

Implications of protecting freedom of belief and religion as per provisions in constitution of Vietnam at present

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Abstract

Religion is a form of social awareness that appears very early and lasts long with human existence. Religion satisfies the spiritual and cultural needs of many people and is an indispensable element in the spiritual life of people. Like many other countries in the world, Vietnam is a multi-religious country. With the number of people with belief and religion accounting for more than 90% of the population, the Communist Party of Vietnam and the State of Vietnam have many policies and laws that show deep concern for the right to freedom of belief and religion of the people. This contributes to satisfying the belief and religious needs of many people; at the same time, it also creates conditions for the followers and dignitaries to positively perform well the "religion" and "life", creating favorable conditions for religions to participate in the patriotic emulation movement, socio-economic development, and prevent religious misusing activities to divide the great unity mass.

Keywords: protecting freedom of belief and religion, constitution, Vietnam

1. Introduction

1.1 Current religious situation in Vietnam

According to statistics, as of November 1, 2018, Vietnam has 16 religions, 42 religious organizations (of 16 religions) recognized and granted operation registration certificates. The religions currently recognized by the State of Vietnam are: Buddhism, Catholicism, Protestantism, Cao Dai, Hoa Hao Buddhism, Islam, Baha'I, Pure Land Buddhist Association of Vietnam, Tu An Hieu Nghia, Buu Son Ky Huong, Nam Tong Minh Su Dao Theravada Master, Minh Ly Dao - Tam Tong Mieu Christianity Church, Cham Ba La Mon, Mormon, Hieu Nghia Ta Lon Buddhism, Phuc Lam Vietnam Christian Church with total number of religious people is 13, 2^[1] million.

Among the religions in Vietnam, there are major religions in the world such as Buddhism, Catholicism, Protestantism, Islam, etc. and typical internal religions such as Cao Dai, Pure Land Buddhist Association, Buddha, Hoa Hao, Buu Son Ky Huong, Tu an Hieu Nghia, etc. and many other endogenous religions. A special point is that the religions in Vietnam exist intertwined, with few conflicts that stand out as a trend of peaceful coexistence.

2. Current legal documents on belief and religion in Vietnam

The Party and State of Vietnam always pay attention to the belief and religious needs of the people. Immediately after the founding of the Democratic Republic of Vietnam, President Ho Chi Minh affirmed the right to freedom of belief and religion of citizens right in the first meeting of the Government. He said: "I propose to the Government to declare the right to freedom of religion and unity of the people with religion and the people without religion" (...).

On that proposal, on June 14, 1955, President Ho Chi Minh signed the Ordinance No. 234/SL stating: "The right to freedom of belief and freedom of worship is the right of the people. The government always respects and helps people do it. The government does not intervene in the internal religions. Religious organizations shall obey the laws of the State like all other people's organizations. The protection of religious freedom is required to punish those who are disguised as religious leaders" (...). He used to call on religions to erase the conflict and unite with the whole people to take care of the country's independence. He is also an example of respecting the cultural values of religions, attaching importance to the contributions of people with religion in the nation construction and defense.

Inheriting the good views of President Ho Chi Minh, the Party and State of Vietnam always consider beliefs and religions to be the spiritual needs of the masses. The freedom of belief and religion is recognized in the most valuable legal documents in Vietnam's legal system - the Constitution. The 2013 Constitution of the Socialist Republic of Vietnam clearly states:

Article 24

1. Everyone shall enjoy the right to freedom of belief and religion; he or she can follow any religion or follow none. All religions are equal before the law.
2. The State respects and protects the right to freedom of belief and of religion.
3. No one has the right to infringe on the right to freedom of belief and religion or to take advantage of belief and religion to violate the laws. (...)
4. Article 14 of the Constitution also prescribes:

Article 14

1. In the Socialist Republic of Vietnam, human rights and citizens' rights in the political, civic, economic, cultural and social fields are recognized, respected, protected

¹ <http://baochinhphu.vn/Tin-noi-bat/Cong-bo-ket-qua-chinh-thuc-va-tong-ket-tong-dieu-tra-dan-so-nha-o-nam-2019/382996.vgp>

and guaranteed in concordance with the Constitution and the law.

2. Human rights and citizens' rights shall only be restricted when prescribed by law in imperative circumstances for the reasons of national defense, national security, social order and security, social morality and community well-being. (...)

It can be seen that the right to freedom of belief and religion is to concretized into human rights, civil rights, be recognized, respected, protected and guaranteed by the State and the society. However, this right does not separate the interests of the country, the nation and the community. In certain cases, the right to freedom of belief and religion may be restricted for reasons of national defense, national security, social order, safety, social morality or public health. These regulations are not contrary to the International Convention on Civil Rights and are also in line with the aspirations of the masses.

