppressed (see paragraph 40 to 52 of this report).

15. For example, only after obtaining the registration permit are religious organizations allowed to provide training courses on religious tenets; do charity work; repair, upgrade, renovate their facilities, etc. Thus, religious organizations/communities that are not recognized by the government are not allowed to carry out the above-mentioned activities.

16. Activities that fall under fundamental human rights such as publishing newspapers and books to spread ideas and teachings are restricted as well. Article 32 of Ordinance No. 21 stipulates that “publishing, printing and distribution of scriptures, books, newspapers, journals or other publications related to beliefs and religions; trading, exportation or importation of cultural products related to beliefs and religions; or the manufacture of articles

⁵ Prophet Huynh, or Master Huynh, of the Hoa Hao Buddhist Church in Vietnam is Huynh Phu So (1920-1947). He founded the Hoa Hao Buddhist Church in 1939 at the very young age of 19. He was believed to be assassinated by the communists on April 16, 1947 in Tan Phu, Dong Thap Muoi. Official documents of the State do not admit the assassination; instead they described him as “disappeared” or “missing”. The Hoa Hao Buddhists euphemistically referred to his death day as “Day of Prophet Huynh Being Out”, implying that he’s just absent from home and will be back someday.

for use in belief and religious activities, shall be in compliance with stipulations by the law.” Based on that, religious communities cannot publish books, newspapers and other publications related to beliefs and religions unless the publication work is done through state-owned publishing houses. And they must carry out procedures to obtain permission as required by laws. (Private publishers are not allowed to participate in publications.)

17. All religious communities in Vietnam do not have their own radio and television broadcast or any separate programs broadcasted on the nation television. The website and live channel of the Redemptorist Church is firewalled as it is considered as an anti-state organization. Reporters of the Redemptorist Church are not acknowledged as journalists and they usually suffer from harassment and persecution by public officers and the authorities.

18. On October 30, 2012, reporter Nguyen Huyen Trang (Anna Huyen Trang) of the Redemptorist news service was arrested, interrogated and humiliated in a police station in Ho Chi Minh City. When she said that she was a reporter, the police officers scolded at her, “Who acknowledged that you are a reporter? Where is your press card? You have so much time to kill, are you gathering together for reactionary activities?” In fact, Huyen Trang worked in Ho Chi Minh City and her family living in the countryside was often threatened by the local police. She was forbidden to migrate, repeatedly expelled from her rented house many times. And on April 13 2014, she was strangled by three male police officers at the airport then detained when she was about to go abroad⁶.

Reporter Huyen Trang was not the only one to be politically repressed. All journalists having religious faiths, such as J.B. Nguyen Huu Vinh, Paul Tran Minh Nhat, Paulus Le Van Son, etc. regularly reported their being tracked, beaten, assaulted and harassed in various forms by the authorities, represented by the police.

19. The religious communities in Vietnam, if not recognized, will not have their own publishing house or news agency. The recognized religious organizations, by contrast, may have their own mouthpiece, for example, the Buddhist Culture Magazine (founded in 2005), which acts as a mouthpiece of The Central Committee of The Buddhist Sangha of Vietnam. But it can be seen that these news agencies are placed under tight control of the State and do not have much independence.

20. The religious communities, if not recognized, are not allowed to provide educational services (cannot open a school), except for helping develop kindergarten educational establishment (Article 33 of Ordinance No. 21). There are no legally forbidden acts but the preaching or teaching outside religious premises is considered illegal and prohibited. Followers of the religious organizations without registration certificate, for example, the Traditional Hoa Hao Buddhism, are often advocated and persuaded by the local authorities to join the registered religious organizations.

21. The religious communities are not allowed to establish or operate orphanages, nursing houses for the old, hospitals and clinics.

⁶ Written based on reporter Nguyen Huyen Trang’s account.

22. Article 8 of Ordinance No. 21 prescribes prohibitions for religious followers more broadly in comparison with those for protecting the freedom of religion. “2. It is prohibited to abuse the right of belief and religious freedom to undermine peace, national independence and unification; incite violence or propagate wars, conduct propagation in contravention of the State's laws and policies; divide people, nationalities or religions; cause public disorder, infringe upon the life, health, dignity, honor and property of others, or impede the exercise of civic rights and performance of civic obligations; conduct superstitious activities or other acts of law violation.” Meanwhile, the forbidden act to protect the freedom of religion is only: “1. It is prohibited to make discriminations for belief or religious reasons; or infringe upon the citizens' right of belief and religious freedom.” It is worth noticing the provision “It is prohibited to abuse the right of belief and religious freedom... to cause public disorder.” This paves the way for the arrest and conviction of religious followers and groups practicing religion that have not yet registered or without granted permission.

23. There are no written regulations, but government officials at all levels must implicitly be members of the Vietnamese Communist Party and not affiliated with any religions. Anybody practicing a religion seems to have no chance to get promotion or rise to higher positions in the ruling system.

24. Followers of unrecognized religions in Vietnam absolutely have no rights to participate in political affairs, especially the right to self-nomination. Pastor Nguyen Trung Ton was a former prisoner of conscience who lived in Thanh Hoa province. He was one of many independent and self-nominated candidates for the 16th National Assembly (term 2016-2021). He was met with much trouble. The provincial election committee stated that he was a member of an unregistered religious group and that his profile could only be accepted if he did not identify himself as a member of that religious group. Pastor Ton declared that he could not deny his religion. The final outcome was that his self-nomination profile was rejected.⁷

In 2017, political repression of the former independent candidate rose substantially. He was brutally assaulted by a group of thugs, possibly plainclothes police, on February 27, 2017 when he was on the way from Thanh Hoa to Quang Binh, one of the four provinces worst affected by the 2016 marine life disaster. Even when he had not recovered from the serious injuries, he was arrested on July 30 and charged with “carrying out activities to overthrow the people’s administration” under Article 79 of the Vietnamese Penal Code.

B. Using the propaganda apparatus

25. In his report dated July 31, 2014, the UN Special Rapporteur on Freedom of Religion or Belief – Dr. Heiner Bielefeldt cited from the Vietnamese government’s source

⁷ A brief report by the group “Campaign for Candidates of The National Assembly 2016”, from the report “Undemocratic election process in Vietnam”, by Pham Doan Trang, May 22 2016

that “the number of training institutions for the clergy of different religions has significantly increased in recent decades,” “At present approximately 45,000 religious training institutions exist in the country.” This is a piece of positive news in terms of the number of training institutions. Recently, the Catholic Institute was founded and called for application for Theology courses for various levels. This is the first Catholic Institution at university level ever publicly and legally established and operated since 1975. However, the Working Group suspects that the establishment seems to depend only on “an implicit negotiation process” between Catholic Church and the government, not based on legal regulations.

26. In terms of training quality, Dr. Heiner Bielefeldt wrote: “While religious communities decide the main parts of the training program – i.e. the teachings of theological doctrines, practices and ceremonies, the history of the community and other issues – the curriculum also includes courses on the history and laws of Vietnam and Marxism-Leninism, provided for by the Ministry of Education and Training.” This suggests that religious communities in Vietnam are not given autonomy and freedom in providing education services and any schools here cannot enjoy the spirit of academic freedom.

Besides, every year, the provincial authorities provide courses to disseminate the guidelines and policies of the Communist Party and the State’s legal framework in the field of religion. These forced “political courses” are for the religious leaders with a view to controlling the mind of the dignitaries and clergy people, the religious leaders and their followers.

