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COMMENTARY: Vietnam's new religion regulations don't help religious freedom

By Truong Tri Hien, a Christian lawyer who had to flee Vietnam in 2004

Recent government religious regulations provide no basis for religious freedom, Vietnamese Christian lawyer Truong Tri Hien argues in this personal commentary for Forum 18 News Service <<http://www.forum18.org/>>. Even these contradictory and restrictive documents have been dismissed by oppressive local officials, he reports. Hien was Acting General Secretary of the Mennonite Church in Vietnam and fled his homeland in June 2004, after a warrant was issued to arrest him for "resisting a person performing his duty." The Vietnamese Justice Code states that this includes "threatening to make public information that will be unfavourable to the person doing their duty, or unfavourable to those close to the person doing their duty". Hien had been documenting religious freedom violations. Hien pleads for foreigners to judge the Vietnamese government by its continuing attacks on its own citizens' religious freedom, and to take action to force it to abide by international human rights standards.

Freedom of religious belief and practice is a gift of God and a fundamental right guaranteed in international law. In the past year, Vietnam's government has claimed that religious communities will be freer to exercise their rights through the introduction of three legal documents: the Ordinance on Belief and Religion which came into force on 15 November 2004; the Special Instructions Concerning Protestants (01/2005.CT-TTg) issued by the Prime Minister on 4 February 2005; and the Decree on Religion (22/2005/ND-CP) of 1 March 2005, which sets out how the Ordinance is to be implemented.

Some observers hope that religious freedom will now be advanced. Optimists also cite the Vietnamese government's signing on 5 May 2005 of an agreement with the US government on religious freedom. The agreement only happened due to formal US designation of Vietnam as a "Country of Particular Concern" (CPC) for religious freedom violations, with the accompanying threat of CPC sanctions. But what the agreement says is secret and so it is impossible to verify independently either whether it represents real progress, or if any promises made in the agreement are fulfilled. As US Commission for International Religious Freedom vice chair Nina Shea rightly commented, "until there is independent monitoring, any claims of progress on religious freedom should be viewed with scepticism".

The three legal documents offer little evidence for hopes of greater religious freedom. Their provisions overlap and are contradictory, providing a convenient justification for officials at various levels to use discretionary power to oppress religious organisations. In other words, "law" in this context does not mean the rule of law as understood in democracies, but rather the excuses officials use to justify arbitrary actions.

One revealing illustration of the "Catch 22" nature of the documents is the requirements imposed on religious communities to register religious activities and seek legal recognition as a religious organisation, based on Article 16 of the Ordinance, before the state decides whether or not an organisation is religious. Only after this does the state decide on the legality of religious activities - which must, under the law, be recognised as legal before legal recognition can be sought! This poses a serious problem for all religious groups, but particularly for Protestant house churches. Government officials argue that these contradictory requirements are necessary for "maintaining public order and to help religious organisations achieve good results."

"Catch 22" problems don't end there. In order to register religious activity, a religious organisation must have believers. But in order to be a believer, one must be accepted by a religious organisation - which can only exist if it already has state approval. These contradictory requirements stem from article 6, section 2a of the March Decree, which specifies that applications must record the number of believers. Article 3, section 8 of the Ordinance defines a believer as "a person who believes in a religion and [note this requirement] is acknowledged as a believer by the religion". However, the definition of a religious organisation in article 3, section 3 is "an assembly of believers with the same doctrines and ceremonies with a clear structure which is recognised by the State".

In other words, the law says that state recognition is necessary before state recognition can be applied for - and without that, neither religious organisations nor individual believers can legally exist.

Against international standards, Vietnam insists that a religious community "must register its religious activities", thereby rendering unregistered religious activity illegal. But even if a religious community wants to register, who registers it?

Both the Ordinance and the Decree identify the Government Bureau of Religious Affairs and its provincial bureaus as the registration authorities. But article 7 of the Prime Minister's Instructions commands other local officials to "carefully examine to see if there is really a need for religious belief and (if there is) help them (religious believers) to register their religious activities with commune and village or ward officials". This difference between the Prime Minister's Instructions and the Ordinance allowed officials of Binh Khanh Ward in District 2 of Ho Chi Minh City [Saigon] to tell the Vietnamese Mennonite Church that "we will follow the Ordinance. The Prime Minister has issued Instructions but each locality has the authority to grant them or not."

After the arrests of six Mennonite church workers in March 2004, and their subsequent summary trial, the authorities launched a sustained and systematic attempt to close down the church's office and the church that meets there. Between 3 March 2004 and 30 May 2005, the church recorded 77 separate actions against them by police and local officials. Two petitions to the prime minister on the basis of his Instructions have gone unanswered. When the church asked the central Bureau of Religious Affairs how to get state registration, they were referred to the Ho Chi Minh City Bureau. This office provided no guidance, except to (once again) order all religious activities to stop, while officials "consider" the situation.

The use of ambiguous terms and phrases not defined in law, such as Article 16's phrase "do not go against the nation's fine traditions and customs nor against the common benefit of the people" is normal in Vietnamese government documents. "Stable religious activity", another Article 16 phrase, also has no clear meaning in law and is variously interpreted by officials throughout the country. Article 8, section e, of the later March Decree outlines various periods of stable activity. But what does "stable" mean? This word has been used to exclude Protestant house churches, which have been pressured to disband because they are not yet registered and do not have legal recognition. Moreover, some local officials are intentionally confusing the registration of religious activities (allowed in the Prime Minister's Instructions) and the legal recognition of religious organisations.

In practice, "stable" means whatever officials want it to mean. If the authorities accept an application, they require that a religious organisation has 20 years of activity before being eligible for legal recognition. And while waiting for the 20-year period to be completed, the religious organisation must cease its religious activities. If a religious organisation persists in carrying on religious activities it can be charged with illegal religious activity - as happened to the Mennonite Church - or it can be said that the religious organisation is not active and so not eligible for recognition.