To facilitate the religious activities of believers, at the same time also create conditions for competent agencies to manage activities related to beliefs, religion, the Party and State of Vietnam issued many guidelines and policies on belief and religion to concretize the provisions of the 1992 and 2013 Constitution on the right to freedom of belief and religion. These legal documents are:

- Ordinance on belief and religion dated June 18, 2004;
- Decree No. 22/2005/ND-CP dated March 1, 2005 of the Government guiding the implementation of a number of articles of the Ordinance on belief and religion (expired);
- Directive No. 01/2005/CT-TTg dated February 4, 2005 of the Prime Minister on a number of activities for Protestantism;
- Directive No. 1940/CT-TTg dated December 31, 2008 of the Prime Minister returning houses and land related to religions;
- Decree No. 92/2012/ND-CP dated November 8, 2012 of the Government detailing and measures to implement the Ordinance on belief and religion;
- Circular No. 01/2013/TT-BNV dated March 25, 2013 of the Ministry of Home Affairs promulgating and guiding the use of forms of administrative procedures in the fields of belief and religion;
- Joint Circular No. 04/2014/TTLT-BVHTTDL-BNV dated May 30, 2014 between the Ministry of Culture, Sports and Tourism and the Ministry of Home Affairs guiding the implementation of civilized lifestyle at belief and religious establishments.

Most recently, the XIVth National Assembly of the Socialist Republic of Vietnam passed the Law on Belief and Religion on November 18, 2016. This law took effect from January 1, 2018. The law has institutionalized the principles of the 2013 Constitution on human rights, the right to freedom of belief and religion; overcome some shortcomings of the current law on belief and religion; continued to renovate the state management mechanism; ensured the right to freedom of belief and religion of respected people, moral and cultural values to be promoted; reinforced the belief of people with beliefs and religions on policies and laws of the state, contributing to strengthening the great unity of the nation. With 09 Chapters and 68 Articles, the Law on Religion and

Religion has the following contents

Chapter 1: General provisions

Chapter 2: Right to freedom of belief and religion

Chapter 3: Belief activities

Chapter 4: Registration of collective religious practice, registration of religious activities

Chapter 5: Religious organizations

Chapter 6: Religious activities, publishing, education, health care, social protection, charity and humanitarian activities of religious organizations

Chapter 7: Property of belief or religious establishments

Chapter 8: State management and handling of violations in the field of belief and religion

Chapter 9: Implementation provisions.

The promulgation of the Law on Belief and Religion demonstrates national responsibility for the implementation of international law and at the same time shows the deep concern of the Party and the State of Vietnam for the needs of belief and religion of the people. The law clearly stipulates belief and religion as human rights. This content is showed in Article 6 of the Law:

Article 6: The right to freedom of belief and religion of everyone

1. Everyone has the right to freedom of belief and religion, to follow or not to follow a religion.
2. Everyone has the right to manifest his/her belief or religion; to practice belief or religious rites; to participate in festivals; to study and practice religious tenets and canon laws.
3. Everyone has the right to lead a religious life at a religious establishment, to study at a religious training institution or attend a refresher course of a religious organization. Minors, before leading a religious life at a religious establishment or studying at a religious training institution, shall obtain the consent of their parents or guardians.
4. Dignitaries, religious officers and clergypersons have the right to perform religious rites, preach and propagate their religions at religious establishments or other lawful places.
5. Persons held in custody or temporary detention in accordance with the law on custody and temporary detention; persons who are serving imprisonment sentences; persons who are serving the measure of consignment to a reformatory, compulsory education institution or compulsory detoxification establishment have the right to use religious books and to manifest their beliefs or religions.

It can be seen that the Law on Belief and Religion has extended the right to freedom of belief and religion for "people" instead of "citizens" like the previous documents. Specifically, minors can be trained at religious institutions with the permission of their parents or guardians. People with limited citizenship rights such as detainees, those serving imprisonment sentences or those who are taking measures to enroll in nursing homes, detoxification centers, etc. have the right to use good scriptures or express their belief in religion.

Besides protecting human rights and freedom of religion, the Law also stipulates prohibited acts in Article 5 of the

Law.

Article 5: Prohibited acts

1. Discriminating and stigmatizing people for beliefs or religions.
2. Forcing others to follow or not to follow, bribing others into following or not following, or hindering others in following or not following a belief or religion.
3. Profaning a belief or religion.
4. Carrying out belief and religious activities to:
 - a. Infringe upon national defense, security and sovereignty, social order and safety and the environment;
 - b. Violate social morality; infringe upon the body, health, life, health and property and hurt the honor and dignity of others;
 - c. Obstruct the exercise of civic rights and performance of civic obligations;
 - d. Divide nationalities; divide religions; divide people who follow a belief or a religion from people who do not, and people who follow different beliefs or religions.
5. Abusing belief and religious activities for self-seeking purposes.

In addition, the Law also has many new regulations such as shortening the time to recognize religious organizations to 5 years instead of 23 years as before. The law also reduced the rules for asking and giving; and supplemented notification rules, such as: notifying the person who is bestowed or appointed as dignitaries; notifying the transfer of dignitaries, monks; notifying the demotion, dismissal of dignitaries and officials; notifying activities of religious training establishments; notifying training results of each course of religious training establishments; notifying opening training courses on religion for non-religious activists; notifying the list of religious activities; and notifying annual conference. This is also in accordance with the current trend to limit the intervention of competent state agencies into the internal affairs of religious organizations.