27. As analyzed above, the authorities always make a distinction between the registered religious organizations and the unrecognized ones: The unrecognized religious organizations are considered illegal and they are subject to various limitations and disadvantages. Besides, the authorities always try to propagate so that the society is aware of such difference. Dr. Heiner Bielefeldt presented that he could notice negative attitude towards Buddhist practices outside of the Buddhist Sangha of Vietnam. For instance, he received comments that Buddhist leaders outside of the official Buddhism groups were only the minority number that were immoral and selfish, and driven by political ambitions, etc. These were common heard allegations found in mainstream media as well as public opinions that went against the unrecognized religions.

28. The mainstream media system of the Socialist Republic of Vietnam comprises of 1,517 print newspapers and magazines, 105 electronic newspapers, 207 news sites, 67 radio-television broadcasts ⁸ (based on the data from Ministry of Information and Communications by the end of 2015). There are 6 television channels with a clear mission of propaganda: Voice of Vietnam TV, People’s Police TV (of Ministry of Public Security), Vietnam News Agency TV, Vietnam National Defense TV (of Ministry of Defense), National Assembly TV,

⁸ Vietnamese laws draw a line between “electronic newspapers” and “news sites”. Electronic newspapers are licensed newspapers operating under media laws that can themselves provide information on newly-emerging news stories or events, while news sites are owned by organizations and enterprises and must not provide information themselves; they can only “share” (republish) information provided by newspapers.

and People Daily TV. Meanwhile, as mentioned above, the religious communities in Vietnam own no separate broadcast and no channel on the nation's television.

29. The entire government-controlled media system strictly complies with directions laid out by the government regarding state management of religion. They do not report or reflect any news or activities of the unrecognized religious communities; except in the event of any conflicts between the State and these communities, where the government-controlled media will report the news in the way of explaining the government's policies and guidelines and criticizing the religious communities that are considered outlawed.

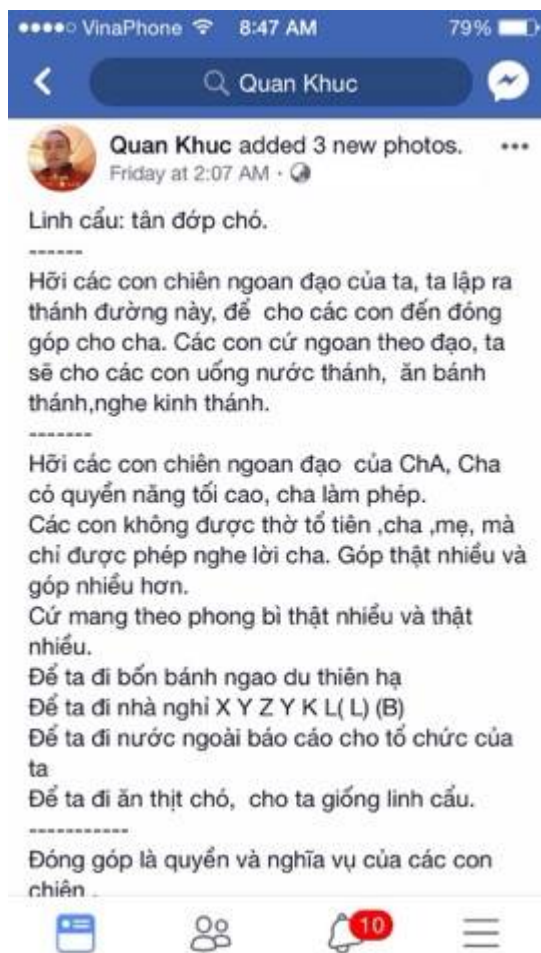
30. Notably, since the social media network (primarily Facebook) developed in Vietnam, public security forces and propagandists establishes a force called "public opinion shapers" to "thwart the hostile forces" – as the Head of the Department for Propaganda and Training of the Hanoi Municipal Party Committee – Mr Ho Quang Loi said on January 9 2013. There are dozens of blogs and facebook pages specializing in insulting and inveighing democracy supporters, human rights activists, dissidents, including followers of unrecognized religions. These unrecognized religious groups (like Unified Buddhist Sangha of Vietnam, Traditional Hoa Hao Buddhism, Redemptorist Church...) and their dignitaries (Buddhist Monk Thich Quang Do, Thich Khong Tanh, Bishop Nguyen Thai Hop, Reverend Phan Van Loi, Reverend Dinh Huu Thoai, Reverend Le Ngoc Thanh v.v.) are regularly insulted and smeared with spiteful words and falsely accused of a crime without evidence.

31. For instance, one of many "public opinion shaper's pages" called Facebook Vietnam Times (Facebook Viet Nam Thoi Bao) – posted an article signed by Tong Giang on May 17, 2016. The post aimed to insult and inveigh against Bishop Paul Nguyen Thai Hop and his Vinh diocese with spiteful words such as "empty vessels make most sound," "with the hostile attitude and antagonism towards the regime, the authorities and the Communist Party so far, the words in 'the joint letter' by Nguyen Thai Hop invisibly galvanized the extremist parishioners to conduct activities that went against the interests of the State and the Communist Party, supported them by acts of gathering and disturbed the public order and security," "It will not be a surprise to everyone to learn that the name of this Bishop of the Vinh diocese was mentioned together with other "anti-state subjects" such as Nguyen Quang A, Nguyen Xuan Dien, Nguyen Lan Thang, La Viet Dung, and Dang Bich Phuong." The reason was that earlier, on May 13, 2016, Bishop Paul Nguyen Thai Hop sent an open letter entitled "the letter about the environmental pollution disaster of the central coastal region."

Bishop Paul Nguyen Thai Hop continued to be attacked both on pages/websites run by public opinion shapers and the government-controlled press in early August 2016 when he called on the Catholics in the Vinh diocese to protect the environment and peacefully march in response to the Environment Day of August 7. A public opinion shaper nick-named Hoang Ngoc published an article entitled "The plot behind the so-called "Environment Day" of the Vinh diocese on August 7, 2016", in which the author wrote, "These activities are an underlying scheme of a misguided bishop, which go against the interests of the state, the Church and the Catholics... leading the honest and kind Catholics into the path of sin... He is the one who deliberately abuse the sacred God to serve his own personal interests."



Avatar of a public opinion shaper nicknamed “Mung Tin Ngo” [Ngo the gospel], on August 9, 2016, posted after Bishop Paul Nguyen Thai Hop encouraged religious followers to march in response to the Environment Day 7/8. The red letters on his avatar read, “I’m the son of a bitch.”⁹



The page ran by facebooker Quan Khuc, who is believed to be a public opinion shaper, wrote: “From priest Tan, the bastard: Dear my religious followers, I built this church for you to donate money to me. Follow me... I have the supreme power... You must not worship your ancestors any more. You must obey me only. Give me more and more money... so I can eat more dog meat and become more like the son of a bitch...”

⁹ <https://www.facebook.com/cago.nguyen.18?fref=ts>

32. Even the Special Rapporteur on freedom of religion/belief – Dr. Heiner Bielefeldt was criticized by public opinion shapers. An anonymous public opinion shaper commented on page Góc Nhìn Thời Đại [Viewpoint of Our Time]: “The Government and the Socialist Republic of Vietnam are willing to accept all religions; however, upholding the law of Vietnam is of importance. Each individual before becoming a parishioner is one of many citizens living in Vietnam. Therefore, respecting the law comes first, then the religious beliefs. It is unacceptable to disregard the law and do what you want.” Some independent sites (like Dan Lam Bao, or Citizen Journalism) posting the news about the country visit of Dr. Heiner Bielefeldt were condemned as “fabrication” by public opinion shapers, but the propagandists never clearly showed which details was fabricated or invented.

