

VIETNAM

Vietnam has gone through many periods of independence and foreign rule, dating back thousands of years. One of the oldest civilisations in Southeast Asia, the fertile land in the south of the country was very attractive to foreign powers. As such, they were colonised by the Chinese first, after which they enjoyed a long period of independence from roughly 950 CE to the 19th century when they were colonised by the French. The modern state of Vietnam was formed in the wake of two lengthy wars, the first and second Indo-Chinese Wars (the second is often referred to as the Vietnam War in western countries). The end of these wars, following the fall of the Southern capital of Saigon in 1975, brought the country a unified independence under a singular communist government.¹

The lengthy periods of foreign involvement in the political and social affairs of the country changed its religious and social makeup. Despite being over 80% atheist, Vietnam is home to Buddhist, Catholic, Hoa Hao, and Cao Dai populations, with smaller Protestant and Muslim communities.² These communities are often concentrated into village or ethnic groups. An example is the ethnic group called the Montagnards, who are Catholic and live mostly in the Central Highlands.³

Vietnam is one of the last remaining Communist countries in the world.⁴ As such, while they allow only limited religious freedom, beliefs that involve large-scale proselytization or which might be seen as mobilising the masses are seen as a threat to the state ideology. This conflicted relationship with religion is exacerbated by the fact that over the nearly three decades of war, many Christianity professing ethnic groups fought against the North Vietnamese Communists and opposed their strict policy of atheism. As a result, after the wars were finished, many of these groups found themselves victims of repression. The Montagnards⁵ and Hmong⁶ have been the targets of much of this, but it has also affected the Buddhist community.⁷ Campaigning for religious and democratic freedom is viewed as actions taken against the state in Vietnam and therefore considered a political crime.

The Vietnamese Constitution includes religious freedom; however, this freedom is extended only to registered religious groups. This stipulation allows for the continuing restriction of certain

¹ Windows on Asia. 'Vietnam – History'. *Asian Studies Center, University of Michigan*.

² Central Intelligence Agency. 'World Factbook: Vietnam'.

³ Brent Crane. 'Cambodia's Montagnard Problem'. *The Diplomat*.

⁴ PRI's The World. 'Can you name the five remaining communist countries in the world?' *Public Radio International*.

⁵ Human Rights Watch. 'Persecuting 'Evil Way' Religion: Abuses against Montagnards in Vietnam'.

⁶ Radio Free Asia. 'Hmong Ordered Jailed for Defying Vietnamese Government Campaign'.

⁷ International Buddhist Information Bureau. 'In Vesak Message, UBCV leader Thich Quang Do calls on Buddhists to be catalysts for democratic change in Vietnam'.

groups' religious freedom through denial of their official registration. It should also be noted however that while certain groups are denied their registration, other, newer groups are sometimes allowed to practice under those same laws. For instance, on 31 May 2016, the Church of Jesus Christ of Latter-day Saints (LDS Church) was officially registered.⁸

Buddhists in Prison

Thích Quảng Độ

Eighty-eight year-old Thích Quảng Độ is the patriarch of the Unified Buddhist Church of Vietnam (UBCV). He has been an outspoken proponent of religious and democratic freedom for many decades. His initial arrest came in 1982, after which he was placed first in domestic exile in the North, after which he was given over to house arrest at the Tanh Minh Zen Monastery in Ho Chi Minh City.⁹

His imprisonment has come as a result of his vocal opposition to the Vietnamese government's attempts at co-opting and controlling religion in the country, most notably that of the Buddhist church. His exile began when he protested against the creation of a state-sponsored Buddhist church, replacing the already established Unified Buddhist Sangha of which he is the head. The Communist Party's policy of atheism has meant that those who openly practice religion are far less likely to enjoy success. It is this lack of control over teachings and free worship that has formed the central message of Thích Quảng Độ's teachings.¹⁰

He has remained politically and religiously active, despite his detention. As recently as June 2016, he called upon Buddhists in Vietnam to be catalysts for peace and democratic change. He has stated that,

*'Freedom of religion is the mother of all freedoms. When the people's right to freedom of conscience is denied and their right to practice their spiritual beliefs is suppressed, then all other freedoms, such as free speech, press freedom, the right to form associations and to demonstrate become inaccessible.'*¹¹

Protestants in Prison

Ksor Y Dú

⁸ Sarah Jane Weaver. 'Church Receives Official Recognition in Vietnam'. *The Church of Jesus Christ of Latter-day Saints Church News Bureau*.