The Prime Minister's Instruction has been flouted or downgraded right across the country. In April 2005 in Lu Khau Village in the northern Lao Cai Province, the authorities began proceedings to seize the land of 12 Christian families from the Hmong minority. The reason given was that they were Christians. Seven officials, including the local police chief, illegally seized the families' land and beat up family members, including a 70-year old woman. Officials offered financial rewards to get one family to give up Christianity, tied up one man with wire and left him in the hot sun, and boasted that they would next target another 32 Christian families. When one man went to Hanoi and brought back the Prime Minister's Special Instruction Concerning Protestants, local authorities refused to recognise it and taunted him. On 4 July, a lawyer in Vietnam told me that 10 of the 12 families had signed papers recanting their faith, to get their land back.

Since becoming Christians and joining the Assemblies of God in late March, 2005, Le Thi Kim Son, of Thoi Thanh Commune in the southern Ben Tre province, and her extended family have experienced extreme and persistent ridicule, harassment, death threats and physical attacks at the hands of hamlet, commune and district officials, often drunk and acting in concert. Son's mother, who is a widow of a "martyr of the revolution" has had her pension benefits rescinded. Christians injured by attacks from officials are warned by local doctors that they will not be treated, while children of Christian families are denied tuition subsidies. Many petitions asking for redress from local officials have not been accepted. When officials were shown a copy of the Prime Minister's Instruction, the Christians were told it was a fake document and it was seized for a threatened lawsuit against them.

Many other problems are thrown up by the latest legal documents, including obstacles to religious organisations having places of worship - of which there is a great shortage due to the state's actions - and having legal representation, which is highly necessary as Vietnam is a state governed not by the rule of law, but by the rule of official arbitrariness.

It is vitally important in assessing Vietnamese religious freedom to look not only at the contradictory and ambiguous nature of government documents - revealing as they are - but also at the government's actual practice, as the examples given illustrate. They are a sample of Vietnamese central and local government actions in 2005, not a comprehensive list. Note that these examples are both widespread across the country and also are not just the actions of oppressive local officials. The central government is heavily involved in oppression.

Also, the examples I've given do not include other kinds of oppression practiced in Vietnam, such as the torture and jailing of religious prisoners of conscience. An example is Baptist pastor Than Van Truong, imprisoned without trial since May 2003 who is right now is incarcerated in a psychiatric hospital and being forcibly administered anti-psychotic drugs. This month, July 2005, the public prosecutor has said that he is not under investigation for crimes and a (since transferred) doctor at the hospital confirmed that Pastor Truong does not suffer from mental illness.

So it is clear that the latest government documents cannot be said to provide favourable conditions for religious freedom. To us

Vietnamese in non-registered, non-legal religious organisations, the new documents reveal that the Party and the State are still not satisfied with merely exercising a kind of benign administrative oversight of religion and religious activity. It is still the old pattern of control, restraint, domination and suppression, along with presenting one face to foreign observers and a quite different face to its own citizens. I agree with Catholic Cardinal Jean-Baptiste Pham Minh Man of Ho Chi Minh City, who stated that "it would be better not to promulgate the Ordinance at all".

As a Vietnamese Christian lawyer, I ask that foreign governments and human rights organisations pay more attention to the many victims of the government's religious policy. This is especially important as the Vietnamese central government refuses to honestly stop its continuing persecution of religious believers around the country.

I personally believe that real religious freedom will only be advanced if Vietnam:

- withdraws all repressive legal documents without any exceptions;
- frees all religious prisoners of conscience, as well as religious leaders operating under officially-imposed restrictions;
- allows religious organisations (both registered and unregistered) to freely operate, without any "Catch 22" style complex requirements being imposed on them;
- stops all repressive actions against religious believers and communities;
- brings in the rule of law, instead of the rule of arbitrary official whim, and legally punishes officials who oppress religious people;
- returns or provides fair compensation for property seized from religious communities since 1975;
- and, after it has begun to take all these actions, convenes a roundtable conference with all Vietnamese religious groups (registered and unregistered), as well as independent international human rights observers, to resolve all the outstanding issues of relations between religious communities and the Vietnamese state.

I hope my native country will seriously consider such bold initiatives to make peace with religious communities. However, I believe that external pressure will be necessary. Soon after he was exiled from the Soviet Union in 1974, Alexander Solzhenitsyn urged the outside world not to ignore the human rights violations in his homeland, making his famous plea: "Interfere as much as you can. We beg you to come and interfere." Vietnamese religious believers are waiting to see how far foreign governments and organisations will both judge the government on its actions, not its statements, and also exert real pressure on it to respect international standards instead of allowing it to, as Solzhenitsyn put it, "strangle its citizens in peace and quiet".

- Commentaries are personal views and do not necessarily represent the views of F18News or Forum 18.

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For an analysis and commentary, arguing that trade alone will not bring religious freedom and advocating consistent foreign pressure to support the Vietnamese people's struggle for religious freedom, see F18News 2 February 2004 http://www.forum18.org/Archive.php?article_id=242

For an analysis of the Ordinance on Belief and Religion, see F18News 21 September 2004 http://www.forum18.org/Archive.php?article_id=415

For a report on state interference in the indigenous Vietnamese religions of Cao Daim and Hoa Hao Buddhism, see F18News 28 July 2004 http://www.forum18.org/Archive.php?article_id=378

A printer-friendly map of Vietnam is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=vietna>

Truong Tri Hien, contributed this comment to Forum 18 News Service. Commentaries are personal views and do not necessarily represent the views of F18News or Forum 18.

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