33. However, in reality, it was the newsletter by Vietnam News Agency dated on March 12, 2015 that provided false information regarding the main content of what Dr. Heiner Bielefeldt had reported to the UN Human Rights Council, which wrote: “The Special Rapporteur on freedom of religion or belief – Dr. Heiner Beilefeldt highly appreciated the cooperation, facilitation and preparation of the authorities of Vietnam during his visit. The report also noted the achievements that Vietnam has made in the promotion and protection of the right to freedom of religion, especially the impressive development of the number of religious followers, religious leaders as well as places of worship in every province in the recent years...”¹⁰

Before that, in the speech before the United Nations Human Rights Council dated March 10, 2015, Dr. Heiner Beilefeldt said: “I have witnessed the evidences of violations on human rights, including the police raids, church demolition, disruption of religious ceremonies, arrest, imprisonment, attack on religious followers, even torture, murder and other forms of persecution. Unfortunately, some individuals agreed to meet with me had been prevented from travelling and kept under surveillance at their homes. Some were retaliated or heavily injured or badly beaten during and after my visit to Vietnam. The privacy and confidentiality of some meetings and interviews had been seriously compromised. The situation got worse when some planned meetings or visits were not taken place. This is in clear violations of the terms of reference of a country visit by Special Rapporteurs of the UN.” Obviously the acknowledge section of his report for thanks and recognition sticks to tradition with the preamble written in diplomatic style, which is not the main content of the report.

34. State-run newspapers hardly report on any activities, practices and life of the religious communities. However, the media sometimes spreads the news that seems to target the dignitaries such as “a monk wears stripped clothes”, “a monk likes iPhone”, “a monk kisses singer Dam Vinh Hung”... As Buddhist monks, monks and pastors are regarded as public figures, that their lives being scrutinized by the media is understandable and acceptable. However, some Buddhists suspect that the massive media coverage of such incidents seems to be part of a conspiracy to smear Buddhism and discredit the Buddhist

¹⁰ <http://www.vietnamplus.vn/viet-nam-doi-thoi-van-hoa-ton-giao-tai-hoi-dong-nhan-quyen/311771.vnp>

dignitaries in Vietnam. Some evaluated that this deterioration was the consequence of the authorities' intervention in the entire operating system of the Buddhism in Vietnam.

35. Propaganda against religions prove to be highly successful when those proclaiming themselves as “the outrageous masses” began to gather in groups, associations, even alliances as they put it, to publicly threaten and attack religious communities, especially the Catholics and the Protestants, who actively engaged themselves in the ordinary life following the 2016 environmental disaster in four coastal provinces of central Vietnam.

On October 29, 2017, around 700 people wearing red flag T-shirt gathered in Son Hai commune of Quynh Luu district in Nghe An province, singing, chanting slogans and publicly insulting the local religious group in Song Ngoc parish. “Since April 2016, the evil priests Dang Huu Nam and Nguyen Dinh Thuc have kept on cheating believers, distorting the State and the Party’s policies... They purposefully disparaged the State and the Party’s efforts in coping with the aftermath of the environmental incident... ¹¹”

The gathering was called “the launching of the Red-flag Alliance for Protecting the Nation” and held just 30 meters away from the church of the Van Thai sub-parish. In the gathering, the attendants said crude language and had provocative acts against religious communities, and so did the public opinion shapers online.

At the same time, the leader of the Vietnamese Communist Party, Mr. Nguyen Phu Trong, was in his visit to Nghe An province, where he was talking to the local party cell and the commanders of the Fourth Military Region. As the general secretary of both the Party and the Central Military Commission, he told the Nghe An-based Fourth Military Region to “raise your revolutionary spirit of vigilance to timely detect, fight and defeat any plot by hostile forces of “peacefully changing” (peaceful evolution), overthrowing the administration, neutralizing and de-politicizing the military,” “educate and advocate the people, promote the unity between the people (civilians) and the military,” “build strong political affiliations in the province,” “consolidate the people’s war (guerilla warfare) and the national unity.” ¹²

36. It is important to stress that the authorities at all levels have never showed any attitude toward public opinion shapers and “outrageous masses” insulting, threatening or attacking religious groups. Neither did they say or do anything to prevent that from happening repeatedly. Meanwhile, all the defamation and hate speech can be seen publicly online; they came from both anonymous and widely-known public opinion shapers. The physical attacks against churches or individual believers were organized, purposeful, violent, causing real, visible damages, and they normally left obvious evidence and material witnesses.

¹¹ Though the massive fish deaths in central Vietnam amounted to a huge, unprecedented environmental disaster in Vietnam, state-run media were instructed to refer to it as an “incident” only.

¹² “Party’s General Secretary visits the Fourth Military Region”, Nguyen Tan Tuan, People’s Army dated October 29, 2017.

On a legal perspective, the Vietnamese legal system has sufficient laws to punish hate speech, libel and physically violent acts. Despite that, there has never been any case in which the one who commits hate speech, libel or acts against religious communities is punished, at least in the two recent years of 2016 and 2017.

This, added with rising social conflict, shows that violence, suppression of religions, and conflicts between believers and non-believers will continue in the time to come.



A gathering of the “outrageous masses” to publicly denounce and criticize priest Dang Huu Nam of Phu Yen parish in Nghe An province. The gathering was reported by the state-run Nghe An newspaper, suggesting that it was organized or at least supported by the local authorities. Photo courtesy of the Nghe An newspaper.

Why violent attacks and suppression of religions is increasing in 2016-2017 and will possibly continues

A question to be raised is why hate speech and violent attacks against the Catholic and Protestant communities have substantially increased in a more public and brutal manner in the two years of 2016 and 2017. The Working Group believes that this originates from the fact that religious believers in Vietnam, especially the Catholic and the Protestant groups, tend to engage themselves more in the ordinary life by participating into the struggle for democracy and human rights in Vietnam.

An event of great impact is the environmental disaster in central Vietnam. From April 6, 2016, hundreds of tons of fish and sea animals, including both free-swimming and farm-raised ones, were found dead in coastal provinces of central Vietnam. The four provinces that suffer the most serious damages were Ha Tinh, Quang Binh, Quang Tri and Thua Thien-Hue.

Two of these four provinces – Ha Tinh and Quang Binh – and Nghe An made up the Vinh diocese, a Roma Catholic church in Vietnam. The diocese, encompassing an area of 30,599 square kilometers, has the population of 523,046, accounting for 10% of the province's population.

The primary perpetrator of the disaster was later identified as the Hung Nghiep Formosa Ha Tinh Steel, Ltd. Co., an FDI and affiliate company of the Taiwanese corporation Formosa, who discharged toxic wastes into the sea.

The disaster caused enormous and almost irreparable damages to the marine environment in central Vietnam. One of the most direct consequences was that it destroys the livelihood of local people. On the one hand, the compensation of US\$ 500 million paid by Formosa proved to be too low. On the other hand, the remedy process was slow, irrelevant and unfair.

Priest Nguyen Dinh Thuc of Song Ngoc parish (Quynh Luu district, Nghe An province) told the Working Group on April 28, 2017, "When the people are confronted with unemployment and poverty, they will have powerful incentives to rise up and fight. That's a fight for survival. All that matters is survival. And so will the religious believers. We Catholics are taught to live for the truth, to do the good and to resist the evil. Because the authorities commit wrongdoings, we must get united and protest at them."