⁹ Quê Mẹ: Vietnam Committee on Human Rights. 'Letter to Barack Obama for the release of Buddhist monk and prominent dissident Thich Quang Do'.

¹⁰ Ibid.

¹¹ International Buddhist Information Bureau. 'In Vesak Message, UBCV leader Thich Quang Do calls on Buddhists to be catalysts for democratic change in Vietnam'.

The perceived danger of organised religion for the Vietnamese government comes not only from political activism, as in the case of Thích Quảng Độ. Many Christian denominations are feared for their ability to proselytise. By converting to Christianity, they are being led away from the ideology of the Communist Party.

In January 2010, evangelical preachers Ksor Y Dú and Kpa Y Co were arrested for their involvement in a fast-growing house church movement called the Vietnam Good News Mission (VGNM) church. Ksor in particular had been active in the church community in the years leading up to this most recent arrest, including demonstrating and preaching in local communities. He had already done a prison term starting in 2004 lasting for four years with one additional year under house arrest.¹²

According to locals, when Ksor was arrested by police, they bound his hands and dragged him behind their motorcycles on the way to the station. He fell a few times, leaving him bruised and bloodied. Ksor and Kpa were then held in police custody without trial for ten months. At their trial they were sentenced to six years in prison and four years house arrest, and four years in prison and two years house arrest, respectively.¹³

Catholics

Runh, Jonh, Byuk, Dinh Hron, Dinh Lu, A Hyum, A Tach, and Y Gyin

This group of eight Montagnards was arrested in Gia Lai and Kon Tum provinces in the Vietnamese highlands. Like Ksor Y Dú, they were members of house churches in their communities. The combination of their being part of the already targeted Montagnard minority group and their active involvement in local-level religious activities prompted the government to commence a large-scale crackdown in 2013. In particular, this group was chosen for their involvement in the Ha Mon Catholic sect, which was founded by Y Gyin in 1999.¹⁴ They intended to organise resistance to a power plant whose construction would forcibly relocate their village in 2008.¹⁵

The Ha Mon sect is banned in Vietnam and considered a ‘false religion.’ This is paired with accusations of Gyin trying to spread rumours about miracles in an attempt to raise resistance to government actions in the area. In particular, they allege that he claimed the Virgin Mary appeared in Ha Mon, the place the government planned to build their power plant and

¹² World Watch Monitor. ‘Two Evangelists in Vietnam Sentenced to Prison’.

¹³ Ibid.

¹⁴ Human Rights Watch. ‘Montagnard Christians in Vietnam: A Case Study in Religious Repression’.

¹⁵ Radio Free Asia. ‘Degar-Montagnards: Jailed On Account Of Politically Motivated Charges’. *Unrepresented Nations and Peoples Organization*.

namesake of the sect. As such, they were accused of deliberately trying to mislead those from less-developed areas and undermining national security in trying to establish their own sovereign state.¹⁶

Sentences for the eight ranged from three to eleven years in prison on official charges of ‘undermining the unity policy’ of the country. Also, the claims of their trying to form an independent sovereign state were accepted by the presiding judge.¹⁷

The full list of documented cases of FoRB prisoners for each denomination is available on the USB key attached to this report and on our website: <http://hrwf.eu/forb/forb-and-blasphemy-prisoners-list/>.

Laws Used to Criminalize Religious Activities

The religious legislation¹⁸ gives authority for the control of religious affairs to the government entirely. According to Article 3 of Vietnamese Legal Documents on Belief and Religion, 2013, only religious groups recognised by the State can be legitimate religious organisations. Those that the State refuses to recognise, such as the Ha Mon Catholics, do not qualify for the consideration and protection under the law provided through Article 4. If a group is not state sanctioned, it can be classified unilaterally as a threat to the national ideology of the Communist Party and is therefore prosecutable under those relevant sections of the Penal Code. Further, monitoring and control of even the registered religious groups is given over to the State’s Vietnam Fatherland Front. Therefore, this piece of legislation, far from providing religious freedom, acts as a means of controlling religious activity.

