



# General Assembly

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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Freedom of religion or belief in Viet Nam with special reference to Decree 92\***

### **Introduction**

The Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Human Rights Council's attention to the situation of freedom of religion or belief in Viet Nam.

The Vietnamese Constitution of 1992 guarantees freedom of religion and belief; however, in reality the situation is fragile. Conditions vary across different regions, and it is difficult to make generalizations. Nevertheless, religious freedom is restricted for many religious groups in Viet Nam including Protestants, Catholics, Cao Dai, and various Buddhist denominations.

Members of the Unified Buddhist Church of Viet Nam (UBCV) are subject to harassment and intrusive surveillance. The UBCV was effectively banned in 1981 and is perceived as an "*illegal organization*" by the Vietnamese authorities. As such the UBCV cannot freely conduct religious activities. Despite these restrictions, its leaders have not shied away from political and social engagement. In July 2013 the Most Venerable Thich Quang Do, Supreme Patriarch of the UBCV, was one of those calling for protests on the South China Sea dispute. Before the protests, police surrounded Thanh Minh Zen Monastery, where Thich Quang Do is under de facto house arrest. Other Buddhists were prevented from leaving their homes or were stopped on route to the demonstrations.

In the same month, more than 10,000 Catholics participated in a protest march in Vinh, Nghe An Province, in response to a violent crackdown on 1 July during which the police and army occupied the chapel of Con Cung, desecrated the Eucharist Host, and destroyed a statue of the Virgin Mary. The day before the march, armoured cars accompanied by police patrols were deployed to the residence of the Bishop. In recent months Catholic activists have been arrested for blogging about justice and corruption, and land confiscation.

Protestant Christianity is broadly seen as a "foreign" religion. Social and "official" persecution is not uncommon in remote areas and is particularly prevalent amongst ethnic minorities. In December 2012, government officials summoned three Christians from Tua Chua District to the commune offices. They strongly pressured the three to renounce faith. When they refused, they were savagely beaten by police officers. Afterwards, they were ordered to sell all their belongings within the next 15 days and to pay a fine of 5,000,000 VN dong (approx. US\$240) per household, and then to leave Tua Chua District. They were threatened with prison if they failed to comply.

The following section analyses a new Decree on religious organizations and religious activities. Catholic, Buddhist and Protestant leaders, as well as lawyers and activists, have criticised the new Decree for being "harsher" than its predecessor, for its use of vague and ambiguous terminology, and for introducing new bureaucratic obstacles to the peaceful and lawful activities of religious believers.

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\* Christian Solidarity Worldwide (CSW), an NGO without consultative status, also shares the views expressed in this statement.

## **Decree 92**

On 1 January 2013, a new Decree on religious organizations and religious activities was issued by Vietnamese Prime Minister Nguyen Tan Dung. “Decree No. 92/2012/ND-CP: Specific provisions and measures for the implementation of the Ordinance on Belief and Religion” was issued on 8 November 2012, and replaces “Decree 22”, which was issued in 2005. Decree 92, like Decree 22, provides instructions for the implementation of the Ordinance on Belief and Religion, adopted in 2004.

### **Religious meetings**

Article 5 adds a new level of activity requiring “dang ky”, registration/permission. For Religious groups now have to apply for permission for the most basic religious activities such as prayer meetings. The addition of this step appears to reverse or override the 2005 Prime Minister’s Special Instruction, introduced in response to international pressure in the run-up to Viet Nam’s attempt to accede to the WTO in order to speed up the registration process. Decree 92 runs contrary to this aim by adding a new step to the registration process. In addition, applicants must have a legal venue in order to qualify for registration. This appears to be a catch-22: unregistered organizations cannot attain a venue for the purposes of religious activities, but in order to register as a religious organization, groups of believers must first register for religious meetings.

### **Religious activities**

Article 6 lists the conditions and requirements for registration of religious activities beyond basic meetings (the term “hoat dong ton giao” may also be translated as “operations”). One of the conditions for application is 20 years or more of religious meetings approved by the Commune People’s Committee. Since the category of religious meetings (under Article 5) was only introduced with this Decree effective of January 2013, in theory this means it will not be possible for any organization to register for the Article 6 category of religious activities for at least 20 years.

### **Religious organizations**

Article 8 allows organizations with three years of registered operations which have not violated Article 8, paragraph 2 and Article 15 of the Ordinance to apply for legal recognition as a religious organization. The following section (articles 9-26) covers changes to the structures and formation of organizations and other areas of operation, including the running of schools, the training and appointment of clergy, and the transfer and travel of religious officials. The restrictions and conditions stipulated in Articles 14-23 deal with the internal workings of an organization, and as such have been described as intrusive and restrictive. These conditions make it clear that this section, and the Decree overall, aims at controlling rather than protecting religious believers and organizations.

### **“National unity”**

At several points in the Decree, the term “national unity” is used in the context of violations by believers (in reference to Article 15 of the Ordinance on Beliefs and Religions) and as a requirement for representatives of religious organizations (Article 5: “the representative must [have] a spirit of national unity and reconciliation”). There is no expansion on the definition of this term at any point in the text. The term’s abstract nature therefore renders it vulnerable to misinterpretation or misuse by those implementing the Decree. This could have serious consequences for religious believers applying for permission to meet. For example, a Christian leader who teaches that worship of ancestors and national heroes is incompatible with Christian beliefs could be accused of contravening “national unity”.

In the same way, the stipulation that an organization's tenets, canons and procedures must not be against the "fine traditions and customs" of the country is highly subjective and open to abuse. Who can say what does and does not constitute a tradition or custom of Viet Nam? Vietnamese adherents of both Buddhism and Christianity, for example, sometimes come from families or communities with religious customs and traditions going back centuries. Yet it is these religious groups which Decree 92 aims to manage and control. The inclusion of vague and ambiguous terms leaves much to the discretion of local officials and could potentially be an obstacle to the successful registration of peaceful, law-abiding religious organizations.

We recommend that the Human Rights Council urge Viet Nam to:

- Remove the lowest level of registration/permission required for religious meetings (*sinh hoat ton giao*) where such meetings do not violate any law;
- Remove the condition that religious meetings have a fixed, legal venue and make it easier for religious organisations to attain venues both before and after registration/permission;
- Take steps to ensure persons named in applications for registration of meetings/activities/organisations will not suffer ill treatment or be placed on any form of "watch list" as a result of being named in the application;
- Remove the requirement that religious groups have 20 years of stable operations before applying for permission for activities: where there is suspicion of violent or illegal activities, investigate the history of organisations on a case-by-case basis, taking into account the legal requirements in place and possible reasons for non-registration during the period in question;
- Remove vague terminology including: "infringements on national security"; "people's/national unity"; "traditions and customs", etc. Where these terms are relevant, they should include a full definition which clearly demonstrates what does and does not constitute a crime in relation to these terms;
- In using terms like "fine traditions and customs", ensure that religious traditions are protected alongside cultural traditions, and that no religion or belief is singled out as being "un-Vietnamese";
- Provide extensive and on-going training for all government officials charged with the implementation of this Decree, along with religious leaders, lawyers, jurists, and other relevant parties;
- Provide avenues for feedback from the aforementioned parties with regards to this Decree, and actively and carefully consider comments and criticism put forward by the international community;
- Ensure that the rights of all Vietnamese citizens, including religious believers, are protected by law and by those implementing the law, including the right to freedom of religion or belief.