Ironically, any voice critical of the government is likely to be labeled as "anti-state", and any peaceful rally is likely to be labeled "peace disrupting." As early as May 5, 2016, less than one month since the disaster broke out, the Prime Minister released a "nine-point instruction" which clearly stated, "The Ministry of Public Security shall work closely with local government bodies to investigate environmental wrongdoings in the center of Vietnam, to maintain social order and safety, and to identify those who disseminate misleading information and take advantage of the incidence to disrupt peace, incite public disorder against the Party and the state. Any law violation shall be strictly punished".

This mindset and policy position go obviously against the positions held by the Catholic and Protestant communities and, most seriously, they paved the way for the MPS and related state bodies to control and suppress any form of free expression, no matter how peaceful it is.

Also worrying is the rising conflict between believers and non-believers (particularly those who support the communist Party and its atheistic ideology). The arguments frequently used by the communist government supporters to justify their grudge and attacks against religious groups are often unfounded accusations that believers, especially Catholics and Protestants, are "xenophiliacs", "national traitors", "peace disrupters", "destroyer of traditions and morality", "parasites on the former puppet administration of Saigon", etc. Generally those arguments are baseless but very similar to the communist propaganda about religions, especially that of Western origin such as Catholicism and Protestantism.

On their part, in the process of engaging into ordinary life and defending human rights and justice, some religious leaders have raised their opinions, including their viewpoints of the nation's history and current affairs. While those viewpoints may be well within the helm of free speech and may not breach religious law, they inevitably contrast with the positions held by the communist Party and the authorities. Some churches even publicly support

democracy and human rights activists, such as the Thai Ha Redemptorist Church in Hanoi, the Ky Dong Redemptorist Church (Ho Chi Minh City), and the parishes of Song Ngoc, Phu Yen (Nghe An) and Dong Yen (Ha Tinh).

For all those reasons, religious groups remain the target of public opinion shapers, or extremists organized and supported by the government, who may be employed to advocate government policies and suppress dissent voices when necessary.

C. Dividing to rule

37. The third group of measures is “dividing to rule”, i.e. the establishment of the state-run religious organizations – the replicas of the previous religious organizations, or planting leaders into religious organizations with the aim of classifying and controlling the religious organizations for easy governance and political purposes. For example, the Buddhist Sangha of Vietnam (the official) founded in 1981 was criticized for being set up by the government to replace and eliminate the Unified Buddhist Sangha of Vietnam (founded in 1964 as an agency in charge of Buddhist practices in the South of Vietnam). According to the department of international Buddhist news (of the Unified Buddhist Sangha of Vietnam), some confidential documents pointed out that the establishment of the Buddhist Sangha of Vietnam was based on Directive No. 09-CT/TW dated May 18, 1977 by the Central Committee of the Vietnamese Communist Party with the guidelines that “*(Let us)... prepare carefully to finally establish a common patriotic Buddhists organization for the whole country. There should be re-education plans for the Unified Buddhist Sangha of Vietnam (An Quang branch) and with good results of re-education it will be integrated into a common Buddhist organization.*” And then Resolution No. 40-NQ/TW dated 1-10-1981 by the Central Committee of the Communist Party decided “*... to help the Committee for Mobilization of Unified Vietnamese Buddhism establish a common organization for Buddhists with the motto of nationalism and socialism, then gradually eliminate the An Quang Buddhist Sangha...*”

These allegations are sound when looking at the actual manifestations in reality. After 1975, the government confiscated many religious facilities of the Unified Buddhist Sangha of Vietnam. Even some facilities that served public interest such as Quach Thi Trang Orphanage, Van Hanh Buddhist University, La Boi Book Publisher were forced to close, paving the way for the establishment of the Buddhist Sangha of Vietnam in 1981. Since its inception, the senior leaders of the Buddhist Sangha of Vietnam were never reluctant to inveigh against the leadership of the Unified Buddhist Sangha of Vietnam.

The excessively “close relationship” between the leadership of the Buddhist Sangha of Vietnam with those of the public security force is quite a delicate yet publicly apparent problem. Even in the preamble of the charter of the Buddhist Sangha of Vietnam, its motto of operation is clearly stated with “Dharma, Nation”, in addition to “Socialism” – the political ideology of the Communist Party.



Leaders of the Buddhist Sangha of Vietnam in Ho Chi Minh City visited the Police Department of Social Order (PA88) on July 12, 2016 on the occasion of Traditional Day of Vietnam Public Security Force

(Image source: <http://www.phattuvietnam.net/tintuc/34637-bts-ghpgvn-tp.hcm-ch%C3%BAC-m%E1%BB%ABng-ph%C3%B2ng-an-ninh-x%C3%A3-h%E1%BB%99i-c%C3%B4ng-an-tp.hcm.html>)

38. Nearly all the major religions in Vietnam have had two “versions” since 1975: official religious organizations (established by the government after 1975) and unofficial religious organizations (because the religious organizations founded before 1975 did not accept to join with the ones established by the State). Or the State could appoint new leadership to replace the old one. The making process of the “official version” of Hoa Hao Buddhism and Caodaism is the same as for Buddhism. For Hoa Hao Buddhism, there are Hoa Hao Buddhist Church (official) and Pure Hoa Hao Buddhist Association, Traditional Hoa Hao Buddhist Church (both are not recognized). For Caodaism, in 1979, the highest body in its hierarchy - the Management Council (in Vietnamese: Hội Đồng Chưởng Quản) was established; and the entire organization structure of this religion from the central to the provincial level was disbanded.

For Catholicism, two organizations have been in co-existence, which are Vietnam Catholic Church and the Committee for Solidarity of Vietnamese Catholics. Though the Committee for Solidarity of Vietnamese Catholics was given legal status and recognized by the State, its activities are still a subject of controversy within the Catholics community. The committee’s personnel is not recognized and appointed by the Holy See. Scholars suggested that the Committee is a copy of the model of Chinese Patriotic Catholic Association, an organization established by the Communist Party of China to exercise state supervision over China's Catholics and to replace the role of the Holy See in this country. A pastor in Vietnam when asked about this matter revealed that China was successful with this model but so far it has been a failure in Vietnam.

D. Using physical violence

39. Apart from groups of measures such as using legal documents, dividing to rule and using propaganda apparatus, the authorities use the fourth group of measures – physical violence (police officers, prison) aiming at religious communities that they find it unable to control and supervise. The public security of Vietnam has its own separate force to exercise state management over religion, which is the specialized religious police force. Advisor to the former Prime Minister, Nguyen Tan Dung, on security and religion is Lieutenant General Nguyen Van Huong. Head of the Government Committee for Religious Affairs is Lieutenant General Pham Dung. Both are extremely persistent members of the Communist Party.

40. The evidence is impossible to attain but it is thought that the underground and official police force always keep an eye on important religious establishments in Vietnam, for example, Quan Su pagoda (located on 73 Quan Su Street, Hanoi), which used to be the Central Buddhist Sangha of Vietnam. Similarly, it cannot be denied that the underground and official police force tightly monitored the headquarters of Redemptorist Church of Vietnam. The cameras on the electric posts along the roadsides supervised on a round-the-clock basis all activities the Provincial Redemptorist Church carried out.

Mobilizing a huge system to exercise the supervision and control over religious activities through secret and public measures is the corollary of the authorities' concern that national security issues will stem from religious communities and organizations that are capable of mobilizing the people. This matter forces religious communities to confront with real challenges if they refuse dialogues, otherwise, they must reach a compromise under the control of the authorities.