Vietnam Penal Code, 1999:

(Article 2)

All offenders are equal before the law, regardless of their sex, nationality, beliefs, religion, social class and status.

To severely penalize conspirators, ringleaders, commanders, die-hard opposers, wrong-doers, hooligans, dangerous recidivists, those who have abused their positions and powers to commit crimes and those who have committed crimes with treacherous ploys, in an organized and professional manner, with intention to cause serious consequences.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ See Vietnamese Legal Documents on Belief and Religion, 2013 (The Government Committee for Religious Affairs).

(Article 79)

Carrying out activities aimed at overthrowing the people's administration

Those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to the following penalties:

1. Organizers, instigators and active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;
2. Other accomplices shall be subject to between five and fifteen years of imprisonment.

(Article 87)

Undermining the unity policy

1. Those who commits one of the following acts with a view to opposing the people's administration shall be sentenced to between five and fifteen years of imprisonment:
 - a) Sowing division among people of different strata, between people and the armed forces or the people's administration or social organizations;
 - b) Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;
 - c) Sowing division between religious people and non-religious people, division between religious believers and the people's administration or social organizations;
 - d) Undermining the implementation of policies for international solidarity.
2. In case of committing less serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment.

Article 1(c), in combination with (a), (b) or (d), provide the basis for criminal proceedings, resulting from the provisions in the Law on Belief and Religion examined earlier. Conversion and more organised forms of practice are seen as an affront to non-religious persons and the atheistic State. The fact that many of these organisations are based in the less developed rural areas located in the Central Highlands also provide a potential basis for invoking 1(a), due to the fact that these communities are less developed than Vietnamese society as a whole.

Law on Religion and Belief, 2016

On 18th November 2016, the country's National Assembly adopted a new Law on Religion and Belief which replaces the current Ordinance 22 on Belief and Religion and various other decrees and regulations. It has been roundly criticised by rights advocates as being in contravention of

international standards which protect freedoms of religion and belief. The new law strengthens state control of many aspects of religious life.

The new law enables the communist authorities to interfere intrusively in all aspects of religious life and grossly contravenes the rights enshrined in Article 18 of the International Covenant on Civil and Political Rights (ICCPR).

Under the new law, registration remains mandatory, although the process is now accelerated (it will take five years instead of twenty-three years to obtain state recognition) and makes no provisions for religious groups who cannot, or choose not, to register with the state, such as the Unified Buddhist Church of Vietnam. Mandatory registration is a violation of Article 18 of the ICCPR, as UN Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, stressed after his visit to Vietnam: ‘the right to freedom of religion or belief is a universal right which can never be ‘created’ by administrative procedures. Rather, it is the other way around: registration should be an offer by the State but not a compulsory legal requirement’.

Advocates of freedom of religion or belief risk imprisonment under the vaguely-worded ‘prohibited acts’ cited in this law.

Unusually, whereas most laws come into force some months after their adoption, the Law on Belief and Religion will not come into force until 1 January 2018.

National Standards for Detention Conditions

The Constitution of the Socialist Republic of Vietnam, 2013¹⁹:

(Article 20)

1. Everyone shall enjoy the inviolability of the individual and the legal protection of his or her life, health, honour and dignity and is protected against torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health and offence against honour and dignity.

(Article 30)

1. Everyone has the right to lodge complaints and denunciations about the illegal acts of State bodies, organisations, and individuals with the relevant State bodies, organisations and individuals.

Criminal Procedure Code, 2003²⁰:

¹⁹ The National Assembly. ‘Constitution of the Socialist Republic of Vietnam’.

²⁰ The National Assembly. ‘Criminal Procedure Code’.

(Article 6)

Guarantee of citizens right to body inviolability

- Nobody shall be arrested without a court decision, decision made or approved by the procuracies, except for cases where offenders are caught red-handed.
- Arrest and detention of people must comply with the provisions of this Code.
- All forms of coercion and corporal punishment are strictly forbidden.

(Article 7)

Protection of life, health, honor, dignity and property of citizens

- Citizens have the right to have their life, health, honor, dignity and property protected by law.
- All acts of infringing upon the life, health, honor, dignity and/or property shall be handled according to law.