3. Implication of protecting freedom of belief and religion in Vietnam today

Firstly, with legal documents that are always supplemented, renewed and perfected, the Party and State of Vietnam have showed deep concern for the spiritual life of the people and at the same time showed the role his management role in cultural and religious activities to maintain order and security so as to ensure a peaceful life for the people. The protection of the right to freedom of belief and religion of a large number of people also needs to be coupled with the management of the State to limit the activities of religious interests to provoke and divide the great national unity block. In fact, with the promulgated policies and laws, concretizing the right to freedom of belief and religion in the Constitution, the Party and the State have created a legal corridor for religious organizations in Vietnam and people with religions living in Vietnam to have conditions to better understand the policies and laws of Vietnam; and at the same time feel confident in expressing their trust in belief and religion, without fear of their violations of the provisions of the law.

Secondly, the right to freedom of belief and religion is ensured to help people with religions to participate in religious activities and actively contribute to the national construction and development. Policies and laws on religion have promoted the resources of religions and encouraged religious organizations to participate in the areas of social life. Many typical models and examples of dignitaries, religious positions and followers have appeared in the work of social security, prevention of climate change and charity. Religious organizations have many favorable conditions to participate in the work of social security because for religion, dignitaries have intellectual, spiritual and voluntary spirit, enthusiastic desire to bring joy for people. Moreover, dignitaries and monks always follow the teachings and religious principles, always obey the current laws of the State, and have no personal gain. In addition, because religious dignitaries have a great influence in the religious and religious life of religious people, the social charity activities of religion are strongly supported and warmly welcomed by the people. With the advantages and the support of the authorities at all levels and social organizations on social charity activities of religions, the social charity activities of religions are quite actively and make a lot of contributions to the society. According to statistics from the Government Committee for Religious Affairs, Catholics currently have 144 health clinics and treatment facilities; many charitable clinics are initiated by priests, religious orders and catholic people; there are about 1,500 kindergartens, nearly 50 affectionate classes; nearly 50 vocational training institutions are established by catholic people, 635 social charity establishments, including 82 vocational training centers, 144 health clinics, medical treatment facilities, 212 disability and nursing centers, 160 immigration centers for students and families, and 11 establishments and works on art activities for poor and less-fortunate people in the society ^[2]. Buddhism also has many activities, such as: opening medical examination and treatment system (hospitals, health centers, and clinics), have a system of nursing homes, open kindergartens, affectionate classrooms, open centers for counseling and nurturing HIV-infected people/AIDS, etc. Other religions also have similar social activities.

Thirdly, the protection of human rights and beliefs is also an inevitable trend in line with the social development trend and in compatibility with the international human rights. The right to freedom of belief and religion is recognized in many documents of the international human right law. In particular, the right to freedom of belief and religion is recognized in some of the political and legal documents of the United Nations, such as the UN Charter in 1945; legal documents such as the International Convention on Civil and Political Rights in 1966, etc. As a member of international conventions on human rights, the regulations on the right to freedom of belief and religion in Vietnam's Constitution are necessary, ensuring the compatibility of Vietnamese law with international treaties to which Vietnam is a member. In addition to the Constitution, the right to freedom of belief and religion is also recognized in many other important legal documents from time to time. The legal system of belief and religion is constantly being

³http://btgcp.gov.vn/Plus.aspx/vi/News/38/0/240/0/9340/Mot_vai_net_ve_hoat_dong_tu_thien_xa_hoi_cua_Cong_giao

supplemented, modified and perfected, in accordance with international treaties to which Vietnam is a member. Legal documents that directly regulate belief and religion not only increase in quantity but also are rich and diversified in form. The content of legal documents is always revised, supplemented and perfected to suit the real situation. In particular, the promulgation of the Law on Belief and Religion marks the direct adjustment of the State some fields of belief and religion; at the same time, is one of the first Laws to concretize human rights in accordance with the 2013 Constitution. With the full and progressive regulations of the Law on Belief and Religion on the right to freedom of belief and religion of people, it is certain that belief activities will be preserved and promoted and religious activities will be maintained and developed to meet the needs of people's spiritual life and continue to contribute significantly to the nation construction and defense.

In over 30 years of implementing the renovation, Vietnam has obtained many legislative achievements. The constitution and laws are increasingly supplemented and perfected, which is the highest legal guarantee for people to have opportunities and conditions to be more and more equal in implementing and enjoying the right to freedom of belief and religion. It also shows the efforts of the State of Vietnam to fully implement international commitments on human rights and the right to freedom of belief and religion. Vietnam's achievements have been recognized and appreciated by the international community both in terms of legal documents and in reality. From the right viewpoint and policy of the Vietnamese State on the right to freedom of belief and religion, we can hope that everyone has been and will enjoy this right more and more fully, then contributing practically to the overall development of the society.

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