41. In many areas, especially in the rural or mountainous areas, local public security forces hold a very hostile and aggressive attitude towards religious followers. For instance, Hoa Hao Buddhists usually report (on independent websites) that they were brutally harassed and persecuted by the local police and authorities. Many Hoa Hao Buddhists, including women and children, were beaten to unconsciousness or even injured. Incidents like that occurred dozens of times each year. As they took place in the remote areas, it is very difficult to investigate the roots of the conflicts to see which sides started first and should be blamed. But it is certain that the police officers resorted to physical violence.



Monk Vo Thi Thu Ba incised her neck to protest against police officers suppressing Hoa Hao Buddhists at Quang Minh pagoda (Cho Moi ward, An Giang province on April 2, 2016.



*A Hoa Hao Buddhist was beaten on April 2, 2016.
Image source: Facebook Nguyễn Bắc Truyển*

42. While the “outrageous masses” may often use primitive weapons of stones, bricks, sticks, and knives to attack religious groups, the authorities failed to take preventive intervention, even when religious leaders appealed for help. On May 30, 2017, such a mass surrounded the Van Thai sub-parish (based in Son Hai commune of Quynh Luu district, Nghe An province), shouting, intimidating the priest and throwing stones into the sub-parish’s church. The gang even surrounded houses of individual believers, throwing stones and smashing furniture and other property.



Mr. Ngo Van Hai (of Van Thai sub-parish) had his house attacked with stones in the night of May 30, 2017. Photo by anonymous religious believers in Song Ngoc

42. Since the marine life disaster caused by the Taiwanese steel corporation Formosa broke out in April 2016, religious communities in central Vietnam, the majority of whose members live on the sea, have actively involved in speaking up for protection of the environment and the rights of the victims. However, as from 2017, peaceful rallies by religious practitioners have been stamped down ruthlessly by the local police. The MPS even sent in riot police sent from “the center” or other provinces for suppression. On February 14, 2017, religious believers going to the Ky Anh People’s Court to submit their lawsuits against Formosa were surrounded and attacked by the Nghe An police with clubs, sticks, stones, and tear gas. At least 30 people were badly injured, including children and elder women.

In the night of April 2, 2017, a row between some local police and two human rights activists, Bach Hong Quyen and Hoang Duc Binh, led to a violent clash between the police and the Catholic group across the site of the Trung Nghia church in Ha Tinh province. Some people of both sides suffered from injuries. The next morning, the Catholics went to the People’s Committee of Loc Ha district to demand compensation for the Formosa victims and to oppose “Loc Ha police shooting and beating civilians.” In the following days, the police of Ha Tinh and Nghe An initiated proceedings for a “disrupting peace” case and issued warrant for the arrest of Bach Hong Quyen. On May 15, 2017, they abducted Hoang Duc Binh and took him to the police station for torture and extortion. He was moved to Hanoi and has been detained in B14 since then.

43. Apart from beating, persecuting, other measures include imprisoning, arresting or sentencing. A fairly large number of prisoners of conscience are followers of recognized and unrecognized religious communities in Vietnam. In 2011, the authorities prosecuted, pursued

and arrested 17 young Catholics and Protestants; 14 of them were sentenced to prison in early 2013 for carrying out activities with the intent to overthrow the people's administration under Article 79 of the Penal Code (including: Nong Hung Anh, Nguyen Xuan Anh, Nguyen Dinh Cuong, Dang Xuan Dieu, Thai Van Dung, Nguyen Van Duyet, Ho Duc Hoa, Nguyen Dang Minh Man, Dang Ngoc Minh, Tran Minh Nhat, Nguyen Van Oai, Ho Van Oanh, Nguyen Dang Vinh Phuc, and Le Van Son). The lengthiest sentence was 13 years of imprisonment, imposed on Ho Duc Hoa and Dang Xuan Dieu. In early 2017, Dang Xuan Dieu was released under an amnesty and exiled to France.

Those of them who were released either continued to be closely monitored by the local police after prison or were jailed again for "failing to execute judgments" during their probation. For example, Nguyen Van Oai was arrested again in early 2017 and sentenced by the Nghe An People's Court to five years of imprisonment in the trial court of September 18, 2017. Thai Van Dung and Tran Minh Nhat were hunted nationwide. Le Van Son and Chu Manh Son were subject to constant harassment.

44. Since the second half of 2016, dozens of democracy and human rights activists have been arrested in Vietnam, the majority of whom being Catholics or Protestants. In chronological order: Nguyen Ngoc Nhu Quynh, Nguyen Van Hoa, Nguyen Thi Nga, Nguyen Van Oai, Hoang Duc Binh, Le Dinh Luong, Nguyen Trung Ton, Tran Thi Xuan... Many were hunted nationwide, including at least three Catholics: Bach Hong Quyen, Thai Van Dung and Tran Minh Nhat. The successive arrests made a clear impression that the State is pursuing a tough policy against the Catholics and Protestants.

Furthermore, the Catholic and Protestant activists are often charged with serious crimes and harsh punishment, such as "conducting propaganda against the State" (Article 88 of the Penal Code), "carrying out activities to overthrow the people's administration" (Article 79). Initially Hoang Duc Binh, the prominent activist in the anti-Formosa and environmental protection campaign in Nghe An, faced three charges: disrupting peace, resisting people performing official duties, abusing democratic freedoms to infringe upon the State's interests (Articles 245, 257 and 258 respectively). According to his defending lawyer Ha Huy Son, the Nghe An police on October 30, 2017 decided to prosecute Hoang Duc Binh under Clause 2 of Article 258, that is a serious crime and offenders could be sentenced to between two and seven years in prison.

For those who were already put on trial, the sentences imposed upon them were shockingly lengthy prison terms: Nguyen Ngoc Nhu Quynh 10 years, Tran Thi Nga 9 years, Nguyen Van Oai 5 years.

45. In early 2013, 22 persons, who were members of "The Council for the Laws and Public Affairs of Bia Son" – an organization considered as a political organization while the members confirmed that they were a religious organization, were put on trial at the People's Court of Phu Yen province. All of them got heavy sentence based on Article 79 of the Penal Code, which was jail terms up to 16-17 years. The organization's leader, Phan Van Thu, was

sentenced to life in prison. The shortest jail term granted was at least 10 years of imprisonment.

46. Hoa Hao Buddhism, which is outside of the state-run religious groups, also has dozens of followers as prisoners of conscience, including: Duong Thi Tron, Mai Thi Dung, Nguyen Van Tho, Vo Van Buu, Nguyen Van Dien, Le Van Soc, Nguyen Van Thuy... Among them, it is worth noting that Ms. Duong Thi Tron was sentenced to 9 years in prison while her husband, Mr. Nguyen Van Tho, was sentenced to 5 years in prison. He was charged with “disturbing public order” (disrupting peace), a minor wrongdoing which deserved administrative penalty instead.

47. In 2013, eight H’mong believers of Duong Van Minh religion were arrested and convicted of “abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and citizens” prescribed on Article 258 of the Penal Code. In 2014, three more H’mong believers of this religion were put in jail for violating the Article 258 of the Penal Code.

48. It is worth noting that Article 79 of the Penal Code is an ambiguous article and aims at individuals who “establish or join organizations” with the assigned intent “to overthrow the people’s administration”. Therefore, members of every party or religious organization can easily be convicted of this crime.

49. More ambiguous and even tougher are Article 245 of the Penal Code, which prescribes the crime of causing public disorder, and Article 258, “abusing democratic freedoms.” These articles are too ambiguous; therefore, followers of unrecognized religion can easily become convicted criminals according to one or two articles when practicing their religion.