By these Articles, corporal punishment and other forms of torture are strictly prohibited. Further, given the provision to health in both the Constitution and Criminal Procedure Code, there is also the implied protection of other forms of mistreatment, particularly those relating to nutrition and sanitation. The fact that these appear in both documents means that they apply not only in general principles but should also in practice. Vietnam has amended and changed their Constitution a few times in the last twenty-five years in order to better encapsulate concepts of human rights and human rights protections into the mechanisms by which the country operates. These documents reflect those efforts. Vietnam ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 5th February 2015.²¹

International Reports on Prison Conditions in Vietnam

Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, on his visit to Viet Nam, 2014²²:

(Paragraph 71)

Hmongs of the Duong Van Minh faith have also been subjected to arbitrary detentions and imprisonment, beatings, torture, constant monitoring, and pressure to renounce their faith.

(Paragraph 74)

²¹ United Nations Treaty Collection. ‘9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’.

²² UN Human Rights Council. ‘Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt’.

Other individuals, for example, members of the Evangelical Mennonite Church for example, have also suffered frequent heavy-handed police raids; repeated invitations to ‘work sessions’ with the police; torture during detention; pressure exercised on family members, especially those of religiously persecuted refugees; acts of vandalism and the destruction of places of worship, cemeteries and funeral sheds and homes; confiscation of property; and systematic pressure to give up certain religious activities and denounce their religion or belief.

US Commission for International Religious Freedom Annual Report 2016²³:

[...] Duong Van Minh followers regularly are imprisoned, and in February 2015, government agents attacked followers in Cao Bang Province. Provincial-level public security officials detained one Duong Van Minh follower after he met with USCIRF in August 2015, and reportedly beat and tortured the man when he refused to answer their questions.

Torture and inhuman treatment are often seen as a means of limiting dangerous or otherwise threatening ideas in Vietnam. Abuse is used to try and force religious persons to renounce their faith and thereby come back into the fold of the national ideology. In this way, torture is targeted and religious minorities are far more susceptible than the average prisoner.

Amnesty International Annual Report 2015/2016: Vietnam²⁴:

Deaths in custody

In March, the National Assembly questioned the credibility of a Ministry of Public Security announcement that of 226 deaths in police custody between October 2011 and September 2014, most were caused by illness or suicide. During 2015 at least seven deaths in custody were reported with suspicions of possible police torture or other ill-treatment.

Those in various prisons in Vietnam have reported similarly poor treatment. Allegations include the prohibition of even the most necessary medicine (reported at Hao Lo Prison) and prolonged solitary confinement, beatings, and torture (reported at multiple prisons including that of Gia Lai province). In addition, literature and other personal effects, particularly those related to personal expression or written dissent, were routinely confiscated and destroyed.²⁵ Most of these active human rights abuses occur in the pre-trial period with prolonged poor conditions throughout the duration of detention.

²³ US Commission for International Religious Freedom. ‘2016 Annual Report’.

²⁴ Amnesty International. ‘Annual Report 2015/2016’.

²⁵ Campaign to Abolish Torture in Vietnam. “Vietnam: Torture and Abuse of Political and Religious Prisoners”.

Conclusions

Buddhists, Catholics, and Evangelicals have been arrested in Vietnam for activities that supposedly undermine the unity of the Vietnamese state. The country's Penal Code includes phrases such as 'sowing division' and 'overthrowing the people's administration', which imply that the government fears that religious groups could challenge its authority using theological principles as a motive to mobilize. Indeed, state atheism and communism are official ideologies of the regime, and conformity and self subjugation are necessary for the success of these policies, whereas Christianity and Buddhism could promote principles that could be used against the state. Registered religions are carefully monitored by the Vietnam Fatherland Front to ensure that they do not threaten the societal order.

Vietnam should release the individuals mentioned on this list who are imprisoned for their peaceful religious beliefs and practices and begin to enforce the constitutional right of freedom of religion and belief, not only to registered religions but to all citizens. Conforming with the UN minimum rules for the treatment of prisoners should be made a priority. Initiative should be taken to investigate and prosecute officials who torture and mistreat prisoners, which is in violation with international law and Vietnam's constitutional provisions regarding human dignity and morality.