50. Apart from beating and imprisonment, there are also other types of physical violence such as coercive measures, eviction from religious premises (to seize the land) or mobilizing gangsters to attack or throw missiles. This was what happened to Mennonite Protestant Church in My Phuoc 1, Ben Cat ward, Binh Duong province on November 2, 2014. Hundreds of thugs threw missiles into the Church hall where followers were worshipping and attacked them with canes so that some followers were wounded. Before that, from June 2014, gangsters had attacked the Protestant Church 10 times in a similar way. The local police officers did not turn up.¹³

¹³ <http://danlambaovn.blogspot.com/2014/11/cong-binh-duong-dung-con-o-tan-cong.html>



The image was taken from a video clip on Dan Lam Bao website, posted on April 11, 2014

51. The most scary violent attack of the religious minority group in 2017 may be the killing of Mr. Nguyen Huu Tan (b. 1979, Hoa Hao Buddhist) while he was in custody in the police station of Vinh Long province. On May 2, 2017, Tan was urgently arrested and had his home searched by Vinh Long police for “disseminating anti-state documents.” He was put into custody for questioning, and the next day his family received a phone call from the police, asking them to take back his dead body. The Vinh Long authorities said Tan committed suicide by cutting his own throat. The family, however, disbelieved the account, especially when they found Tan’s dead body with his head injured and a deep cut through nearly the entirety of his neck. All requests for independent investigation were ignored while Tan’s family kept being intimidated by Vinh Long police days after.

The case clearly went beyond the helm of religious freedom to become an alarm call against many serious issues in contemporary Vietnam: arbitrary detention, grudge and violence against religious followers as well as dissidents, and, above all, the lack of a mechanism to supervise law enforcing bodies, to independently investigate and punish violators in the section of law enforcement.

52. Being chased from religious facilities, preventing from migration is another control measure of the authorities towards religious followers and this is a serious infringement of the human right (the right to freedom of movement). The working group is aware of many cases in which the religious leaders were forbidden from exiting Vietnam within the last three years (from 2013), including: Buddhist monk Thich Khong Thanh, Reverend Dinh Huu Thoai, Reverend Le Ngoc Thanh, Reverend Phan Van Loi, Sub-dignitary Hua Phi, Sub-dignitary Nguyen Bach Phung, Pastor Nguyen Trung Ton, Pastor Pham Ngoc Thach, and others.

E. No mechanism of conflict resolution

53. In the press statement publicized on July 31, 2014, Dr. Heiner Biedefeldt – the UN Special Rapporteur on freedom of religion or belief, mentioned the issue of legal recourse, a mechanism in which a religious organization can challenge decisions taken by the authorities if they feel the decision has infringed upon human rights or is not in accordance with principles and due process. Dr. Heiner Biedefeldt presented that there had been no such cases in Vietnam despite the fact that there was a great deal of conflicts over land issues between the authorities and religious communities. In general, petitions filed with the authorities or courts from religious communities have not seen any reaction or feedback. In some other cases, the petitions were referred back to the local authorities for reconsideration then ended up in a limbo.

54. There has not been any case in which “government’s people/official” violating the right to freedom of religion/belief is presented to the court. No individual has ever been convicted of or blamed for carrying out violent attacks aimed at the communities of unrecognized religion.

55. The suggestions and recommendations from the UN. Special Rapporteur – Dr. Heiner Bielefeldt’s report to improve and promote the right to freedom of religion/belief were not executed since his country visit to Vietnam.

III. ASSESSMENT OF THE LAW ON BELIEF AND RELIGION

A. Formation and development

56. After 10 years of implementing Ordinance No. 21 and Decree No. 92, the authorities reveal that the reasons for drafting the Law on Belief and Religion is to close any loopholes and omissions from Ordinance No. 21 such as the jurisdiction over individual and organization’s religious freedom violations and, most importantly, to meet the need and ensure better state management of religious affairs.

57. The draft of the Law on Belief and Religion was introduced in early 2015 to replace Ordinance No. 21 and Decree No. 92. After more than a year, the draft has undergone seven revisions. However, the draft has met with strong reactions from religious organizations protecting the right to freedom of religion and religious communities on the grounds that the Law is meant to control and regulate religious affairs.

58. In fact, the Ministry of Home Affairs (a governmental body) is tasked to lead the drafting of the Law on Belief and Religion. The drafting process seems to go against the conventional law-making principles as a law enforcement body which has the functions of

managing religious affairs is assigned to the law-maker while the National Assembly – the legislative body – just offers advice during the drafting process and approve it later.

59. The introduction of the Law in this context clearly shows that it is a government's tool to increase control over religious affairs, not aimed at protecting the right to freedom of religion/belief.

B. Legal aspects and limitations of the Law on Belief and Religion

60. The Law does not reflect the state management system of religion in Vietnam. The State of Vietnam empowered the management of religious affairs through four levels of administrative units from the central to the provincial level. At the central level, the Government Committee for Religious Affairs is a specialized agency under the Ministry of Home Affairs to exercise the state management of religion throughout the territory. At the provincial level, the provincial committee for religious affairs under the People's Committee (PC) will assist the PC in performing the state management of religious affairs. At the district level, a division for religious affairs is a specialized group performing the functions of state management in the field of religious affairs. At the commune level, there is no independent body to help the commune's PC exercise the state management of religion but some personnel, headed by the Vice President of the commune and some other helpers are responsible for supervising the religious affairs in the region.

61. The Law does not mention a long-standing practice that religious communities and organizations are under the secret/underground supervision and control of what is known as "religious police force" under the Ministry of Public Security and provincial departments of public security (at the provincial and municipal level); and Public Security Group for religious affairs (at the commune level). Normally, the PC makes decision about religious affairs based on the proposals and consultation of specialized religious police force. For example, the appointment of dignitaries to executive and religious leaders must be approved by the PC, however, whether the PC approve it or not depends on the reports about those nominated dignitaries.

Besides, the participation of regulatory bodies with more power and authorization is not mentioned or prescribed in this Law. They are the Steering Committee for Northwest region, the Steering Committee for Highland region, and the Steering Committee for Southwest region. These committees are established by the Communist Party to perform the supervisory and ruling functions in the "sensitive areas", where racial and religious conflicts often take place.

62. Article 4 of the Law prescribed that the Fatherland Front and its member organizations are tasked with bringing together citizens with beliefs or having a religious faith and citizens without such beliefs to achieve general solidarity among all the people, to build up and protect the nation. Therefore, in addition to the authorities' supervision, the

religious communities must confront with the Fatherland Front – a governmental body that is thought as “an extended arm” of the ruling Communist Party. Despite being a socio-political organization, not a governmental agency, in fact the Fatherland Front exercises its control over religious affairs through nomination activities, planning human resources for religious leaders.

In the leadership elections of religious organizations that are also members of the Fatherland Front, it takes the role of a “negotiating” side like in the elections to the National Assembly. At the moment, there are three religious organizations which are also the members of the Fatherland Front, including the Buddhist Sangha of Vietnam, the Committee for solidarity of Vietnamese Catholics and the Evangelical Church of Vietnam.

Though the religious doctrines and faiths are the same, it happens that some religious organizations are not recognized by the State and the officially recognized religious organizations cooperate with the authorities and the Fatherland Front to prevent the unrecognized ones from holding religious ceremonies. Some religious leaders of the unrecognized religious communities said that the authorities usually use the religious leaders partaking in the Front to publicly inveigh against the religious leaders and their unrecognized religious organization. Now the attacks on them have become lessened but the risk of conflicts remains.

63. Article 54 prescribes the publications related to belief or religion, which states that: *Organizations and individuals engaging in publishing bibles, prayer books and other publications on religion and belief; producing or importing/exporting cultural materials related to beliefs and religion or articles used with religious activities must abide by the law on publications and other related regulations.* It is easy to refer the term “law on publications” to Article 12 and 36 of the Law on Publishing effective as of 1st July 2013: These articles do not list religious organizations in the category of those allowed to establish publishing house and producing publications. Therefore, when applying “law on publishing” in practice, the religious organizations are deprived of the right to establish publishing houses, print and distribute religious publications.

64. Though the Law grants religious organizations some more rights such as establishing educational institutions, it includes the provision “law on education”, which becomes a hindrance to the implementation of the Law in practice. Pursuant to Article 55, religious organizations are allowed to provide educational and training services. Like the case of Law on Publishing, when referring to Article 48 of the Law on Education that prescribes types of school in the national education system, there is no such thing as a *type of school for religious organizations*. And Article 19 of the Law on Education also prescribes the prohibition of disseminating religion at schools and educational institutions. Therefore, when applying “relevant law”, the State deprives religious organizations of the right to provide educational services.

65. Article 41 requires religious organizations to submit “registration documents” to authorities when organizing religious training courses, which must provide information

regarding the learners, the trainers, the reason for opening the course and its content. Though the Law called it the “registration documents”, it is in fact “an application for the permission” as the authorities reserve the right to approve or not approve the opening of this training course.

66. It is entirely reasonable for religious communities to raise the concern when looking at the Law, especially when it has given the regulatory body in charge of religious affairs the authorization to recognize a religious organization (Clause 3 of Article 22). The operation and activities of a religious organization depend on the regulatory body’s will and decision, when Point 13 of Article 2 of the Law defines “a religious organization is a set of religious believers, which is organized according to a certain structure and recognized by the State...” Articles 21 and 22 set out the conditions for a religious organization to operate, and require that all religious organizations wishing to be legally recognized must obtain the approval from the authorities. This reliance leads to the fact that in many cases, the authorities can divest or delay the need of religious practice/recognition due to the subjective reasons that the authorities themselves define.

When asked, some reported that at religious meetings or events, the dignitaries needed to “provide monetary gifts” (a kind of bribery) to regulatory body’s officials to avoid inconvenience or being troubled. Once again, the Working Group echoes the standpoints of the Special Rapporteur Dr. Heiner Bielefeldt: *Based on the legal aspects, the practice of a religion/belief must not depend on any administrative decision or approval.*

67. Besides the approval of personnel matter, appointment and transfer of clergy, organization merger and dissolution and charter formation, the Law also prescribes regulations regarding holding conferences/congresses, which are the religious organizations’ internal affairs. Such regulations require the religious organizations to continue the registration process or inform the authorities and wait for their approval. This reflects the authorities’ forceful intervention in the religious organizations’ internal affairs, which clearly aims to exercise excessive control over them, going against the spirit of respecting the right to freedom of religion. This issue has placed the recognized religious organization in a state of acquiescence to the government.

68. Registered religious organizations are legally recognized and given non-commercial legal entity status. This facilitates religious organizations when they carry out civil transactions such as opening a bank account or transferring the land-use right. In the past, dignitaries and priests must carry out these civil transactions as citizens.

69. Clause 4 of Article 56 acknowledges that the management and the use of the land of religious establishments are governed by “the laws and other applicable laws on land.” However, Article 181 of the Law on Land, in its Clause 2, prescribes that religious establishments must not transfer, rent, or gift the land use. The prohibition of such civil transactions concerning property of a religious organization has created inequality in legal status and weakened the religion in the civil life.

70. Article 21 of the Law prescribes the conditions for recognition of religious organizations in which religious organization has received the operation certificate from the authorities and has stably and continuously conducted religious operation from 5 years upwards. Therefore, within such 5 years of operation, the religious organization is still positioned as an unrecognized or semi-recognized religious organization. The period of minimum 5 years can be seen as the “probation or trial period” given by the authorities and after that, whether the religious organization is approved or not depends on its attitude and submission towards the authorities within 5 years of operation. And it does not rule out any possibility that the religious organization will have to “bribe” the regulatory officials in charge of religious affairs in many administrative procedures.

71. With the provisions of the Law, the Working Group found that the government could dominate and interfere in all the activities of the religious organizations if desired, from the appointment of personnel issues to charter and telnets formation, etc. if the religious groups or organizations wish to be officially recognized and even after the recognition process. This is a serious problem, which is actually happening: On the one hand, the recognized religious organizations manage to maintain good relationship with the authorities, but on the other hand, they seek for enlargement of their religious activities and community development under the control of the government.

72. Besides the civic duty, dignitaries and religious believers are given more obligations when following a religion as defined in the Law. Clause 2 of Article 9 prescribes that dignitaries, religious village administrators and persons living a vowed life “have the responsibility to instruct the believers to conduct religious activities in accordance with the provisions of the Law.”

Lacking enforcement mechanism to ensure the right to freedom of religion but being given more duties and responsibilities during the operation is a legal burden. The dignitaries and religious believers become the vulnerable groups facing legal issues during their religious practice, especially the dignitaries as they must bear “political liability” when their followers face charges.

C. A comparison with international standards and commitments

73. Firstly, regarding conflicts of law (if any) between the Vietnam and the international laws: A draft Law on Belief and Religion stated, “If an international covenant to which the Socialist of Republic of Vietnam is a party has clauses that differ from this Law, the international covenant’s clauses take precedence.” The enacted Law does not touch upon this issue anymore and this is a step backwards compared to one of its drafts.

However, there is still a legal tool left to use in case of conflicts, which is Clause 1 of Article 6 of the Law on International Treaties (2016), stating, “If an international treaty to which the Socialist of Republic of Vietnam is a party has clauses that differ from national law, the international treaty’s clauses take precedence, except for the Constitution.”

74. Under international human rights laws, freedom of religion is a fundamental right which is recognized and protected very early on Article 18 of Universal Declaration of Human Rights (UDHR): Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. The right to freedom of religion/belief is reaffirmed on Article 18 of International Covenant on Civil and Political Rights (ICCPR), which says: 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. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.

75. The Working Group found that the provisions on the right to freedom of religion/belief from these two documents still have revealed some shortcomings when it emphasizes on “choice/option” (follow; do not follow; or change) and does not express the nature that the right to freedom must include the content of “to establish” despite the fact that it is not uncommon for communities or individuals to establish a new religious organization or belief.

76. Article 18 of the ICCPR itself details the regulation of the right to religious freedom of Article 18 of the UDHR, but it is a step backward of the human right standards in comparison with the UDHR when it imposes limitations in order to protect “public safety, order, health, morals or the fundamental rights and freedoms of others” which are defined on Section 3. This provision shows that freedom to religion, belief is not an absolute right; accordingly, the right to freely to express religion or beliefs may be restricted by laws.

77. The UN Special Rapporteur - Heiner Bielefeldt has a useful explanation that the freedom of religion/belief, which is formed by the elements of the soul, the inner part (the belief aspect, faith or “forum internum”), is an absolute right that must be never be exposed to any restrictions for whatever reasons. And only the outside part (“forum externum”, the manifestations of religions or beliefs in the social sphere) can be restricted. But when the laws become the authorities’ tool to rule, the systematic supervision of the manifestation of religions or beliefs in the social life will gradually lead to its narrowing and the doubt on the beliefs with time.

78. The right to freely express religion or belief may be restricted as stipulated by Section 3, Article 18 of the International Covenant on Civil and Political Rights and Vietnam, as a member of the Covenant, radically applied this provision, even extended some restrictions through Clause 4 and 5 of Article 5 of the Law, which says: *Forbidding to abusing the freedom of religion and belief to harm national defense, security, national sovereignty, public order and safety, environment; Harm the social ethics, health, dignity, reputation and property of others; Obstruct the exercise of civil rights and civic duties by others; Seek private gains.* The concepts of “national defense”, “security”, “order”, “public

safety”, “social ethics”, “private gains seeking”... remain highly vague and create space for the law enforcement agencies, especially the police, to arbitrarily interpret and act at their discretion.

At the same time, Clause 3 of Article 24 of the Constitution 2013 allows widespread restrictions to prohibit anyone who “*take advantage of belief and religion to violate the law.*” Article 258 of the Penal Code stipulates that persons who abuse democratic freedoms (including religious freedom) to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens, shall be subject to warning, non-custodial reform for up to three years or a prison term of between six months and three years.

79. Though the provision “abusing democratic freedoms...” is harshly criticized for being vaguely-worded, which led to the authorities’ arbitrary application, it is commonly used to punish not only religious activists but also advocates of human rights and democracy. This is an open provision of law that helps the authorities handle not only acts of violation but also different “ideology/standpoint”. For instance, when a group of people gathers for religious activities without prior registration with the regulatory body, the authorities shall use the regulation of national security and safety public order to impose administrative penalties or disband the crowd. But if the authorities find that this religion or the religious followers are having ideology or standpoints that may threaten the stability of the Communist Party’s rule, these people shall face criminal charges.

80. In fact, the Penal Code amended lately, whose effective date is being delayed, continues to widen jurisdiction to handle problems related to standpoints/ideologies for reason of “national security”. Specifically, Chapter XIII of the amended Penal Code 2015 has added more provisions on all crimes relating national security: “*A person who is about to commit this crime, shall be sent to jail...*”, that the Penal Code 1999 had no provisions on.

Thus, with this additional regulation, the crimes relating national security are the only crimes punishable without constituting behavior. That means there is no need to take actions; just expressing the views and thoughts then the conviction can be formed base on the law.

Some crimes relating to national security are commonly used to arrest and convict religious followers and dignitaries such as: undermining the national unity policy; conducting propaganda against the state; carrying out activities to overthrow the people’s administration (Article 87, 88 and 79 of the Penal Code respectively).

81. With regard to this issue, the Working Group emphasized the importance of “the Siracusa principles” by the Economic and Social Council (ECOSOC) of the UN in 1984, prescribing the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (ICCPR), according to which “*The systematic violation of human rights undermines true national security and may jeopardize international peace and security. A state responsible for such violation shall not invoke national security as a justification for measures aimed at suppressing opposition to such violation or at perpetrating repressive practices against its population.*” And obviously, the expansion of the scope to handle legal provisions on national security for the government of Vietnam has established the fact that

Vietnamese government completely reneged on its commitments at Universal Periodic Review (UPR) on human rights in June 2014 to amend provisions on national security to be in conformity with the international standards and in accordance with the ICCPR.

82. According to international human rights law, the State's obligation to promote and protect human rights (including the right to freedom of religion/belief) is secured by three elements: respect, protection and enforcement. However, the Law on Belief and Religion does not have any provisions on the State's obligations. The Law restricts itself to acknowledging that the State respects the right to freedom of religion, without specifying the State's duty to protect and enforce through mechanisms such as handling government officials' violations or setting up legal recourse system.

IV. CONCLUSIONS AND RECOMMENDATIONS

The right to freedom of religion in Vietnam has slightly improved from 1975 until now but so many problems still persist to make this right be protected, respected and implemented as a fundamental human right. The reasons come from the “high vigilance” of the government towards religious groups and communities, who are thought to be able to mobilize the people away from the state management.

No religions (Buddhism, Catholicism, Protestantism, Hoa Hao Buddhism, Caodaism, Mulism, etc.) or beliefs can fully enjoy the right. The government uses a variety of measures to control religious affairs in a way that “facilitates the management” instead of enforcing and protecting the right to freedom of religion. These measures are diverse, such as: using legal and administrative regulations; using the propaganda apparatus; dividing to rule; and using physical violence.

After many legal documents, which are almost by-law documents, especially Ordinance No. 21/2004/PL-UBTVQH/QH11 on beliefs and religions and Decree No. 92/2012/NĐ-CP, this is the first time that the religion in Vietnam has been “managed” by an official legal document instead of ordinances, decrees, circulars, resolutions and directives. However, the Law still contains many unsound regulations. It is still like a government tool to easily manage the religious affairs under the will of the State, rather than to protect the right to freedom of religion. With this tool, the government continues serve as the giver of religious freedom under the “you beg, we grant” mechanism, judgment and orientation for religious affairs. The government decides on what the religious followers and organizations are allowed to do and not do. It is very dangerous when the forceful and intrusive intervention of the government in the religious affairs is publicly guaranteed by laws.

Above all, the State continues to maintain the discriminatory treatment between legally recognized religious organizations and the rest that are outlawed because of not having the registration certificate. This discriminatory treatment goes against the spirit of tolerance and potentially causes conflicts among religions – which jeopardize the overall

development; rather than the minority of religious followers causing public and social disorder as the authorities generally identify.

The Law still remains legal issues that many religious dignitaries, even the UN Special Rapporteur on freedom of religion or belief pinpointed and recommended for amendments. The Working Group doubts the government's goodwill in finding the solutions and the path to improve the current situation of freedom of religion in Vietnam, which is considered very limited.

The Law does not meet the spirit of protecting the right to freedom of religion/belief. It leaves behind visible dangers when applied into the life and in terms of the relationship between the government and religious communities.

Thereby, besides the attention to the useful recommendations of Special Rapporteur Dr. Heiner Bielefeldt, the Working Group outlined a number of recommendations:

1. The National Assembly should delay the valid date of the Law on Belief and Religion; ensure that the Law shall only come into effect after going through a full and transparent consultation process by human right experts, civil society organizations and religious communities in Vietnam, including especially the unrecognized groups; and all constructive comments must receive feedbacks openly and transparently;
2. The religious groups and communities should be extremely mindful of the application of the Law in the time to come. Within the realms of possibility, establishing professional teams to research this law and participating actively in the process of reviewing the Law is necessary;
3. The government should terminate all forms of interference in the internal affairs and activities of recognized religious organizations, especially stop using and mobilizing the police force in this aspect; promote understanding and trust with the unrecognized religious organizations instead of having a hostile and discriminatory attitude towards them; toward the equal treatment between religious organizations and communities in terms of the beneficiaries of the right to religious freedom;
4. The government should take the lead in cultivating the spirit of tolerance by ensuring that violence (both physical and mental, both in actions and words) against religions/beliefs is ended;
5. The Vietnamese Penal Code should be amended, with special regard to those ambiguous and vague articles (such as those relating to national security and administrative order management) and/or infringement of human rights (such as regulations related to Law on Publishing and Education Law). There is a need to legalize the government's specific obligations to protect and enforce these rights;

6. An independent mechanism for handling complaints should be developed to reverse wrongful decisions by the authorities on human rights and their violations themselves. Shielding government officers who violate the right to freedom of religion and belief should be stopped. Claims concerning religious affairs should be handled by independent court and judged in a fair manner.